

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

LUOKUNG TECHNOLOGY CORP. et al.,

Plaintiffs,

v.

U.S. DEPARTMENT OF DEFENSE et al.,

Defendants.

Case No. 1:21-cv-00583-RC

FIRST AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

I. INTRODUCTION

1. In the final week of the Trump Administration, on January 14, 2021, the administration unlawfully and inexplicably designated Plaintiff Luokung Technology Corp. (“Luokung”) as a so-called “Communist Chinese military company” (“CCMC”) by including Luokung on a list of companies designated as CCMCs pursuant to Section 1237 of the National Defense Authorization Act for Fiscal Year 1999 (the “Section 1237 List”). (The announcement and list designating Luokung are attached as Exhibit A hereto.) Luokung is not a CCMC, nor does it meet the statutory definition of a CCMC. Thus, the designation by the Department of Defense (“DoD”) of Luokung as a CCMC (the “CCMC Designation”) was not, and cannot have been, supported by any reasonable basis or accurate evidence. In connection with the CCMC Designation, DoD did not provide any explanation for the designation decision, identify the factual basis on which the designation was based, or provide Luokung with any notice or opportunity to respond and be heard.

2. Pursuant to Executive Order 13959, 85 Fed. Reg. 73185 (Nov. 12, 2020) (attached as Exhibit B hereto), as amended on January 13, 2021, by Executive Order 13974, 86 Fed. Reg. 4875 (Jan. 13, 2021) (attached as Exhibit C hereto) (hereinafter, as amended, “Executive Order

13959”), issued by then-President Trump, as a result of the CCMC Designation, United States persons will be prohibited from purchasing publicly traded Luokung securities or derivatives of those securities 60 days after the designation, and must divest their holdings no later than 365 days after the designation (the “CCMC Prohibitions”).

3. The January 14, 2021, Section 1237 List named “Luokong Technology Corporation” although Luokung’s correct legal name is “Luokung Technology Corp.” Luokung therefore believed that it qualified under General License 1A, issued by the U.S. Department of the Treasury Office of Foreign Assets Control (“OFAC”), which allowed an extended period of time for U.S. persons to trade the securities or derivatives of entities whose names merely “closely match” but are not an exact match of those that appear on the Section 1237 List. Luokung repeatedly requested confirmation from OFAC that it qualified under General License 1A, but received no such confirmation before this lawsuit was commenced on March 4, 2021.

4. On March 9, 2021, after this lawsuit was commenced and served, DoD removed “Luokong Technology Corporation” from the Section 1237 List and replaced it with “Luokung Technology Corp” (DoD letters attached as Exhibit D hereto). DoD acknowledged that Luokung was incorrectly listed on the January 14, 2021 Section 1237 List as “Luokong Technology Corporation” due to DoD’s error. On March 10, 2021, OFAC issued a letter also acknowledging that the original listing was erroneous, and confirming that the CCMC Prohibitions under Executive Order 13959 would take effect as to Luokung 60 days after March 9, 2021 (*i.e.*, by May 8, 2021) and that divestment must occur within 365 days after March 9, 2021 (*i.e.*, by March 9, 2022) (attached as Exhibit E hereto). OFAC later publicly issued FAQ 881 confirming this timing (attached as Exhibit F hereto).

5. The CCMC Designation and the related CCMC Prohibitions will severely harm Luokung and its shareholders, and, as set forth herein, the CCMC Designation of Luokung was arbitrary and capricious, and otherwise in violation of the Administrative Procedure Act (“APA”), *ultra vires*, and in violation of Luokung’s constitutional rights under the Due Process clause of the Fifth Amendment. Defendants’ actions as to Luokung are unlawful and unconstitutional, and will cause Luokung irreparable harm.

6. The CCMC Prohibitions will also prohibit Luokung’s U.S. shareholders, including the individual Plaintiffs, U.S. citizens Baomin Li and Raymond Weiman Bai (the “Individual Plaintiffs”), from acquiring additional Luokung securities after the effective date of the CCMC Prohibitions, and will force them to divest their holdings of Luokung securities by March 9, 2022, causing them harm. Luokung’s U.S. shareholders, including the Individual Plaintiffs, would not be subject to this harm but for DoD’s unlawful CCMC Designation and the effects of the CCMC Prohibitions. Defendants’ actions as to the Individual Plaintiffs are unlawful and unconstitutional, and will cause the Individual Plaintiffs irreparable harm.

7. There is no established administrative process in any government agency relating to delisting entities listed as CCMCs. When Luokung sought guidance from OFAC about a delisting process, Luokung was informed by OFAC that, contrary to all other similar delisting processes associated with government sanctions programs, which are administered by OFAC, DoD would instead be handling any delisting process associated with the CCMC Designation. However, DoD has not promulgated any regulations or published any guidance for any such delisting process. As a result, there is no administrative avenue for relief prior to the effective date of the CCMC Prohibitions, or at all. The unlawful CCMC Designation and the resulting restrictions and prohibitions on Luokung and its shareholders should be immediately enjoined.

II. JURISDICTION AND VENUE

8. The Court has subject matter jurisdiction under 28 U.S.C. § 1331 because this action arises under the United States Constitution and the APA, 5 U.S.C. § 551 *et seq.*

9. The Court has authority to grant declaratory and injunctive relief pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*; 5 U.S.C. § 702; and the Court's inherent equitable powers.

10. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e)(1), because officers or employees of agencies of the United States acting in their official capacities and agencies of the United States are defendants, and because a substantial part of the events or omissions giving rise to this action occurred in this district.

III. PARTIES

11. Plaintiff Luokung is a publicly traded, independently managed commercial technology company headquartered in Beijing, China, and incorporated in the British Virgin Islands, with substantial connections to the United States.

12. Plaintiff Baomin Li is a United States citizen and the Chief Technology Officer of Luokung. Mr. Li is the beneficial owner of 1,000,000 ordinary shares of Luokung. He is also a beneficiary of Luokung's employee incentive plan, the 2018 Omnibus Equity Plan (the "Incentive Plan"), which regularly awards, among others, stock options, stock appreciation rights ("SARs"), restricted stock, restricted stock units, and unrestricted stock as significant forms of compensation to its employees. Stock options give an employee a right, but not the obligation, to buy the company shares at an agreed upon price on or after a specified date. SARs give an employee a right to receive, with respect to the shares subject to such SARs, the appreciation in the fair market price over a base price determined by the company after the vesting period of such SARs expires,

and such appreciation can be paid in cash or company shares, or both. Restricted stock are company shares that are delivered to the employee but that may not be transferred until a restrictive period expires. Restricted stock units are the employee's right to receive shares after a vesting period expires. All of stock options, SARs, restricted stock, restricted stock units, and unrestricted stock are forms of compensation issued by Luokung to its employees in the form of company shares, or the equivalent in cash, or are delivered to the employee after vesting and/or any other conditions are satisfied. The number of shares becoming exercisable or transferrable with respect to such stock options, SARs and/or awards of restricted stock, unrestricted stock, or restricted stock units may be determined based on the employee's achievement of certain performance goals established by the company, such as sales, earnings, and profits. Employee incentive plans that incorporate these types of performance-based awards are common in the technology sector, and Luokung's Incentive Plan is key to its ability to recruit and retain a talented workforce in a highly competitive sector. As a result of the CCMC Designation, Mr. Li will no longer be able to purchase or vest Luokung securities once the CCMC Prohibitions go into effect, and he will be required to fully divest his holdings of Luokung securities by March 9, 2022.

13. Plaintiff Raymond Weiman Bai is a United States citizen and an employee of Luokung. Mr. Bai is the beneficial owner of 540,000 ordinary shares of Luokung. He is also a beneficiary of Luokung's Incentive Plan. As a result of the CCMC Designation, Mr. Bai will no longer be able to purchase or vest Luokung securities once the CCMC Prohibitions go into effect, and he will be required to fully divest his holdings of Luokung securities by March 9, 2022.

14. Defendant DoD is a Department of the Executive Branch of the United States Government and an agency within the meaning of 5 U.S.C. § 551(1). On January 14, 2021, DoD published a list designating Luokung as a CCMC under Section 1237 of the National Defense

Authorization Act for Fiscal Year 1999, under the misspelled “Luokong Technology Corporation.” On March 9, 2021, after this lawsuit was filed, DoD removed the name containing the error from the list and replaced it with the correct spelling of Luokung’s name.

15. Defendant Lloyd J. Austin III is the Secretary of Defense and the senior official at DoD. Secretary Austin is sued in his official capacity.

16. Defendant U.S. Department of the Treasury (“USDT”) is a Department of the Executive Branch of the United States Government and an agency within the meaning of 5 U.S.C. § 551(1). Executive Order 13959 required DoD to consult with USDT before designating Luokung as a CCMC. Executive Order 13959 also authorizes the Secretary of the Treasury, after consultation with the Secretary of State, the Secretary of Defense, and the Director of National Intelligence, to take actions, including the promulgation of rules and regulations, to carry out the purposes of Executive Order 13959, including by establishing licensing procedures. USDT’s OFAC office has published numerous FAQs (including FAQ 881 specifically regarding Luokung) and issued multiple general licenses relating to Executive Order 13959.

17. Defendant Janet L. Yellen is the Secretary of the Treasury and the senior official at USDT. Secretary Yellen is sued in her official capacity.

