

# ***China's Agricultural Policies: Trade, Investment, Safety, and Innovation***

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## **Summary/Overview**

The U.S.-China agricultural relationship is broad and deep, reaching well beyond the import and export of goods. Yet we rarely factor the other elements of our relationship into our trade strategies, and do not sufficiently take credit for the public investment we have made in modernizing Chinese agriculture. By failing to discuss our trade relationship within the larger context of China's agricultural and economic reforms, we often deprive ourselves of opportunities to leverage these investments, and instead craft piecemeal solutions with China that address symptoms, rather than the underlying political and regulatory issues inhibiting U.S. agricultural trade. While the United States should continue to actively pursue technical work on specific agricultural trade issues, it should look for new opportunities to address trade problems in the context of larger goals related to China's agricultural modernization and the health of its rural economies.

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<sup>1</sup> The views expressed in this testimony are Darci Vetter's alone, and do not represent those of Edelman or the U.S. Government.

## Introduction

Thank you for the opportunity to testify before the Commission on the topic of China's Agricultural Policies. Other panelists this morning will focus on China's agricultural policies, as well opportunities and challenges related to trade with China in particular agricultural products. As such, the Commission has asked that I focus on examining the government-government engagement between China and the United States, and how that process could be improved. I will address three key questions in this regard:

- I. How has the United States government engaged with China on Agricultural trade issues? Where has this engagement been effective, and where has it fallen short?
- II. What are the chief policy barriers to trade in agricultural products with China? What are the primary drivers or causes for these barriers? Are they used primarily to protect domestic industries?
- III. How might retaliation in trade disputes impact the U.S agricultural sector, and how can we mitigate against such effects?

After addressing these questions, I will conclude with recommendations for action, including comments on how recent bureaucratic restructuring in China may provide an opportunity to reshape our U.S. China engagement on agriculture.

## **How has the United States government engaged with China on Agricultural trade issues? Where has this engagement been effective, and where has it fallen short?**

During the previous Administration, the United States and China typically held 3-5 high-level engagements annually to discuss agricultural trade. These meetings were typically held in one of three formats:

- Bilateral engagement between the Minister or Vice Ministers of the Ministry of Agriculture (MOA) and the U.S. Department of Agriculture (USDA), or between the Minister or Vice Ministers of the Ministry of Commerce (MOFCOM) and the U.S. Trade Representative (USTR). These may be stand-alone meetings, or they may be shorter bilateral discussions on the margins of other meetings, such as the FAO Conference, or the OECD or G-20 meeting of Agriculture or Trade Ministers.
- Discussion of agricultural agenda items during the U.S.-China Joint Commission on Commerce and Trade (JCCT), a high-level dialogue focused on bilateral trade issues between the United States and China, co-chaired on the U.S. side by the Secretary of Commerce and the U.S. Trade Representative.

- Discussion of agricultural agenda items within the economic track of the U.S.-China Strategic and Economic Dialogue (S&ED), a high-level dialogue to discuss a range of economic and foreign policy issues, chaired on the U.S side by the Secretary of the Treasury.

Most bilateral meetings at Minister level are used to try to advance a limited list of specific issues that have been advanced by staff and/or deputies and are ready for Ministerial decision or direction. As a general rule, the trade items on the agenda of agriculture ministers, and the agriculture items on the agenda of trade ministers were often the most difficult to resolve. MOA tended to be willing to move forward on trade issues of mutual benefit, such as granting export approvals for U.S. fruit exports, if the United States was prepared to reciprocate on such products from China. MOA was typically much less responsive, however, to concerns raised about compliance with trade rules or international standards, often reminding U.S. Agriculture officials of their mandate for food self-sufficiency, and the growing trade deficit between the United States and China in the agriculture sector. Conversely, when agricultural issues were discussed in meetings of trade ministers, MOFCOM had a tendency to acknowledge U.S. concerns, but defer to MOA's authority to implement agricultural policy.

In contrast, the inclusion of agricultural trade issues on the agenda of the JCCT and S&ED created an opportunity to raise awareness of agricultural trade issues in the presence of multiple Ministries and the Vice Premier and allowed the United States to define those issues in the context of China's economic reform, and the broader US-China relationship. For example, China's approval system for the products of biotechnology was raised at the JCCT and S&ED because it was a barrier to agricultural trade, but also an example of larger concerns about China's policies regarding technology adoption and the protection of intellectual property.

