

November 3, 2021

The Honorable Lloyd J. Austin III
Secretary of Defense
U.S. Department of Defense
1000 Defense Pentagon
Washington, DC 20301

Re: Urgent update needed to 1260H Chinese Military Companies (CMCs) List and inclusion of all CMCs on the OFAC NS-CMIC List to limit U.S. funding of the PLA

Dear Secretary Austin:

Last week, General Milley confirmed¹ that the Chinese missile test from earlier this summer was indeed the testing of a hypersonic missile that experts claim is capable of fractional orbital bombardment that came down near (but not on) its target with a glide vehicle. While this test is troubling for a variety of reasons, even more worrisome is the fact that at least one of the Chinese contractors complicit in the research, development, testing, and evaluation of this hypersonic missile system is partially owned by a publicly traded company on a U.S. exchange and available to American investors via a variety of Exchange Trade Funds that track indexes.

Scrutiny of the Chinese military contractors reportedly involved in that system's development reveals that at least one of these companies, Tianjin Phytium Information Technology (Phytium Technology), is 31.5% owned by another entity, China Greatwall Technology Co. (China Greatwall), that is publicly traded and included in many of the world's largest investment indexes. These include, for example, MSCI ACWI, MSCI EM, FTSE Emerging Markets and FTSE All-World ex-US, which are tracked by trillions of dollars of assets under management globally. The 31.5% stake of China Greatwall reportedly makes it the largest shareholder of Phytium Technology.

This means that American investors can easily and unwittingly – directly or through their holdings of index funds or other passive investment products – fund the very weapons systems being developed by our adversaries for use against America and our allies. As Secretary of Defense, we believe strongly that it is in the national and economic security interests of the United States to use all tools of warfare available to you, including economic ones, to limit our adversaries' lethality and ensure that, at a minimum, our citizens are not undermining the American warfighter by intentionally or haphazardly financially supporting the enemy.

In addition to being publicly traded, China Greatwall is also a subsidiary of China Electronics Corp. (CEC), a special weapons contractor for the People's Liberation Army (PLA) that was designated as a Non-SDN Chinese Military-Industrial Company (NS-CMIC) under Executive Order 14032 issued by President Biden in June 2021. CEC also is on the 1260H List provided by the Pentagon to Capitol Hill. While U.S. persons are prohibited from investing in companies listed as NS-CMICs, this prohibition does not apply to subsidiaries that are not also explicitly

¹ <https://www.reuters.com/business/aerospace-defense/top-us-general-confirms-very-concerning-chinese-hypersonic-weapons-test-2021-10-27/>

designated by the Treasury Department's Office of Foreign Assets Control (OFAC). Due to the lack of coverage of subsidiaries in the EO and the lack of specific listings of certain Chinese military companies, China Greatwall—a publicly traded company—was not listed on the NS-CMIC list despite its parent company being subject to capital markets sanctions. As a result of this oversight, U.S. investment in China Greatwall enabled further financial backing of its 31.5% ownership of Phytium Technology, a developer of this new weapon.

We very much appreciate President Biden for issuing EO 14032, which expanded capital market sanctions beyond defense companies to include those in related industries that are a part of the People's Republic of China's (PRC) civil-military fusion strategy, as well as surveillance technology companies that are complicit in undermining human rights. However, we urge you to issue an update to the Department of Defense's Chinese Military Companies List (CMC)², which was updated³ most recently on June 3, 2021. This list should be updated on a rolling basis, including swiftly updating it to include companies such as Phytium Technology and China Greatwall. We also ask that in the interagency you advocate that the CMC List be continuously and automatically added to the NS-CMIC List. As you are aware, this list was transmitted to Capitol Hill pursuant to Section 1260H of the National Defense Authorization Act for Fiscal Year 2021. However, other than fulfilling a reporting requirement pursuant to this law, the 1260H list bears no consequences to malign Chinese companies listed on it.

The Biden-Harris Administration is on record as being publicly supportive of Section 1260H, and we commend the robust additions to the list. However, we believe this list must be added to the OFAC list in order to maximize effectiveness of the U.S. governments capital markets sanctions on Chinese companies. For example, it undermines congressional intent that a list of 47 or so companies be reported in accordance with the law, but minimal action be taken to prohibit further business with, or investment in, such companies that are known military or military-civil fusion supporters of the PLA, our greatest near-peer competitor. It would be a grave mistake to name these Chinese companies but fail to take executive action to curtail their fundraising from scores of millions of unwitting American retail investors.

We should also note that in her confirmation process, Secretary of Commerce Raimondo stated,

“I am aware of the substantial challenges China's military-civil fusion policy poses to U.S. national security. If confirmed, I plan to leverage the full breadth of the authorities under the purview of the Department of Commerce in order to protect U.S. national and economic security interests. I also look forward to working with the Secretary of Defense and Director of National Intelligence to fully implement related provisions of the FY2021 NDAA (Section 1260H) and other relevant legislation.”