18. Defendant Joseph R. Biden Jr. is the President of the United States, and is sued in his official capacity.

IV. FACTUAL ALLEGATIONS

A. Luokung Is a Commercial Technology Company Unaffiliated with the Chinese Government or Military.

19. Luokung is a Nasdaq-traded technology company. Through its subsidiaries and affiliates, it offers a broad range of products and location-based services for civilian and commercial use, including map software and services and cloud platform software. Luokung’s

primary product is its open-source map platform, which provides online map services. Luokung's other products include cloud platform software for data management, publication, application, and video and audio related services, and image browsing software. In addition, Luokung offers software that provides its customers with recommendations for personalized content and learning experiences. Luokung also provides software and hardware support for managing real-time highway traffic in China.

20. Luokung is not owned or controlled by, or affiliated with, the People's Liberation Army or a ministry of the government of the People's Republic of China, nor is it owned or controlled by an entity affiliated with the defense industrial base of the People's Republic of China. Neither the Chinese government nor the Chinese military, nor any entity affiliated with the Chinese defense industrial base, possesses the ability to exert control over the management or operations of Luokung, effectively controls Luokung, or is associated with Luokung under common ownership or control.

B. Luokung Has Substantial Connections to the United States.

21. Luokung is a public company with its shares traded in the United States. Luokung's predecessor, Kingtone Wirelessinfo Solution Holding Ltd., was incorporated in October 2009, and consummated a public offering of American Depositary Shares ("ADSs") in May 2010. Originally the ADSs were listed on the Nasdaq Capital Market under the ticker symbol "KONE." In September 2018, the ADSs were voluntarily delisted from the Nasdaq Capital Market, and in January 2019 Luokung's ordinary shares started trading on Nasdaq under the ticker symbol "LKCO" and continue to do so.

22. Luokung has significant connections to U.S. investors. Luokung has thousands of U.S. shareholders, which include both individuals and institutional investors. Multiple of Luokung's top-10 current largest shareholders are entities managed in the U.S. As a direct result

of the wrongful designation of Luokung as a CCMC, these and all of Luokung's shareholders have been harmed by the loss of value and liquidity of their shares, and will suffer further harm if the prohibitions on trading Luokung's shares go into effect.

23. Nasdaq has informed Luokung that Nasdaq currently intends to halt trading of and delist Luokung's securities as of May 8, 2021, as a result of the CCMC Designation and CCMC Prohibitions. Unlike many other publicly traded companies headquartered in China that maintain a Hong Kong–U.S. dual listing, Luokung's shares are not traded on any other stock exchange, and thus the only public trading market for Luokung's shares is Nasdaq in the United States. Since being listed on the Nasdaq, Luokung has raised approximately \$190 million, of which over \$100 million came from U.S. institutional investors or through U.S. financial institutions. U.S. financial institutions that underwrote these transactions received millions of dollars of revenue.

24. Luokung's recently acquired subsidiary, eMapgo Technologies (Beijing) Co., Ltd. ("EMG"), also has established significant business relationships with a number of major U.S. companies, including for example Ford, General Motors, Microsoft, Dell EMC, and Mapbox, relating to map services that EMG provides for, among other things, production cars and companies involved in developing autonomous driving vehicles.

25. Luokung has many other connections to the United States, as implicitly acknowledged by DoD in its identification of Luokung as a company that is "operating directly or indirectly in the United States." *See* Ex. A. By way of example only, Luokung's current Chief Technology Officer, Plaintiff Baomin Li, is a U.S. citizen, resides in the United States, and conducts business for Luokung from the United States. In addition, one of the directors of Luokung's Board of Directors, David Wei Tang, is a U.S. citizen, as is its employee Plaintiff Raymond Weiman Bai. Luokung also holds a bank account in the United States.

C. Section 1237 and the Designation of CCMCs.

26. Section 1237 of the National Defense Authorization Act for Fiscal Year 1999 directs the Secretary of Defense to identify Chinese Communist military companies that operate directly or indirectly in the United States, or any of its territories or possessions, by issuing a list of CCMCs on or before March 1, 2001, and updating that list on an annual basis. *See* NDAA FY99 § 1237(b), as amended (“Section 1237”). The statute further directs the Secretary to consult with the Attorney General, the Director of the Central Intelligence Agency, and the Director of the Federal Bureau of Investigation in carrying out such designations, and requires that any designated entity meet the statutory criteria for constituting a CCMC. *Id.*

27. Section 1237 defines “Chinese Communist military company” as any “person that (i) is owned or controlled by, or affiliated with, the People’s Liberation Army or a ministry of the government of the People’s Republic of China or that is owned or controlled by an entity affiliated with the defense industrial base of the People’s Republic of China; and (ii) is engaged in providing commercial services, manufacturing, producing, or exporting.” *Id.* § 1237(b)(4)(B). “People’s Liberation Army” is further defined as “the land, naval, and air military services, the police, and the intelligence services of the Communist Government of the People’s Republic of China, and any member of any such service or of such police.” *Id.* § 1237(c). Section 1237 does not define “owned,” “controlled by,” or “affiliated with.”

28. DoD did not publish any list of CCMCs pursuant to Section 1237 until June 24, 2020. On that date, DoD published a list designating 20 companies as CCMCs. DoD published additional lists of CCMCs on August 28, 2020 and December 3, 2020. Luokung did not appear on any of these lists.

29. During the final week of the Trump administration, on January 14, 2021, DoD published an additional list that designated nine more companies, including Luokung, as CCMCs.

As noted above, Luokung's name was misstated on the list. No explanation was provided for the designation of Luokung as a CCMC.

30. On March 4, 2021, Luokung filed this action. On March 5, 2021, Luokung filed a motion for temporary restraining order to enjoin the CCMC Designation and CCMC Prohibitions as to Luokung.

31. On March 9, 2021, due to its error with respect to Luokung's name, DoD removed the name containing the error from the Section 1237 List and replaced it with the correct spelling of Luokung's name.

32. OFAC thereafter confirmed that the CCMC Prohibitions as to Luokung would not take effect until May 8, 2021, and the parties to this lawsuit accordingly agreed to vacate Luokung's motion for temporary restraining order in favor of prompt preliminary injunction proceedings.

D. President Trump Issued Executive Order 13959, Prohibiting Transactions by U.S. Persons in Securities of Entities Designated as CCMCs.

33. On November 12, 2020, then-President Trump issued Executive Order 13959 (later amended on January 13, 2021), invoking the International Emergency Economic Powers Act (50 U.S.C. § 1701 *et seq.*), the National Emergencies Act (50 U.S.C. § 1601 *et seq.*), and 3 U.S.C. § 301, and declaring a national emergency with respect to the threat posed by the “military-industrial complex” of the People's Republic of China, due to its direct support of the People's Republic of China's “military, intelligence, and other security apparatuses.” Executive Order 13959 stated that the People's Republic of China has a strategy of “compelling civilian Chinese companies to support its military and intelligence activities.” It further stated that these companies “raise capital by selling securities to United States investors” and that in this way the People's Republic of China “exploits United States investors to finance the development and modernization

of its military.” The President concluded that these actions “allow the [People’s Republic of China] to directly threaten the United States homeland and United States forces overseas, including by developing and deploying weapons of mass destruction, advanced conventional weapons, and malicious cyber-enabled actions against the United States and its people.”

34. Executive Order 13959 prohibits United States persons from transacting in “publicly traded securities, or any securities that are derivative of, or are designed to provide investment exposure to such securities,” of any CCMC. It further requires United States persons to divest all such securities of any CCMC.

35. Executive Order 13959 defines “United States person” as “any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.”

36. Section 4(a) of Executive Order 13959 defines “Communist Chinese military company” as “(i) any person that the Secretary of Defense has listed as a Communist Chinese military company operating directly or indirectly in the United States or in any of its territories or possessions pursuant to [Section 1237], as of the date of this order . . . until such time as the Secretary of Defense removes such person from such list”; “(ii) any person that the Secretary of Defense, in consultation with the Secretary of the Treasury, publicly lists as a Communist Chinese military company meeting the criteria in [Section 1237] and that operates directly or indirectly in the United States or any of its possessions, until such time as the Secretary of Defense removes such person from such list”; or “(iii) any person that the Secretary of the Treasury publicly lists as meeting the criteria described in section (a)(ii) of this section, or publicly lists as a subsidiary of a

person already determined to be a [CCMC], until the Secretary of the Treasury determines that such person no longer meets that criteria and removes such person from such list.”

37. The effective date of the CCMC Prohibitions set forth in Executive Order 13959 varies depending on the date and manner in which an entity is designated a CCMC. As relevant to Luokung, and in light of Luokung’s relisting on the Section 1237 List as of March 9, 2021, the CCMC Prohibitions take effect at 9:30 a.m. EST, 60 days after the CCMC Designation, which as to Luokung would be May 8, 2021. Transactions “solely to divest” the securities of such CCMCs are permitted until 365 days from the CCMC Designation, which as to Luokung would be March 9, 2022.

38. Executive Order 13959 authorizes the Secretary of the Treasury, after consultation with the Secretary of State, the Secretary of Defense, and the Director of National Intelligence, to take actions, including the promulgation of rules and regulations, to carry out the purposes of the order, and to submit reports to Congress regarding the national emergency declared in the order.

39. OFAC has published numerous FAQs (including FAQ 881 specifically regarding Luokung) and issued multiple general licenses relating to Executive Order 13959.

E. Luokung Is Falsely Designated as a CCMC.

40. As noted above, DoD issued the Section 1237 List designating Luokung as a CCMC on January 14, 2021. The Section 1237 List is a one-page document entitled “Qualifying Entities Prepared in Response to Section 1237 of the National Defense Authorization Act for Fiscal Year 1999 (PUBLIC LAW 105-261),” with the subtitle “Tranche 5.” *See* Ex. A. The document lists nine companies, including “Luokong Technology Corporation (LKCO),” and does not provide any other information regarding the designations, including the bases for the designations or whether DoD consulted with USDT as required by Executive Order 13959.