Unfortunately, while Agriculture Ministers were included in the JCCT and S&ED meetings, Agriculture Ministers were not co-chairs of either of these fora. Agricultural issues were a minor part of very broad economic policy agendas, which left little time for discussion of those issues. Some agricultural trade gains were achieved through the JCCT and S&ED, such as lifting China's ban on U.S. pork, reducing the scope of restrictions on poultry due to avian influenza, and gaining approval for a limited number of biotech events, but agriculture lacked the leverage at the table to use the JCCT and S&ED to achieve systemic policy changes to prevent future agricultural trade barriers. Instead, China had a tendency to pledge to improve its procedures, or to engage in future dialogue, but the results were often elusive or seriously delayed. For example, China agreed on several occasions to work toward a protocol for the re-entry of US beef to China, only to introduce proposals during negotiations that it knew were not commercially feasible.

On biotechnology, China repeatedly pledged to make improvements to its biotech approvals process, yet significant concerns about the approval process remain. For example, during the 2015 state visit of President Xi, "Both [the United States and China] reaffirmed the importance of implementing timely, transparent, predictable, and science-

based approval processes for products of agricultural biotechnology, which are based on international standards....”<sup>2</sup> Later that year, at the JCCT, China and the United States reaffirmed the outcomes reached on agricultural innovation during the September 2015 state visit of President Xi, “Both countries reiterated they would work together to further the approval process based on international standards; and reiterated the importance of adopting a timely, transparent, predictable and science-based approval process.”<sup>3</sup> In June of 2016 at the S&ED, a similar pledge was made; “China committed to revise its biotech regulations to be consistent with the outcomes on the administration of biotechnology from President Xi’s State Visit to Washington in September 2015. China further committed to review applications of agricultural biotechnology products in a timely, ongoing and science-based manner....”<sup>4</sup>

In April 2017, the Trump Administration replaced the JCCT and S&ED with the U.S.-China Comprehensive Economic Dialogue (CED), co-chaired by the Secretary of the Treasury and the Secretary of Commerce. However, the July meeting of the CED ended in an impasse, and the Treasury Department indicated on November 30, 2017 that the CED would be indefinitely suspended, citing continuing disagreements on trade. Given the current trade tensions between the United States and China, it is unlikely the process will be revived soon.

While the JCCT and S&ED were focused purely on policy and reform, the U.S. China Agricultural symposia, the first of which was held in 2012 in Des Moines, on the margins of then Vice President Xi Jinping’s visit to Iowa, and the second in 2013 in Beijing, were focused on agricultural cooperation, and organized around specific policy goals shared by the United States and China; food safety, food security, and agricultural sustainability. Their broad agenda allowed for participation from a range of ministries responsible for different aspects of agricultural trade policy, including China’s Food and Drug Administration. Their focus on discussion allowed for open dialogue about issues where China was struggling, such as the design of new food safety rules after high-profile food safety scandals. The U.S. private sector was also invited to participate, showcasing their own best practices for food safety, and demonstrating successes from their investments in China’s agriculture sector. While the symposia allowed the United States to highlight our own best practices, and to demonstrate how U.S. exports and a more transparent and risk-based regulatory system could contribute to China’s goals—namely food security, food safety and sustainable agriculture--while creating a better environment for trade, the symposium was designed as a dialogue, and fell short of providing specific next steps or commitments to policy change needed to achieve the shared objectives.

The U.S. private sector is also extensively involved in cooperative work with China on agricultural trade. I emphasize it here because many of the export promotion and cooperative development programs undertaken by the U.S. private sector have been

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<sup>2</sup> [http://www.fmprc.gov.cn/mfa\\_eng/wjdt\\_665385/2649\\_665393/t1300771.shtml](http://www.fmprc.gov.cn/mfa_eng/wjdt_665385/2649_665393/t1300771.shtml)

<sup>3</sup> <https://www.commerce.gov/news/fact-sheets/2015/11/us-fact-sheet-26th-us-china-joint-commission-commerce-and-trade>