We are grateful for Secretary Raimondo's support to utilize the law to its fullest extent to protect the financial interests of the American people. The Commerce Department took further action on these concerning Chinese companies when it placed one of the hypersonic weapon system's

² <https://www.defense.gov/News/Releases/Release/Article/2472464/dod-releases-list-of-additional-companies-in-accordance-with-section-1237-of-fy/>

³ <https://www.defense.gov/News/Releases/release/article/2645126/dod-releases-list-of-chinese-military-companies-in-accordance-with-section-1260/>

companies, Phytium Technology, on the Entity List in April 2021 (along with six other Chinese companies). The Entity List imposes export controls that are managed by the Bureau of Industry and Security at the Department of Commerce. The addition was attributed to “conducting activities that are contrary to the national security or foreign policy interests of the United States.” In making these additions, Secretary Raimondo also noted that “Supercomputing capabilities are vital for the development of many – perhaps almost all – modern weapons and national security systems, such as nuclear weapons and hypersonic weapons. The Department of Commerce will use the full extent of its authorities to prevent China from leveraging U.S. technologies to support these destabilizing military modernization efforts.” In a *Washington Post* article from April 9, 2021, Phytium Technology was identified as a supplier of semiconductor chips to a supercomputer located at the China Aerodynamics Research and Development Center (CARDC), that has, according to the report, been used by the Chinese military for testing of hypersonic vehicles.

Secretary Austin, while putting Phytium Technology on an export ban list is helpful, the more pressing action is to ensure that these companies be included in the 1260H List and that all these PLA supporting companies be banned from the investment portfolios of millions of Americans. To out-compete China and safeguard our national security we must protect our own people from unwittingly investing in China’s production of lethal technology and equipment.

We respectfully ask that you update the 1260H List of CMCs in light of the research on the contractors involved in the development of China’s hypersonic weapons and advocate for the expansion of EO 14032 to ensure that the Pentagon’s CMC List is included in the NS-CMIC List.

Sincerely,



Zach Mottl, Chairman
Coalition for a Prosperous America



Michael Stumo, CEO
Coalition for a Prosperous America

Enclosure: RWR Advisory statement, “Chinese Company Linked to Hypersonic Test is Present in Major Investment Indexes”

Cc: The Honorable Janet Yellen, U.S. Secretary of the Treasury
The Honorable Gina Raimondo, U.S. Secretary of Commerce

Chinese Company Linked to Hypersonic Test is Present in Major Investment Indexes

In the aftermath of reports last week that China successfully tested a hypersonic missile, scrutiny of the Chinese military contractors reportedly [involved](#) in that system's development shows that at least one of these companies, Tianjin Phytium Information Technology (Phytium Technology), is [31.5% owned](#) by another entity, China Greatwall Technology Co. (China Greatwall), that is publicly-traded and included in many of the world's largest investment indexes. These include, for example, MSCI ACWI, MSCI EM, FTSE Emerging Markets and FTSE All-World ex-US, which are tracked by trillions of dollars of assets under management globally. The 31.5% stake of China Greatwall reportedly makes it the [largest shareholder](#) of Phytium Technology.

In addition to being publicly-traded, China Greatwall is also a subsidiary of China Electronics Corp. (CEC), a special weapons contractor for the People's Liberation Army (PLA) that was designated as a Non-SDN Chinese Military Industrial Company (NS-CMIC) under Executive Order 14032 issued by President Biden in June 2021. While U.S. persons are prohibited from investing in companies listed as NS-CMICs, this prohibition does not apply to subsidiaries that are not also explicitly designated by the Treasury Department's Office of Foreign Assets Control.

Phytium Technology was, however, added to the Entity List by the Biden Administration in April 2021 (along with six other Chinese companies). The Entity List imposes export controls that are managed by the Bureau of Industry and Security at the Department of Commerce. The addition was attributed to "conducting activities that are contrary to the national security or foreign policy interests of the United States."

In making these additions, U.S. Secretary of Commerce Gina Raimondo also noted, "Supercomputing capabilities are vital for the development of many – perhaps almost all – modern weapons and national security systems, such as nuclear weapons and hypersonic weapons. The Department of Commerce will use the full extent of its authorities to prevent China from leveraging U.S. technologies to support these destabilizing military modernization efforts."

In a [Washington Post](#) article of April 9, 2021, Phytium Technology was identified as a supplier of semiconductor chips to a supercomputer located at the China Aerodynamics Research and Development Center (CARDC), that has, according to the report, been used by the Chinese military for the testing of hypersonic vehicles.

Copyright © 2021 RWR Advisory Group, all rights reserved.

RWR permits the use or citation of the contents of this alert for non-commercial use, provided that RWR is identified as the source. For any commercial use of the content in this newsletter, please obtain written permission from RWR Advisory Group.