41. Luokung did not receive any prior notice that DoD and USDT were considering designating Luokung as a CCMC. Luokung first learned of the CCMC Designation when the January 14, 2021 Section 1237 List was made public. DoD and USDT did not provide Luokung any explanation or evidentiary support for the designation, and Luokung has not had an opportunity to respond to or refute any information purporting to support the designation of Luokung as a CCMC.

42. Luokung attempted to learn the basis for the designation prior to the filing of this lawsuit through an expedited Freedom of Information Act (“FOIA”) request to DoD, but DoD denied Luokung’s request for an expedited response, stated that it would not respond to the request even within the 20-day statutory time period, and explained that Luokung’s request would be processed in the order received in light of several thousand other pending requests. Luokung immediately appealed DoD’s refusal to process the FOIA request on an expedited basis, but has likewise been informed by the DoD office handling the FOIA appeal that it would not issue its decision on the appeal within the statutory time requirement. More than a month later, Luokung has not been provided any timeline for when any decision on its FOIA request will be forthcoming.

43. Defendants did not provide Luokung an opportunity to be heard on the CCMC Designation, or to present evidence that it does not qualify as a CCMC. Furthermore, no guidance has been issued or published by any agency as to how a party may become delisted. Due to the absence of any established administrative process relating to the delisting process for the CCMC Designation, Luokung attempted to obtain such guidance from OFAC, the agency ordinarily charged with administering similar delisting processes associated with government sanctions programs. Luokung was informed by OFAC that DoD would instead be handling any delisting process associated with the CCMC Designation. However, DoD has not promulgated any

regulations or published any guidance for any such delisting process. As a result, there is no administrative avenue for relief prior to the effective date of the CCMC Prohibitions, or at all.

44. On March 9, 2021, DoD removed the misspelled “Luokong Technology Corporation” from the Section 1237 List and replaced it with the correct spelling of Luokung’s name, “Luokung Technology Corp.” DoD acknowledged that Luokung was incorrectly listed on the January 14, 2021 Section 1237 List as “Luokong Technology Corporation” due to an error by DoD. On March 10, 2021, OFAC issued a letter also acknowledging that the original listing was erroneous, and confirming that the CCMC Prohibitions under Executive Order 13959 as to Luokung would take effect 60 days after March 9, 2021 (*i.e.*, by May 8, 2021) and that divestment must occur within 365 days after March 9, 2021 (*i.e.*, by March 9, 2022). OFAC later publicly issued FAQ 881 confirming this timing.

45. The CCMC Designation was not and cannot have been based on accurate information before DoD and USDT, and cannot comply with the designation criteria set forth in Section 1237, because Luokung is not “owned or controlled by, or affiliated with, the People’s Liberation Army or a ministry of the government of the People’s Republic of China,” or “owned or controlled by an entity affiliated with the defense industrial base of the People’s Republic of China.” *See* Section 1237.

46. In fact, Luokung is a publicly traded, independently managed corporation that provides services for civilian and commercial use. Luokung is overseen by a board of directors, which includes two executive directors and three independent directors, none of whom is affiliated with the Chinese government or military.

47. A supermajority of the voting rights in the company are held under a weighted voting rights structure by Luokung's Chairman and Chief Executive Officer, Mr. Xuesong Song, who is a civilian businessperson unaffiliated with the Chinese government or military.

48. Furthermore, Luokung's shareholders are not Chinese governmental ministries or the Chinese military. Rather, in addition to holding the supermajority of voting rights, Mr. Xuesong Song is also the largest holder of company shares, as beneficial owner through several entities. Luokung's top-11 investors own approximately 60% of the company's shares, and these are company insiders or institutional investors, multiple of which are in the U.S. and none of which are in any way affiliated with the Chinese military or government. To the best of Plaintiffs' knowledge, none of Luokung's shareholders is owned or controlled by, or affiliated with, the People's Liberation Army, any Chinese government ministry, or any entity affiliated with the Chinese government's "defense industrial base." No entity owned, controlled, or affiliated with the Chinese government or military has been part of any financing arranged by Luokung. To the extent any entity in some way affiliated with some Chinese governmental or military entity acquired shares of Luokung on the open market (Nasdaq), Luokung is unaware of it, and any such ownership would be immaterial to Luokung's ownership, business, governance, operations, management and control.

49. It is unclear whether DoD consulted with USDT, as Executive Order 13959 requires, before the designation of Luokung as a CCMC. If it did not, it acted in excess of its authority. On the presumption that it did, it nevertheless acted in excess of its authority to the extent it designated Luokung without complying with the requirements set forth in Section 1237(b), including the requirement that the agency meaningfully consult with the Attorney General, the Director of the Central Intelligence Agency, and the Director of the Federal Bureau

of Investigation before designating Luokung as a CCMC. Meaningful consultation with those entities necessarily would have undermined any designation of Luokung as a CCMC because accurate information would demonstrate that Luokung does not satisfy the statutory criteria.

F. Defendants’ Rationale for the CCMC Designation is Deeply Flawed.

50. As described above, Defendants did not provide Plaintiffs with any notice or opportunity to be heard with respect to the CCMC Designation and the associated CCMC Prohibitions, either before or after the designation was made.

51. On March 16, 2021, as a result of this lawsuit, Defendants’ counsel disclosed to Plaintiffs’ counsel a DoD decisional memo marked as of September 15, 2020 (the “Decisional Memo”) (attached as Exhibit G hereto), which was identified as stating the reasons why Luokung was designated as a CCMC.

52. The Decisional Memo establishes that DoD’s designation of Luokung as a CCMC was based on applying an incorrect legal standard that was contrary to the statutory requirements of Section 1237. Specifically, the Decisional Memo states that to be designated as a CCMC, an “entity must be owned, controlled, or affiliated with the People’s Liberation Army (PLA), government ministries [sic] People’s Republic of China (PRC), *or affiliated with the PRC defense industrial base.*” Decisional Memo (emphasis added). The statute, however, states that the entity must be “owned or controlled by, or affiliated with, the People’s Liberation Army or a ministry of the government of the People’s Republic of China *or . . . owned or controlled by an entity affiliated with the defense industrial base* of the People’s Republic of China.” Section 1237 (emphasis added).

53. The Decisional Memo further establishes that none of the reasons identified for designating Luokung as a CCMC would support a conclusion that Luokung satisfies the statutory requirements under Section 1237, and that there is no rational connection between the reasons

supplied and the statutory requirements. Specifically, none of the stated reasons indicates or otherwise supports a conclusion that Luokung is “owned or controlled by, or affiliated with, the People’s Liberation Army or a ministry of the government of the People’s Republic of China,” or “owned or controlled by an entity affiliated with the defense industrial base of the People’s Republic of China,” as required by Section 1237, nor could they because Luokung in fact does not satisfy those criteria.

54. The Decisional Memo and the rationale stated in it are deeply flawed and fail to adhere to legal and constitutional requirements. Among other problems, the Decisional Memo confirms that the designation of Luokung as a CCMC was inadequately supported by any satisfactory explanation, was made in excess of the agency’s authority, lacked substantial evidence, and was otherwise arbitrary and capricious, and in violation of the APA.

G. Plaintiffs Will Suffer Irreparable Harm as a Result of the Designation.

55. Plaintiffs face imminent, severe, and irreparable harm if the CCMC Designation remains in place and the CCMC Prohibitions take effect.

56. By tarnishing Luokung’s reputation, injuring its shareholders, and cutting it off from public capital markets, the CCMC Designation and CCMC Prohibitions will interfere with and damage the company’s business relationships and its ability to raise capital, and conduct and expand its business, and harm its reputation and goodwill among business partners, investors, vendors, suppliers, and consumers.

57. Luokung operates in highly competitive technology fields that include the autonomous driving, spatial-temporal data management, and Internet location based services industry sectors. Remaining competitive in these industries, which are characterized by rapid innovation, frequent introduction of new products and services, and intense competition in the market, requires significant capital spending, including in research and development, marketing,

and building and maintaining stable customers and sales channels. Due to the demands of the fields in which it operates and intense competition, it is critical that Luokung has the ability to grow rapidly and to continuously upgrade existing products and technologies. Luokung's business requirements thus include significant new investments on an ongoing basis. The growth of Luokung to date has been made possible by hundreds of millions of dollars of investments it has received, most of which was facilitated through the U.S. capital markets. Luokung's ability to grow and succeed is being harmed by the CCMC Designation and CCMC Prohibitions.

58. Since its listing on the Nasdaq, Luokung has raised approximately \$190 million, of which approximately \$100 million was raised from U.S. investors or through U.S. financial institutions. However, the CCMC Designation and CCMC Prohibitions will cut off Luokung's access to investment from U.S. investors. The U.S. capital markets are the world's largest and most liquid source of funding, and are by far the most important source of funding for Luokung. As a result of the impacts of the CCMC Designation and CCMC Prohibitions, Luokung's ability to raise external capital will be significantly reduced and its cost of capital will increase. This will cause the company to put on hold or delay the progress of projects important to its business, including outstanding business cooperation with U.S. companies (which will in turn negatively impact those U.S. companies). Absent the CCMC Designation and CCMC Prohibitions, Luokung could proceed with such projects without interruption. This will significantly harm Luokung's business, standing, and reputation.