<sup>4</sup> <https://www.treasury.gov/press-center/press-releases/Pages/jl0485.aspx>

initiated through the USDA Market Access Program (MAP) and the Foreign Market Development (FMD) program, and are, in-fact, a public private partnership, although rarely discussed as such with our foreign counterparts. The U.S. government does not take enough credit for the fact that the MAP and FMD programs were designed to facilitate direct private-sector relationships in foreign markets, including activities to modernize and develop the agricultural sector in China. For decades, US cooperators have worked with their Chinese customers to create value-added ventures and create jobs in China that advance Chinese agriculture while promoting U.S. exports, such as building modern corn milling facilities, or establishing aquaculture programs. While U.S. exports of agricultural products to China have grown dramatically in recent years, decades of partnership in developing Chinese agriculture have not been met with policy change to foster further work. China's agricultural market remains risky and fickle, discouraging or prohibiting longer-term partnerships and investments that could benefit both sides.

One must also keep in mind that in addition to specific engagement on agricultural trade issues, there are multiple other programs and activities between the United States and China related to agriculture. These programs include joint agricultural research, training on the design of domestic support and crop insurance programs, sharing of climate-smart agricultural techniques, and forestry projects, among many others. While not specifically designated as "trade" activities, many of these programs impact China's agricultural productivity and the design of its policies. These programs are staffed and funded by different agencies throughout the Department of Agriculture, but not centrally coordinated or prioritized.

**What are the chief policy barriers to trade in agricultural products with China? What are the primary drivers or causes for these barriers? Are they used primarily to protect domestic industries?**

Compared to many other developing countries, China's tariffs are low, as they were bound at relatively low rates as part of China's WTO accession. China's applied and bound tariff rates also tend to be the same, in contrast to many other developing countries, that may normally apply tariffs at one level, but have the freedom under WTO rules to raise them significantly. Because of this, the tariff treatment surrounding most agricultural products is stable, and not a source of uncertainty or risk for exporters.

While tariffs are more straightforward, inconsistent border procedures, overly complicated or restrictive sanitary and phytosanitary (SPS) measures, and non-transparent and burdensome licensing, registration and certification procedures remain significant barriers to trade with China. The application of anti-dumping and counter-vailing duties to U.S. agricultural goods has also restricted trade for years at a time.

These trade barriers reflect both a desire by China to protect domestic producers and processors, as well as a country conflicted about how to effectively implement and enforce complex policies on both foreign and domestic goods. Further, China struggles to simultaneously meet policy goals to increase agricultural production, reduce waste and pollution, and preserve or improve rural employment opportunities. There are often internal conflicts about how to achieve each of these goals, and at what pace they should be implemented, which can interrupt the pace and direction of policy change, creating additional uncertainty for trade.

China's policies toward biotechnology demonstrate the tensions between the policy goals referenced above. China is a major developer of biotech products, and its slow process for approving US biotech events, in particular its refusal to approve them for cultivation in China, reflects a strong effort to protect its domestic industry. Further, this sector is also a victim of China's attempts to force the transfer of technologies and theft of valuable intellectual property. U.S. biotech providers have long complained that the procedures for field trials in China require companies to share trade secrets, and multiple cases of theft of U.S. biotech traits by Chinese scientists have been reported. As recently as April 4, 2018, a Chinese scientist was sentenced to 121 months in a federal prison for conspiring to steal biotech rice seeds from a Kansas biopharmaceutical facility.<sup>5</sup>

At the same time that China invests heavily in biotechnology, public opposition to biotech makes China genuinely wary to approve new events for fear of protests. Some national security officials oppose allowing the cultivation of foreign biotech varieties for fear of making China dependent on foreign seed stock, undermining food security.

China's biotech policy is also a good example of China's use of SPS barriers to regulate the flow of foreign product, rather than address genuine concerns about human, animal or plant health. The lack of a clear process and timely decisions to remove SPS barriers appears to be a strategy in and of itself, allowing China to use selective enforcement of its regulations and policies to control the flow of trade. By delaying biotech approvals, China can use enforcement and inspection procedures as a spigot of sorts, turning imports of key commodities on and off according to internal market needs and domestic pressures. The U.S. experience with exports of MIR 162 provides an excellent example. MIR 162, a biotech event unapproved in China, was likely present in shipments that moved freely into China without incident for quite some time. But when China's domestic stocks of low-quality, high-priced corn began to pile up, China began to test for and detect MIR 162 in US corn shipments, blocking much of the U.S. corn trade, and making a cheaper, better quality alternative to domestic stocks unavailable.