59. A ban on investments in Luokung by U.S. investors will not only adversely affect Luokung's ability to obtain capital from U.S. investors and to engage in strategic transactions with U.S. companies, it will likewise harm Luokung's strategic relationships with U.S. financial institutions, particularly those with headquarters based in the United States. In addition to

underwriting capital markets transactions, U.S. financial institutions also act as trusted advisors to Luokung in connection with, for example, identifying potential transactions or business opportunities, such as acquisitions, in which Luokung could participate. U.S. financial institutions also play an important role in facilitating Luokung's ability to obtain capital from non-U.S. investors. If the CCMC Prohibitions take effect in light of the CCMC Designation, these U.S. organizations will be much less motivated to maintain relationships with Luokung and will focus on building relationships with its similarly situated competitors that have not been designated. Once these critical business relationships (which are often sticky and ongoing) are formed with competitors, it will be difficult or impossible for Luokung to repair the resulting damage to its business from the loss of these relationships and connections, even if the CCMC Designation and CCMC Prohibitions are eventually lifted.

60. The CCMC Designation and CCMC Prohibitions will also result in substantial downward pressure on Luokung's share price, as existing U.S. shareholders will be required to sell their shares and as U.S. investor demand for Luokung share purchases disappears. This downward pressure will put Luokung at a disadvantage to its competitors and other similarly situated companies that have not been designated as CCMCs. Beyond the fundamental disadvantage resulting from the inability to raise capital from U.S. investors, the reduction in Luokung's share price will also hinder the company's ability to raise capital elsewhere. These hindrances will negatively impact Luokung's ability to develop new technology platforms and pursue and complete major company projects, which could be expected to lead to loss of market share. Even if the CCMC Designation and CCMC Prohibitions are ultimately revoked later, Luokung will not be able to cure the injury to its business suffered during the period they were in effect, and many of the business opportunities it loses during that time period will not reappear.

61. The CCMC Designation and CCMC Prohibitions will also have an ongoing adverse effect on Luokung's business by damaging its brand reputation and market credibility. Luokung has invested heavily in its core product and service areas to build a recognizable and well respected brand. If Luokung's global customer base comes to see Luokung as a proxy for the Chinese military, due to the false CCMC Designation, it will be more difficult to maintain and grow this brand. In addition, the CCMC Designation and CCMC Prohibitions have eroded market confidence in Luokung's ability to operate, and there are indications that some of its business partners will sever their relationships with Luokung due to the CCMC Designation and the associated stigma it has attached to Luokung. This damage to the company's reputation and goodwill will result in lower sales results, further downward pressure on Luokung's share price and a weakening of its competitive position, and will have a devastating impact on Luokung's long-term business prospects.

62. The CCMC Designation and CCMC Prohibitions also have had, and will continue to have, a significant negative impact on Luokung's ability to recruit and retain talented employees. As a high-tech company, Luokung relies on a pool of technical professionals and senior engineers to create and refine innovative, high-performance products and service offerings. Given the importance of talent to Luokung's business and competitive standing, the company's management has spent a significant amount of time recruiting senior engineers and scientists. The CCMC Designation and CCMC Prohibitions have hampered its recruiting efforts, damaged its international brand and corporate reputation, and created uncertainty about its future business prospects. Since the CCMC Designation was announced, several potential recruits for senior technical positions have informed Luokung that they are reluctant to join Luokung because of the measures the U.S. Government has taken against it.

63. In addition, the CCMC Designation and CCMC Prohibitions will make it more difficult for Luokung to retain its existing talented employees. Most of Luokung's employees receive Luokung shares and/or stock options as part of their compensation, pursuant to the company's Incentive Plan. As with many technology companies, these equity grants are a very significant component of many employees' overall compensation packages. In 2020, for example, approximately 73% of total compensation for Luokung's core employees was provided in the form of stock and stock options. The impact of the CCMC Designation and CCMC Prohibitions on Luokung's stock price will significantly reduce the value of the benefits of these shares and options to employees, which will lead to further attrition of the company's core employees, and ultimately further negatively impact Luokung's business.

64. The CCMC Designation and CCMC Prohibitions also will cause imminent, severe, and irreparable harm to the Individual Plaintiffs Baomin Li and Raymond Weiman Bai. Once the CCMC Prohibitions go into effect, these individuals will be prohibited from purchasing Luokung's securities and will no longer be able to receive Luokung's shares or options as a form of compensation. These individuals must also divest their holdings of Luokung securities by no later than March 9, 2022, a requirement that will force them to sell their shares under a compressed timeframe at a time when all other U.S. persons also would be required to divest their shares – market conditions that would depress Luokung's share price and result in a lower realization for all shareholders forced to sell their shares. Accordingly, the effects of the CCMC Prohibition will not only cause Mr. Li and Mr. Bai to sell their shares at a price significantly lower than it would normally be, to their detriment, but they will also be prevented from benefiting from future share appreciation. With respect to Mr. Li, this will have a devastating impact and will force him to

sever his relationship with the company that he has been greatly involved in developing for the past several years.

65. The CCMC Designation will also harm third-party investors – both individuals and institutions – who currently hold or plan to purchase publicly traded Luokung securities. As a consequence of the CCMC Designation and CCMC Prohibitions, U.S. persons will no longer be able to purchase publicly traded Luokung securities as of May 8, 2021, and must divest their holdings by March 9, 2022. Luokung's thousands of U.S. shareholders will be directly harmed by these restrictions and limitations. And all of Luokung's shareholders – both U.S. and foreign – will be unfairly and irreparably harmed by the devaluation of their shares and lack of liquidity that will result from the effects of the CCMC Designation and CCMC Prohibitions.

66. The CCMC Designation and CCMC Prohibitions will further harm Luokung and its shareholders, including the Individual Plaintiffs, by effectively depriving them of a public market for Luokung's securities. The only public trading market for Luokung's shares is Nasdaq in the United States; Luokung's shares are not currently traded on any other stock exchange. On March 4, 2021, Nasdaq informed Luokung that as a result of the CCMC Designation and the original March 15, 2021, effective date of the CCMC Prohibitions under Executive Order 13959, Nasdaq would halt the trading of Luokung's securities at the opening of business on March 15, 2021, and file a Form 25-NSE with the Securities and Exchange Commission to remove Luokung's securities from listing and registration on The Nasdaq Stock Market. After OFAC later confirmed that the CCMC Prohibitions would not take effect as to Luokung until May 8, 2021, Nasdaq withdrew its initial delisting letter. However, Nasdaq stated that unless there are changes as to Luokung's status on the Section 1237 List, Nasdaq will issue a new delisting determination to be effective May 8, 2021. This will deprive shareholders of what is currently the only public market

for Luokung's shares. This will not only massively restrict liquidity and place enormous downward pressure on the share price, harming Luokung's thousands of shareholders, but will also significantly impede, if not render impossible, the ability of U.S. shareholders to divest their shares if that is required, since there will be no active public market.

67. Plaintiffs and Luokung's shareholders would not be subject to the harms described herein but for the unlawful and unconstitutional designation of Luokung as a CCMC.

V. CLAIMS FOR RELIEF

COUNT 1

**The Designation of Luokung as a CCMC
Violates the Administrative Procedure Act, 5 U.S.C. § 706(2)
(Against Defendants U.S. Department of Defense, Secretary Austin,
U.S. Department of the Treasury, and Secretary Yellen)**

68. Plaintiffs reallege and incorporate by reference the allegations contained in the preceding paragraphs.

69. DoD and USDT are agencies subject to the requirements of the APA. 5 U.S.C. § 701(b)(1).

70. Defendants' designation of Luokung as a CCMC constitutes final agency action that is reviewable by this Court.

71. The APA requires a reviewing court to set aside agency action that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law," "contrary to constitutional right," "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right," or "without observance of procedure required by law." 5 U.S.C. § 706(2)(A)-(D).

72. Under the arbitrary and capricious standard, "the agency must examine the relevant data and articulate a satisfactory explanation for its action including a rational connection between the facts found and the choice made." *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983). An agency decision is arbitrary and capricious "if the

agency has relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.” *Id.*

73. Defendants’ designation of Luokung as a CCMC is arbitrary and capricious, an abuse of discretion, and otherwise not in accordance with law for all of the reasons set forth herein and because, among other things, Defendants failed to articulate a reasonable explanation for their decision. Moreover, that decision necessarily runs counter to any accurate information that was before the agencies, and is not in accordance with law, because Luokung is neither “owned or controlled by, or affiliated with, the People’s Liberation Army or a ministry of the government of the People’s Republic of China,” nor “owned or controlled by an entity affiliated with the defense industrial base of the People’s Republic of China,” as required by Section 1237.

74. Defendants’ unlawful acts are causing and will continue to cause irreparable harm to Plaintiffs and third parties.

COUNT 2
The Designation of Luokung as a CCMC
Violates the Administrative Procedure Act, 5 U.S.C. § 706(2)
(Against Defendants U.S. Department of Defense, Secretary Austin,
U.S. Department of the Treasury, and Secretary Yellen)

75. Plaintiffs reallege and incorporate by reference the allegations contained in the preceding paragraphs.

76. DoD and USDT are agencies subject to the requirements of the APA. 5 U.S.C. § 701(b)(1).

77. The APA requires a reviewing court to set aside agency action that is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law,” “contrary to

constitutional right,” “in excess of statutory jurisdiction, authority, or limitations, or short of statutory right,” or “without observance of procedure required by law.” 5 U.S.C. § 706(2)(A)-(D).

78. Defendants’ designation of Luokung as a CCMC constitutes final agency action that is reviewable by this Court.

79. Section 1237 authorizes the Secretary of Defense to identify CCMCs that operate directly or indirectly in the United States, or any of its territories or possessions. *See* NDAA FY99 § 1237(b). In order to exercise that authority, DoD must consult with the Attorney General, the Director of the Central Intelligence Agency, and the Director of the Federal Bureau of Investigation, in carrying out such authority. *Id.*

80. To the extent that Defendants failed to comply with the requirements for exercise of its authority set forth in Section 1237, including without limitation the obligation to consult with the Attorney General, the Director of the Central Intelligence Agency, and the Director of the Federal Bureau of Investigation in carrying out its authority and designating Luokung as a CCMC, Defendants’ designation of Luokung as a CCMC is not in accordance with law, in excess of statutory authority, and without observance of procedure required by law, all in violation of the APA. *See* NDAA FY99 § 1237(b).

81. Defendants’ unlawful acts are causing, and will continue to cause, irreparable harm to Plaintiffs and third parties.

COUNT 3
The Designation of Luokung as a CCMC
was *Ultra Vires*, in Excess of the Agency’s Statutory Authority
(Against Defendants U.S. Department of Defense, Secretary Austin,
U.S. Department of the Treasury, and Secretary Yellen)

82. Plaintiffs reallege and incorporate by reference the allegations contained in the preceding paragraphs.

83. Section 1237 sets forth a specified and exclusive procedure in order for DoD to exercise its statutory authority to designate an entity as a CCMC. As discussed above, Defendants' designation of Luokung exceeded the authority granted to DoD under the statute, both because Luokung fails to qualify for such designation under the criteria of Section 1237 and/or because DoD did not consult with the other agencies as mandated by Congress in order to exercise authority to designate entities according to Section 1237.

84. Defendants' designation of Luokung as a CCMC was accordingly *ultra vires* and in excess of DoD's statutory authority.

85. Defendants' unlawful acts are causing and will continue to cause irreparable harm to Plaintiffs and third parties.

COUNT 4
The Restrictions in Executive Order 13959 are
***Ultra Vires* to the Extent they are Applied to Luokung**
(Against All Defendants)

86. Plaintiffs reallege and incorporate by reference the allegations contained in the preceding paragraphs.

87. Executive Order 13959 provides that its restrictions apply to CCMCs, which, as relevant here, are defined as "any person that the Secretary of Defense, in consultation with the Secretary of the Treasury, publicly lists as a Communist Chinese military company meeting the criteria in section 1237(b)(4)(B)" of the National Defense Authorization Act for Fiscal Year 1999, as amended, "and that operates directly or indirectly in the United States or any of its possessions." Exec. Order No. 13959, 85 Fed. Reg. 73185 § 4(a)(ii) (Nov. 12, 2020), as amended by Exec. Order No. 13974, 86 Fed. Reg. 4875 § 2 (Jan. 13, 2021).

88. To the extent that the CCMC Prohibitions are applied against Luokung, that action would exceed the authority that Executive Order 13959 grants the Executive Branch because

Luokung does not qualify for such designation under the criteria for a CCMC set forth in Executive Order 13959.

89. Defendants' unlawful acts are causing and will continue to cause irreparable harm to Plaintiffs and third parties.

COUNT 5
The Designation of Luokung as a CCMC and the
CCMC Prohibitions in Executive Order 13959
Violate the Due Process Clause of the Fifth Amendment
(Against All Defendants)

90. Plaintiffs reallege and incorporate by reference the allegations contained in the preceding paragraphs.

91. The Fifth Amendment to the U.S. Constitution provides: "No person shall . . . be deprived of life, liberty, or property, without due process of law[.]" U.S. Const. amend. V. The Due Process Clause of the Fifth Amendment requires that parties deprived of their property receive adequate notice and an opportunity to be heard. *Mathews v. Eldridge*, 424 U.S. 319, 334-35 (1976).

92. The Individual Plaintiffs, as U.S. citizens, are entitled to the protections of the due process clause. Plaintiff Luokung is a foreign entity that has substantial connections with the United States, and is therefore also entitled to the protections of the due process clause. *See N. Sec. Co. v. United States*, 24 S. Ct. 436, 444 (1904) ("Corporations are persons within the meaning of the constitutional provision forbidding the deprivation of property without due process of law, as well as a denial of the equal protection of the laws."); *Nat'l Council of Resistance of Iran v. Dept. of State*, 251 F.3d 192, 203 (D.C. Cir. 2001) (foreign organizations that have "entered the territory of the United States and established substantial connections with this country . . . are entitled to the protections of the Constitution").

93. The designation of Luokung as a CCMC and the resulting CCMC Prohibitions under Executive Order 13959 deprive Luokung of its liberty, property, and other rights, including without limitation its rights to access U.S. capital markets, its relationships with shareholders, financial institutions, business partners, employees and other members of the public, its ability to effectively operate in its chosen business, and its reputation and professional goodwill.

94. The CCMC Designation and CCMC Prohibitions deprive the Individual Plaintiffs of their liberty, property, and other rights, including without limitation their contractual rights and their ability to transact in or possess Luokung's securities.

95. Plaintiffs received no notice of the CCMC Designation before or after it was published on January 14, 2021, nor did they receive any explanation for the CCMC Designation, notice of any material on which the agencies relied, or any opportunity to respond and be heard on the CCMC Designation and the CCMC Prohibitions imposed by Executive Order 13959. Plaintiffs have never been provided any opportunity to respond and be heard on the wrongful CCMC Designation and the CCMC Prohibitions and will have no opportunity for relief prior to the effective date of the CCMC Prohibitions, as there is currently no administrative avenue for doing so. Plaintiffs' only information about the basis for the CCMC Designation came after this lawsuit was filed, as a result of discovery processes in litigation.

96. The CCMC Designation and CCMC Prohibitions are therefore unconstitutional because they deprive Plaintiffs of their liberty, property, and other rights without due process of law.

97. Defendants' unlawful acts are causing and will continue to cause irreparable harm to Plaintiffs and third parties.

COUNT 6
Section 1237 is Unconstitutionally Vague and
Violates the Due Process Clause of the Fifth Amendment
(Against All Defendants)

98. Plaintiffs reallege and incorporate by reference the allegations contained in the preceding paragraphs.

99. Section 1237 defines “Communist Chinese military company” to include persons “affiliated with the People’s Liberation Army, or a ministry of the government of the People’s Republic of China or that is owned or controlled by an entity affiliated with the defense industrial base of the People’s Republic of China....”

100. Section 1237 does not define “affiliated with,” and therefore does not provide any standard for determining that a person is “affiliated with” any of the prohibited entities.

101. Section 1237 is unconstitutionally vague because it fails to provide ordinary people fair notice of the conduct it punishes, and is so standardless that it invites arbitrary enforcement.

102. Plaintiffs are therefore entitled to a judgment declaring that those portions of Section 1237 relating to persons “affiliated with” the prohibited entities violate the Fifth Amendment because they are void for vagueness.

103. Such a declaration is necessary and appropriate at this time to determine the rights and obligations of the parties.

VI. REQUESTED RELIEF

WHEREFORE, Plaintiffs pray that this Court grant the following relief:

- (1) Issue a declaratory judgment pursuant to 28 U.S.C. § 2201(a) that the designation of Luokung as a CCMC is unlawful and unconstitutional;
- (2) Issue a declaratory judgment pursuant to 28 U.S.C. § 2201(a) that Executive Order 13959, as applied against Luokung, is unlawful and unconstitutional;

- (3) Issue a declaratory judgment pursuant to 28 U.S.C. § 2201(a) that the provisions of Section 1237 that relate to persons “affiliated with” the specified entities are void for vagueness;
- (4) Issue an order vacating and setting aside the designation of Luokung as a CCMC, preliminarily and permanently enjoining Defendants from implementing or enforcing that designation, and preserving the status quo;
- (5) Issue an order invalidating Executive Order 13959 as applied against Luokung, preliminarily and permanently enjoining Defendants from implementing or enforcing Executive Order 13959 against Luokung, and preserving the status quo; and
- (6) Grant any other and further relief that this Court may deem just and proper.

DATED: March 23, 2021

Respectfully submitted,

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EXHIBIT A

IMMEDIATE RELEASE

DOD Releases List of Additional Companies, In Accordance with Section 1237 of FY99 NDAA

JAN. 14, 2021

Today, the Department of Defense released the names of additional “Communist Chinese military companies” operating directly or indirectly in the United States in accordance with the statutory requirement of Section 1237 of the National Defense Authorization Act for Fiscal Year 1999, as amended.

The Department is determined to highlight and counter the People’s Republic of China’s (PRC) Military-Civil Fusion development strategy, which supports the modernization goals of the People’s Liberation Army (PLA) by ensuring its access to advanced technologies and expertise acquired and developed by even those PRC companies, universities, and research programs that appear to be civilian entities.

The Department released its initial list of companies to Congress in June 2020 and will continue to update the list with additional entities as appropriate.

For the latest list, [click here](#).

For previous lists, [click here](#), [here](#) and [here](#).

Search...