Long delays in restoring normal trade conditions after a disease outbreak, and/or failure to bring domestic policies in line with international standards or guidance are also typical in China. The United States still lacks full access for U.S beef 15 years after the first case of BSE in the United States, and years after the World Organization for Animal Health recognized the United States as "minimal risk", and continues to face overly-

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<sup>5</sup> <https://www.justice.gov/opa/pr/chinese-scientist-sentenced-prison-theft-engineered-rice>

broad restrictions on poultry exports, despite the fact that outbreaks of HPAI have long been controlled, and are no longer warranted.

In other areas, lack of capacity and complex domestic enforcement challenges seem to be the impetus behind restrictive or onerous trade policies. China is currently implementing a new, comprehensive food safety law, which requires inspection and documentation for all food products, regardless of risk. The prescriptive law is in response to very real and politically damaging food safety concerns in China, but China's Food and Drug Administration (CFDA) lacks the capacity to be able to conduct such broad inspections and has therefore drafted regulations that would place the burden of inspection and documentation of imported foods on exporters and their governments. Although the food safety requirements for foreign and domestic products may be the same under the law, it is difficult to imagine that CFDA is in a position to enforce the same requirements on the millions of small food producers and processors located throughout China that it is able to impose on foods that can be controlled at border inspection points.

China's treatment of veterinary drugs is another example where regulations on imports may be guided more by concerns about domestic enforcement than the safety of foreign products. China continues to ban the use of ractopamine in the production of beef and pork, despite the adoption of an international standard for safe use of the feed additive. China opposes the use of ractopamine not because it is concerned about the safety of the product when used correctly, but because misuse of ractopamine and related products can pose serious risks for both farm workers and consumers, and China cannot currently regulate the use of the drug on its millions of small hog farms. While China could technically allow use of ractopamine in imported product while banning its use domestically, it is difficult for countries to defend policies that would give foreign product a competitive edge over domestic producers.

## **How might retaliation in trade disputes impact the U.S agricultural sector, and how can we mitigate against such effects?**

The United States agricultural sector is highly export-dependent and runs a trade surplus with several major trading partners. The United States is also a producer of a wide variety of commodities for export, and these commodities are grown, raised or processed in virtually every state and Congressional district. These two factors make agriculture susceptible to retaliatory tariff measures, regardless of trading partner. Agricultural products were featured prominently on the proposed retaliation lists when Mexico and Canada were authorized to retaliate against the United States for its Country of Origin Labeling Law, as well as when Mexico retaliated in the Mexican trucking dispute. Agricultural products are convenient targets not only because of the large volume of exports, but also because agriculture products produced in key Congressional districts can get the attention of Members of Congress in positions to fix the problem.

China is no exception here. It is widely believed that China brought its anti-dumping case on US broiler products in retaliation for US AD duties on Chinese tires. Through multiple suits and appeals, it effectively blocked US poultry trade with China for years. In early February 2018, China initiated an AD/CVD investigation on imports of U.S. sorghum in response to the imposition of tariffs on solar panels and washing machines from China. On April 18, 2018, Chinese importers of U.S. sorghum will be required to pay a 178.6 percent deposit in anticipation of anti-dumping tariffs.<sup>6</sup> The United States exported more than \$1.1 billion of sorghum to China in 2017.<sup>7</sup>

China has also targeted U.S. agricultural products in retaliation for U.S. tariffs on steel and aluminum imposed under Section 232. Almost all fruits, vegetables, tree nuts and wine currently face an additional 15% tariff in China, with pork facing an additional 25%.<sup>8</sup> Further, China has published a list of products that will face a 25% tariff when and if the United States imposes tariffs on a broad list of Chinese machinery and other products as a result of the Section 301 negotiation, and concerns about Chinese theft of US intellectual property. U.S. soybeans, cotton, beef, wheat and corn are all included on that list.<sup>9</sup> Tariffs at these levels could significantly deter sales to China, as affordable alternative suppliers exist in nearly all categories of agricultural products.