Qualifying Entities Prepared in Response to Section 1237 of the National Defense Authorization Act for Fiscal Year 1999 (PUBLIC LAW 105-261)

Tranche 5

Advanced Micro-Fabrication Equipment Inc. (AMEC)

Luokong Technology Corporation (LKCO)

Xiaomi Corporation

Beijing Zhongguancun Development Investment Center

GOWIN Semiconductor Corp

Grand China Air Co. Ltd. (GCAC)

Global Tone Communication Technology Co. Ltd. (GTCOM)

China National Aviation Holding Co. Ltd. (CNAH)

Commercial Aircraft Corporation of China, Ltd. (COMAC)

EXHIBIT B

Federal Register

Vol. 85, No. 222

Tuesday, November 17, 2020

Presidential Documents

Title 3—

Executive Order 13959 of November 12, 2020

The President

Addressing the Threat From Securities Investments That Finance Communist Chinese Military Companies

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), and section 301 of title 3, United States Code,

I, DONALD J. TRUMP, President of the United States of America, find that the People's Republic of China (PRC) is increasingly exploiting United States capital to resource and to enable the development and modernization of its military, intelligence, and other security apparatuses, which continues to allow the PRC to directly threaten the United States homeland and United States forces overseas, including by developing and deploying weapons of mass destruction, advanced conventional weapons, and malicious cyber-enabled actions against the United States and its people.

Key to the development of the PRC's military, intelligence, and other security apparatuses is the country's large, ostensibly private economy. Through the national strategy of Military-Civil Fusion, the PRC increases the size of the country's military-industrial complex by compelling civilian Chinese companies to support its military and intelligence activities. Those companies, though remaining ostensibly private and civilian, directly support the PRC's military, intelligence, and security apparatuses and aid in their development and modernization.

At the same time, those companies raise capital by selling securities to United States investors that trade on public exchanges both here and abroad, lobbying United States index providers and funds to include these securities in market offerings, and engaging in other acts to ensure access to United States capital. In that way, the PRC exploits United States investors to finance the development and modernization of its military.

I therefore further find that the PRC's military-industrial complex, by directly supporting the efforts of the PRC's military, intelligence, and other security apparatuses, constitutes an unusual and extraordinary threat, which has its source in substantial part outside the United States, to the national security, foreign policy, and economy of the United States. To protect the United States homeland and the American people, I hereby declare a national emergency with respect to this threat.

Accordingly, I hereby order:

Section 1. (a) The following actions are prohibited:

(i) beginning 9:30 a.m. eastern standard time on January 11, 2021, any transaction in publicly traded securities, or any securities that are derivative of, or are designed to provide investment exposure to such securities, of any Communist Chinese military company as defined in section 4(a)(i) of this order, by any United States person; and

(ii) beginning 9:30 a.m. eastern standard time on the date that is 60 days after a person is determined to be a Communist Chinese military company pursuant to section (4)(a)(ii) or (iii) of this order, any transaction in publicly traded securities, or any securities that are derivative of, or are designed to provide investment exposure to such securities, of that person, by any United States person.

(b) Notwithstanding subsection (a)(i) of this section, purchases for value or sales made on or before 11:59 p.m. eastern standard time on November 11, 2021, solely to divest, in whole or in part, from securities that any United States person held as of 9:30 a.m. eastern standard time on January 11, 2021, in a Communist Chinese military company as defined in section 4(a)(i) of this order, are permitted.

(c) Notwithstanding subsection (a)(ii) of this section, for a person determined to be a Communist Chinese military company pursuant to section 4(a)(ii) or (iii) of this order, purchases for value or sales made on or before 365 days from the date of such determination, solely to divest, in whole or in part, from securities that any United States person held in such person, as of the date 60 days from the date of such determination, are permitted.

(d) The prohibitions in subsection (a) of this section apply except to the extent provided by statutes, or in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted before the date of this order.

Sec. 2. (a) Any transaction by a United States person or within the United States that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate the prohibitions set forth in this order is prohibited.

(b) Any conspiracy formed to violate any of the prohibitions set forth in this order is prohibited.

Sec. 3. (a) The Secretary of the Treasury, after consultation with the Secretary of State, the Secretary of Defense, the Director of National Intelligence, and the heads of other executive departments and agencies (agencies) as deemed appropriate by the Secretary of the Treasury, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA, to carry out the purposes of this order. The Secretary of the Treasury may, consistent with applicable law, redelegate any of these functions within the Department of the Treasury. All agencies shall take all appropriate measures within their authority to carry out the provisions of this order.

(b) Rules and regulations issued pursuant to this order may, among other things, establish procedures to license transactions otherwise prohibited pursuant to this order. But prior to issuing any license under this order, the Secretary of the Treasury shall consult with the Secretary of State, the Secretary of Defense, and the Director of National Intelligence.

Sec. 4. Definitions. For purposes of this order:

(a) the term “Communist Chinese military company” means

(i) any person that the Secretary of Defense has listed as a Communist Chinese military company operating directly or indirectly in the United States or in any of its territories or possessions pursuant to section 1237 of Public Law 105–261, as amended by section 1233 of Public Law 106–398 and section 1222 of Public Law 108–375, as of the date of this order, and as set forth in the Annex to this order, until such time as the Secretary of Defense removes such person from such list;

(ii) any person that the Secretary of Defense, in consultation with the Secretary of the Treasury, determines is a Communist Chinese military company operating directly or indirectly in the United States or in any of its territories or possessions and therefore lists as such pursuant to section 1237 of Public Law 105–261, as amended by section 1233 of Public Law 106–398 and section 1222 of Public Law 108–375, until such time as the Secretary of Defense removes such person from such list; or

(iii) any person that the Secretary of the Treasury publicly lists as meeting the criteria in section 1237(b)(4)(B) of Public Law 105–261, or publicly lists as a subsidiary of a person already determined to be a Communist

Chinese military company, until the Secretary of the Treasury determines that such person no longer meets that criteria and removes such person from such list.

(b) the term “entity” means a government or instrumentality of such government, partnership, association, trust, joint venture, corporation, group, subgroup, or other organization;

(c) the term “person” means an individual or entity;

(d) the terms “security” and “securities” include the definition of “security” in section 3(a)(10) of the Securities Exchange Act of 1934, Public Law 73–291, as codified as amended at 15 U.S.C. 78c(a)(10), except that currency or any note, draft, bill of exchange, or banker’s acceptance which has a maturity at the time of issuance of not exceeding 9 months, exclusive of days of grace, or any renewal thereof the maturity of which is likewise limited, shall be a security for purposes of this order.

(e) the term “transaction” means the purchase for value of any publicly traded security; and

(f) the term “United States person” means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

Sec. 5. The Secretary of the Treasury, in consultation with the Secretary of State and, as appropriate, the Secretary of Defense, is hereby authorized to submit the recurring and final reports to the Congress on the national emergency declared in this order, consistent with section 401(c) of the NEA (50 U.S.C. 1641(c)) and section 204(c) of IEEPA (50 U.S.C. 1703(c)).

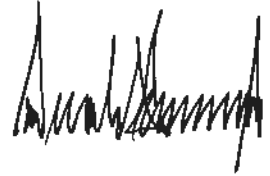
Sec. 6. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

A handwritten signature in black ink, appearing to be "Donald Trump", located in the upper right quadrant of the page.

THE WHITE HOUSE,
November 12, 2020.

Annex

Aero Engine Corp of China
Aviation Industry Corporation of China, Ltd. (AVIC)
China Academy of Launch Vehicle Technology (CALT)
China Aerospace Science & Technology Corporation (CASC)
China Aerospace Science & Industry Corporation (CASIC)
China Communication Construction Group Company, Ltd.
China Electronics Corporation (CEC)
China Electronics Technology Group Corporation (CETC)
China Mobile Communications
China National Chemical Corporation (ChemChina)
China National Chemical Engineering Group Co., Ltd. (CNCEC)
China National Nuclear
China Nuclear Engineering & Construction Corporation (CNECC)
China General Nuclear Power
China Railway Construction Corporation (CRCC)
China Shipbuilding Industry Corporation (CSIC)
China South Industries Group Corporation (CSGC)
China Spacesat
China State Construction Group Co., Ltd.
China State Shipbuilding Corporation (CSSC)
China Telecommunications
China Three Gorges Corporation Limited
China United Network Communications Group Co Ltd
CRRC Corporation
Dawning Information Industry Co. (Sugon)
Hikvision
Huawei
Inspur Group
Norinco
Panda Electronics
Sinochem Group Co Ltd

EXHIBIT C

Federal Register

Vol. 86, No. 11

Tuesday, January 19, 2021

Presidential Documents

Title 3—

Executive Order 13974 of January 13, 2021

The President

Amending Executive Order 13959—Addressing the Threat From Securities Investments That Finance Communist Chinese Military Companies

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), and section 301 of title 3, United States Code,

I, DONALD J. TRUMP, President of the United States of America, in order to take additional steps with respect to the national emergency declared in Executive Order 13959 of November 12, 2020 (Addressing the Threat from Securities Investments that Finance Communist Chinese Military Companies), to address the threat posed by the People's Republic of China's military-industrial complex, hereby order as follows:

Section 1. Section 1(b) and (c) of Executive Order 13959 are amended to read as follows:

“(b) Notwithstanding subsection (a)(i) of this section, any transaction entered into on or before 11:59 p.m. eastern standard time on November 11, 2021, solely to divest, in whole or in part, from securities that any United States person held as of 9:30 a.m. eastern standard time on January 11, 2021, in a Communist Chinese military company as defined in section 4(a)(i) of this order, is permitted. Effective at 11:59 p.m. eastern standard time on November 11, 2021, possession of any such securities by a United States person is prohibited.

(c) Notwithstanding subsection (a)(ii) of this section, for a person determined to be a Communist Chinese military company pursuant to section 4(a)(ii) or (iii) of this order, any transaction entered into on or before 365 days from the date of such determination, solely to divest, in whole or in part, from securities that any United States person held in such person, as of the date 60 days from the date of such determination, is permitted. Effective at 11:59 p.m. eastern standard time on the date 365 days after the date of such determination, possession of any such securities by a United States person is prohibited.”

Sec. 2. Subsections (a)(ii) and (iii) of section 4 of Executive Order 13959 are amended to read as follows:

“(ii) any person that the Secretary of Defense, in consultation with the Secretary of the Treasury, publicly lists as a Communist Chinese military company meeting the criteria in section 1237(b)(4)(B) of Public Law 105–261, as amended by section 1233 of Public Law 106–398 and section 1222 of Public Law 108–375, and that operates directly or indirectly in the United States or any of its possessions, until such time as the Secretary of Defense removes such person from such list. This definition shall apply regardless of whether the Secretary of Defense must provide the report described in section 1237(b)(2) of Public Law 105–261, as amended by section 1233 of Public Law 106–398 and section 1222 of Public Law 108–375; or

(iii) any person that the Secretary of the Treasury publicly lists as meeting the criteria described in section (a)(ii) of this section, or publicly lists as a subsidiary of a person already determined to be a Communist Chinese

military company, until the Secretary of the Treasury determines that such person no longer meets that criteria and removes such person from such list.”

Sec. 3. Section 4(e) of Executive Order 13959 is amended to read as follows:

“(e) the term “transaction” means the purchase for value, or sale, of any publicly traded security; and”.

Sec. 4. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.



THE WHITE HOUSE,
January 13, 2021.

EXHIBIT D



DEPUTY SECRETARY OF DEFENSE

1010 DEFENSE PENTAGON
WASHINGTON, DC 20301-1010

MAR - 9 2021

The Honorable Jack Reed
Chairman
Committee on Armed Services
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

Section 1237(b) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (50 U.S. Code 1701 note), as amended, requires the Secretary of Defense to determine those persons operating directly or indirectly in the United States or any of its territories and possessions that are "Communist Chinese military companies," and to submit a list of those persons in classified and unclassified form.

On January 14, 2021 the Department of Defense named nine companies as qualifying under the criteria outlined in section 1237(b), including Luokung Technology Corp. Due to a mistransliteration, Luokung Technology Corp was incorrectly listed as Luokong Technology Corporation. As detailed in the enclosure, the Department of Defense is removing the name containing the error and replacing it with the correct spelling.

Thank you for your attention to this issue, and we look forward to continued engagement. I am sending identical letters to the offices and agencies specified in the statute.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathleen H. Hines", is located below the "Sincerely," text.

Enclosure:
As stated

cc:
The Honorable James M. Inhofe
Ranking Member





DEPUTY SECRETARY OF DEFENSE

1010 DEFENSE PENTAGON
WASHINGTON, DC 20301-1010

MAR - 9 2021

The Honorable Adam Smith
Chairman
Committee on Armed Services
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Section 1237(b) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (50 U.S. Code 1701 note), as amended, requires the Secretary of Defense to determine those persons operating directly or indirectly in the United States or any of its territories and possessions that are "Communist Chinese military companies," and to submit a list of those persons in classified and unclassified form.

On January 14, 2021 the Department of Defense named nine companies as qualifying under the criteria outlined in section 1237(b), including Luokung Technology Corp. Due to a mistransliteration, Luokung Technology Corp was incorrectly listed as Luokong Technology Corporation. As detailed in the enclosure, the Department of Defense is removing the name containing the error and replacing it with the correct spelling.

Thank you for your attention to this issue, and we look forward to continued engagement. I am sending identical letters to the offices and agencies specified in the statute.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathleen Hoffman", is located to the right of the "Sincerely," text.

Enclosure:
As stated

cc:
The Honorable Mike D. Rogers
Ranking Member





DEPUTY SECRETARY OF DEFENSE
1010 DEFENSE PENTAGON
WASHINGTON, DC 20301-1010

MAR - 9 2021

The Honorable Janet Yellen
Secretary of the Treasury
Washington, DC 20220

Dear Madam Secretary:

Section 1237(b) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (50 U.S. Code 1701 note), as amended, requires the Secretary of Defense to determine those persons operating directly or indirectly in the United States or any of its territories and possessions that are "Communist Chinese military companies," and to submit a list of those persons in classified and unclassified form.

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Thank you for your attention to this issue, and we look forward to continued engagement. I am sending identical letters to the offices and agencies specified in the statute.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathleen H. Hines", is located below the "Sincerely," text.

Enclosure:
As stated





DEPUTY SECRETARY OF DEFENSE

1010 DEFENSE PENTAGON
WASHINGTON, DC 20301-1010

MAR - 9 2021

The Honorable Antony J. Blinken
Secretary of State
Washington, DC 20520

Dear Mr. Secretary:

Section 1237(b) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (50 U.S. Code 1701 note), as amended, requires the Secretary of Defense to determine those persons operating directly or indirectly in the United States or any of its territories and possessions that are "Communist Chinese military companies," and to submit a list of those persons in classified and unclassified form.

On January 14, 2021 the Department of Defense named nine companies as qualifying under the criteria outlined in section 1237(b), including Luokung Technology Corp. Due to a mistransliteration, Luokung Technology Corp was incorrectly listed as Luokong Technology Corporation. As detailed in the enclosure, the Department of Defense is removing the name containing the error and replacing it with the correct spelling.

Thank you for your attention to this issue, and we look forward to continued engagement. I am sending identical letters to the offices and agencies specified in the statute.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathleen A. Harris", is located below the "Sincerely," text.

Enclosure:
As stated





DEPUTY SECRETARY OF DEFENSE

1010 DEFENSE PENTAGON
WASHINGTON, DC 20301-1010

MAR - 9 2021

The Honorable Robert M. "Monty" Wilkinson
Acting Attorney General
Washington, DC 20530

Dear Mr. Attorney General:

Section 1237(b) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (50 U.S. Code 1701 note), as amended, requires the Secretary of Defense to determine those persons operating directly or indirectly in the United States or any of its territories and possessions that are "Communist Chinese military companies," and to submit a list of those persons in classified and unclassified form.

On January 14, 2021 the Department of Defense named nine companies as qualifying under the criteria outlined in section 1237(b), including Luokung Technology Corp. Due to a mistransliteration, Luokung Technology Corp was incorrectly listed as Luokong Technology Corporation. As detailed in the enclosure, the Department of Defense is removing the name containing the error and replacing it with the correct spelling.

Thank you for your attention to this issue, and we look forward to continued engagement. I am sending identical letters to the offices and agencies specified in the statute.

Sincerely,

A handwritten signature in black ink, which appears to read "Kathleen H. Hull", is positioned below the word "Sincerely,".

Enclosure:
As stated





DEPUTY SECRETARY OF DEFENSE

1010 DEFENSE PENTAGON
WASHINGTON, DC 20301-1010

MAR - 9 2021

The Honorable Gina Raimondo
Secretary of Commerce
Washington, DC 20230

Dear Madam Secretary:

Section 1237(b) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (50 U.S. Code 1701 note), as amended, requires the Secretary of Defense to determine those persons operating directly or indirectly in the United States or any of its territories and possessions that are "Communist Chinese military companies," and to submit a list of those persons in classified and unclassified form.

On January 14, 2021 the Department of Defense named nine companies as qualifying under the criteria outlined in section 1237(b), including Luokung Technology Corp. Due to a mistransliteration, Luokung Technology Corp was incorrectly listed as Luokong Technology Corporation. As detailed in the enclosure, the Department of Defense is removing the name containing the error and replacing it with the correct spelling.

Thank you for your attention to this issue, and we look forward to continued engagement. I am sending identical letters to the offices and agencies specified in the statute.

Sincerely,

A handwritten signature in black ink, appearing to read "Keith H. Hays", is located below the "Sincerely," text.

Enclosure:
As stated





DEPUTY SECRETARY OF DEFENSE

1010 DEFENSE PENTAGON
WASHINGTON, DC 20301-1010

MAR - 9 2021

The Honorable Jennifer Granholm
Secretary of Energy
Washington, DC 20585

Dear Madam Secretary:

Section 1237(b) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (50 U.S. Code 1701 note), as amended, requires the Secretary of Defense to determine those persons operating directly or indirectly in the United States or any of its territories and possessions that are "Communist Chinese military companies," and to submit a list of those persons in classified and unclassified form.

On January 14, 2021 the Department of Defense named nine companies as qualifying under the criteria outlined in section 1237(b), including Luokung Technology Corp. Due to a mistransliteration, Luokung Technology Corp was incorrectly listed as Luokong Technology Corporation. As detailed in the enclosure, the Department of Defense is removing the name containing the error and replacing it with the correct spelling.

Thank you for your attention to this issue, and we look forward to continued engagement. I am sending identical letters to the offices and agencies specified in the statute.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathleen H. Hicks", is located below the "Sincerely," text.

Enclosure:
As stated





DEPUTY SECRETARY OF DEFENSE

1010 DEFENSE PENTAGON
WASHINGTON, DC 20301-1010

MAR - 9 2021

The Honorable David S. Cohen
Acting Director
Central Intelligence Agency
Washington, DC 20032

Dear Mr. Acting Director:

Section 1237(b) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (50 U.S. Code 1701 note), as amended, requires the Secretary of Defense to determine those persons operating directly or indirectly in the United States or any of its territories and possessions that are "Communist Chinese military companies," and to submit a list of those persons in classified and unclassified form.

On January 14, 2021 the Department of Defense named nine companies as qualifying under the criteria outlined in section 1237(b), including Luokung Technology Corp. Due to a mistransliteration, Luokung Technology Corp was incorrectly listed as Luokong Technology Corporation. As detailed in the enclosure, the Department of Defense is removing the name containing the error and replacing it with the correct spelling.