The best way to avoid retaliation is to resolve the underlying dispute before we reach the point of imposing duties. Once duties and retaliatory actions kick in, it can be difficult to return to normal trade, particularly if we have not clearly laid out steps that must be taken for the duties to be removed. Using the WTO system and aligning with like-minded countries to clarify our complaints and expectation to China regarding policy change is likely to yield better long-term results than unilateral, short term eye-for-an-eye behavior, which provides China the opportunity to play its trading partners off against one another, by simply moving its sizable purchases to suppliers from other countries.

## Recommendations

Engaging China directly on agricultural trade policy issues has often delivered short-term results, rather than aligning actions with long-term goals for both countries. Conversely, agricultural cooperation discussions have identified best practices to achieve long-term agricultural goals but have not delivered clear policy recommendations and timelines to implement them. China and the United States have the potential for significant partnerships to help China modernize its agricultural sector, increase production, reduce resource use and pollution, retain rural employment, and

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<sup>6</sup> [https://www.washingtonpost.com/world/asia-pacific/?utm\\_term=.95c95597aa44](https://www.washingtonpost.com/world/asia-pacific/?utm_term=.95c95597aa44)

<sup>7</sup> <https://www.reuters.com/article/us-china-us-sorghum/china-launches-dumping-probe-into-u-s-sorghum-imports-amid-rising-trade-tension-idUSKBN1FO06C>

<sup>8</sup> [http://gain.fas.usda.gov/Recent%20GAIN%20Publications/China%20Imposes%20Additional%20Tariffs%20on%20Selected%20U.S.-Origin%20Products\\_Beijing\\_China%20-%20Peoples%20Republic%20of\\_4-2-2018.pdf](http://gain.fas.usda.gov/Recent%20GAIN%20Publications/China%20Imposes%20Additional%20Tariffs%20on%20Selected%20U.S.-Origin%20Products_Beijing_China%20-%20Peoples%20Republic%20of_4-2-2018.pdf)

<sup>9</sup> [http://gain.fas.usda.gov/Recent%20GAIN%20Publications/China%20Responds%20to%20U.S.%20Section%20301%20Trade%20Action%20Announcement\\_Beijing\\_China%20-%20Peoples%20Republic%20of\\_4-4-2018.pdf](http://gain.fas.usda.gov/Recent%20GAIN%20Publications/China%20Responds%20to%20U.S.%20Section%20301%20Trade%20Action%20Announcement_Beijing_China%20-%20Peoples%20Republic%20of_4-4-2018.pdf)



improve food safety. A robust, open trade relationship between China and the United States is part of this solution and should be explicitly discussed as an essential element of continued partnership. While the United States cannot compel China to engage in a more direct dialogue, it can plan its engagement with China more strategically, and look to the recent changes in China's bureaucratic structure for opportunities to convene new group of officials to change the dynamic of the conversation.

### **Take Stock of Current Activities and Priorities**

Before the United States can determine its priorities for further cooperation and trade with China, it needs to take stock of the breadth and depth of its current agricultural activities. This should start with a USDA Department-wide accounting of all current activities with China, across all mission areas, and the corresponding budget and timeline for each. Where and how have we invested in Chinese agriculture, and why have we done so? How do these investments enable development, advance agricultural research, improve environmental protection and facilitate trade for the United States and for China? For example, cooperative work on veterinary practices may help China meet its goals for improved agricultural productivity, while also improving the safety of imports coming from China. Further, promoting US grain exports helps China achieve food security by increasing livestock production, while providing important income for US farmers. Once USDA has accounted for the breadth of its activities, it can group and prioritize these efforts to ensure that our resources are aligned to achieve our goals for the U.S.-China agricultural relationship.

### **Create a Hybrid Approach to Dialogue: Based on Mutual Goals, but with Clear Policy Benchmarks to Achieve Them**

Using the results of the exercise above, the United States should engage China in a more comprehensive agricultural dialogue based on shared goals, from which an action plan should be developed to achieve them. This could be a hybrid approach, structured similarly to the agriculture symposium convened in 2013, which centered around food security, food safety and agricultural sustainability, but with a clear expectation that both countries would commit to implement the best practices identified, with clear benchmarks to monitor progress.