Thank you for your attention to this issue, and we look forward to continued engagement. I am sending identical letters to the offices and agencies specified in the statute.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathleen H. Harris", is located below the "Sincerely," text.

Enclosure:
As stated



Removed Entity Prepared in Response to Section 1237 of the National Defense Authorization Act for Fiscal Year 1999 (PUBLIC LAW 105-261)

Luokong Technology Corporation (LKCO)

Qualifying Entity Prepared in Response to Section 1237 of the National Defense Authorization Act for Fiscal Year 1999 (PUBLIC LAW 105-261)

Luokung Technology Corp (LKCO)

EXHIBIT E



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

March 10, 2021

Shawn J. Larsen-Bright
(larsen.bright.shawn@dorsey.com)
Kathryn A. Johnson
(johnson.kate@dorsey.com)
Benjamin D. Greenberg
(greenberg.ben@dorsey.com)
Creighton Magid
(magid.chip@dorsey.com)
Dorsey & Whitney LLP

VIA EMAIL

Dear Counsel:

On January 14, 2021, the Secretary of Defense listed “Luokong Technology Corporation (LKCO),” pursuant to section 4(a)(ii) of E.O. 13959. This listing was erroneous. Accordingly, on March 9, 2021, the Secretary of Defense delisted “Luokong Technology Corporation (LKCO)” and listed “Luokung Technology Corp (LKCO),” pursuant to section 4(a)(ii) of E.O. 13959. As such, the prohibition in section 1(a)(ii) of E.O. 13959 will take effect with respect to Luokung Technology Corp (LKCO) 60 days after March 9, 2021 (i.e., May 8, 2021), and the prohibition in section 1(c) of E.O. 13959 will take effect with respect to Luokung Technology Corp (LKCO) 365 days after March 9, 2021 (i.e., March 9, 2022).

Sincerely,

Bradley T. Smith

Digitally signed by Bradley T. Smith
Date: 2021.03.10 13:08:36 -05'00'

Bradley T. Smith
Acting Director
Office of Foreign Assets Control

Cc:
Lawrence A. Ward
(ward.lawrence@dorsey.com)
Joseph Borson
(joseph.borson@usdoj.gov)
Stephen M. Elliott
(stephen.m.elliott@usdoj.gov)
James R. Powers
(james.r.powers@usdoj.gov)

EXHIBIT F

U.S. DEPARTMENT OF THE TREASURY

FINANCIAL SANCTIONS

Specially Designated Nationals And Blocked Persons List (SDN)

SDN List - Data Formats & Data Schemas

Consolidated List Sanctions

Recent Actions

Search OFAC's Sanctions List

Additional Sanctions Lists

Sanctions Programs and Country Information

OFAC License Applications Page

Additional OFAC Resources

Frequently Asked Questions

Civil Penalties and Enforcement Information

OFAC Reporting System

Contact OFAC

Frequently Asked Questions

Search all FAQs

CHINESE MILITARY COMPANIES SANCTIONS

881. When do the prohibitions in Executive Order 13959, as amended (E.O. 13959), apply with respect to Luokung Technology Corp. (LKCO)?

On January 14, 2021, the Secretary of Defense listed Luokong Technology Corporation (LKCO), pursuant to section 4(a)(ii) of [E.O. 13959](#). This listing was erroneous. Accordingly, on March 9, 2021, the Secretary of Defense delisted Luokong Technology Corporation (LKCO) and listed Luokung Technology Corp. (LKCO), pursuant to section 4(a)(ii) of E.O. 13959. As such, the prohibition in section 1(a)(ii) of E.O. 13959 will take effect with respect to Luokung Technology Corp. (LKCO) 60 days after March 9, 2021 (i.e., May 8, 2021), and the prohibition in section 1(c) of E.O. 13959 will take effect with respect to Luokung Technology Corp. (LKCO) 365 days after March 9, 2021 (i.e., March 9, 2022).

March 14, 2021

EXHIBIT G



CUI

As Of: 9/15/20

Luokung Technology Corporation (LKCO)
Beijing, China

BUSINESS SUMMARY:

Luokung Technology Corp., formerly Kingtone Wirelessinfo Solution Holding Ltd, is a holding company. The Company is a developer and provider of mobile enterprise solutions. The Company's mobile enterprise solutions allow company personnel whose work function requires mobility to be connected with enterprise information technology (IT) systems, including Enterprise Asset Management (EAM), Enterprise Resource Planning (ERP), Supply Chain Management (SCM), and Customer Relationship Management (CRM). Its software enables these systems to get extended to personnel in the field using wireless devices, such as smart phones, Personal Digital Assistant (PDA), cameras, barcode scanners, portable printers, global positioning system (GPS) devices, and tablet computers. Its mobile enterprise solutions also contain custom software applications for specific industries and businesses.¹¹

FACTOR 1: The entity must be owned, controlled, or affiliated with the People's Liberation Army (PLA), government ministries People's Republic of China (PRC), or affiliated with the PRC defense industrial base.

- Luokung and its strategic partner LandSpace Technology Corporation Ltd. work together on commercial space cooperation, focusing on satellite remote sensing data applications. They jointly develop products and services for domestic and foreign markets including spatial-temporal big-data applications, aerospace application systems, and measurement and control systems for rockets, satellites and earth stations with global coverage.¹² Space systems according to the 2019 DoD Industrial Capabilities Report are considered a Traditional Sector of the Defense Industrial Base and a Critical Technology for modern military operations.
- Luokung, through several of its subsidiaries, designs and employs Artificial Intelligence and Autonomous Systems which according to the 2019 DoD Industrial Capabilities Report are considered Critical Technologies used for modern military purposes.¹³
- In July 2020, Luokung entered into a strategic cooperation agreement with China National Geospatial Information Center which is an institution under the National Development and Reform Commission. Together they are undertaking the construction and operation of the national natural resources and geospatial basic information database, engaging in the formulation of policies and standards for the integration and sharing of geospatial information, providing geospatial information products and related services to the state and relevant departments and organizations, and guiding local governments to conduct the construction and application of natural resources and geospatial basic

¹¹ Thomson Reuters Eikon, *Business Summary*

¹² Bloomberg, *Press Release*, <https://www.bloomberg.com/press-releases/2019-05-30/luokung-technology-corp-announces-strategic-cooperation-with-land-space-on-establishing-the-measurement-and-control-system-for>

¹³ Company Website, *Our Company*

CUI



CUI

information databases. The agreement is intended to promote the wide application of geospatial information data and technical services in spatial planning, e-government, smart city, smart ecology, and smart agriculture.¹⁴ This agreement constitutes close affiliation with the main body of PRC economic regulation and planning and potential affiliation with the surveillance capabilities of the PRC National Police.

- In July 2020, Luokung established an in-depth partnership with the State-Owned Enterprise (SOE) Yangtze River Yuntong Group Co., Ltd. to provide cooperation on digital city construction, smart city data operation, transportation, and municipal administration multi-level cooperation in technologies, products, and markets in areas such as smart service solutions for public industries.¹⁵ This agreement constitutes close affiliation with the PRC and potential affiliation with the surveillance capabilities of the PRC National Police.
- In 2019, Luokung's wholly owned subsidiary eMapgo Technologies (Beijing) Co., Ltd.¹⁶ established comprehensive cooperation with Huawei Investment & Holding Co., Ltd a company determined to be a CCMC meeting the criteria as defined in section 1237 of the FY99 National Defense Authorization Act, as amended.¹⁷

Luokung meets the criteria for Factor 1.

FACTOR 2: The entity must be engaged in commercial services, manufacturing, producing, or exporting.

- Luokung is publicly traded on the NASDAQ Capital Market Consolidated Stock Exchange. The company manufactures and supplies products and services within the PRC and abroad for commercial use and profit.¹⁸

Luokung meets the criteria for Factor 2.

FACTOR 3: An entity must be operating directly or indirectly in the United States.

- Luokung's wholly owned subsidiary Yitotong Technology (Beijing) Co., Ltd. was selected by U.S. based Ford Motor Company to be Ford's China based operations designated supplier of HD maps for autonomous driving.¹⁹
- Luokung's wholly owned subsidiary eMapgo provides geographic information services to several U.S. based companies including, McDonald's, KFC, Starbucks, and UPS.²⁰
- Luokung is a publicly traded company on the NASDAQ Capital Market Consolidated Stock Exchange and has multiple U.S. based shareholders as of September 4, 2020.²¹

Luokung meets the criteria for Factor 3.

¹⁴ Bloomberg, *Press Release*, <https://www.bloomberg.com/press-releases/2020-07-09/national-geospatial-information-center-boos-ts-luokung-s-all-aspects-of-development-in-application-for-geospatial-information-in>

¹⁵ Company Website, *Press Release*, <https://www.luokung.com/cn/press/90.html>

¹⁶ Company Website, *Our Company*

¹⁷ eMapgo Website, *Company History*, <http://www.emapgo.com.cn/index.php?id=149>

¹⁸ Thomson Reuters Eikon, *Overview*

¹⁹ Company Website, *Press Release*, <https://www.luokung.com/cn/press/82.html>

²⁰ eMapgo Website, *Company Overview*, <http://www.emapgo.com.cn/index.php?id=148>

²¹ Thomson Reuters Eikon, *Shareholder Report*

CUI



CUI

DETERMINATION

Luokung Technology Corp. meets the criteria as defined by section 1237 of the FY99 National Defense Authorization Act, as amended and is determined to be a CCMC.

CUI