Recent changes in China's bureaucratic structure may assist in the development of this hybrid approach by consolidating responsibilities for agriculture and rural development, and for food safety and animal and plant health into two new Ministries. The Ministry of Agriculture was recently designated the Ministry of Agriculture and Rural Affairs (MARA), which now includes the Central Rural Work Leading Group. As such, the Minister of MARA, Han Changfu, now has responsibilities that include the health of rural economies, as well as agricultural production. This could provide greater opportunity to discuss rural development initiatives, such as the creation of value-added industries and rural employment, through partnership with U.S. exporters. The MARA Minister would also be able to make commitments and advance initiatives in both areas as well. Mr. Han Jun, newly-appointed Vice Minister of MARA, also has a long history of bringing

multiple ministries together and seeking out the experience of foreign officials to consider options for long-term agriculture policy reform, and could bring his experience to these efforts.

Similarly, the creation of the General Administration of Market Supervision (GAMS), which combines the regulatory roles of AQSIQ and CFDA, may create opportunities a more unified and streamlined approach to food safety in China that includes both food products as well as plant and animal health issues, and should increase coordination among regulators.

### **Engage the Private Sector and Their Partners in China**

The United States, in collaboration with the U.S.-China Agriculture and Food Partnership, should convene a conference to demonstrate the decades-long commitment of the U.S. Government and private sector to jointly modernize agriculture in China, particularly through its MAP and FMD programs. Included in the discussion should be U.S. and Chinese officials at the federal level, as well as Provincial governments, state-owned enterprises and MAP and FMD recipients working in China. The conference should note opportunities for future work, but also the threats to future collaboration. The goal of the conference should be to:

- Emphasize the breadth and depth of our agricultural investment in China, as well as results achieved to date through these partnerships since the mid-1980s.
- Articulate the belief of the US agricultural sector and US Government that sustained engagement and investment in the success of our agricultural partners has been and should continue to be a win-win, improving livelihoods of producers and processors and the availability of safe, high quality food in partner countries, while creating new customers for US agricultural products.
- Note that concern that despite a history of mutual benefit, continued investments in China may be providing diminishing returns. Continued investments in research, promotion, new facilities, shared technology, food safety, etc., have not created greater predictability for our agricultural interests operating in China or exporting goods to China.

USDA is asked to defend the effectiveness of MAP and FMD programs each budget cycle. It will become increasingly difficult to demonstrate the value of these programs in China if policy reform is not achieved and market performance is not more consistent. The MAP and FMD programs are strategic investments by the U.S. Government that not only promote exports, but develop local agricultural markets. The U.S. Government should take credit for and clearly articulate our investment in MAP and FMD as part of our larger strategy to support China's agricultural sector, while advancing U.S. trade.

### **Make Agriculture a More Central Part of U.S.-China Economic Dialogues**

Revive the JCCT or a similar mechanism for dialogue about policy reform, with the Secretary of Agriculture as a co-chair, rather than an invited guest. This would ensure

an opportunity to include agricultural issues in the discussion of larger economic reforms, such as innovation and protection of IP or investment policy, but would set the clear expectation that progress in the agricultural sector is expected.

### **Prioritize Enforcement as Well as Dialogue**

While the United States should attempt to resolve bilateral trade issues through negotiation, it cannot take enforcement actions off the table. The United States should continue to utilize the WTO, working with allies where possible, to hold China accountable to meet its WTO commitments, particularly related to agricultural subsidies and transparency and reporting. First and foremost, the United States should continue to advance its WTO cases challenging agricultural subsidy levels and administration of China's TRQs. Recent proposals tying WTO benefits to meeting transparency and notification requirements should also be further explored.

### **Continue Intensive Technical-Level Engagement**

Last but not least, the United States should continue its technical engagement with China from APHIS, FSIS, and FDA, with coordination through the FAS team in Beijing. Strong relationships among regulators are often the most effective mechanism for addressing SPS problems before they become significant trade barriers.

The agricultural sectors in the United States and China need each other to be successful, and agricultural trade will remain at the heart of that relationship going forward. Broadening our engagements with China to involve all relevant agencies and private sector stakeholders in both countries provides an opportunity to re-frame these trade issues and perhaps inject a more collaborative approach to agricultural reform in China. Given the current political environment, some creativity may be required to maintain and build our agricultural trade relationships. In the absence of such work, our competitors will solidify their relationships to our detriment.