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“China’s Agriculture Policy and U.S. Access to China’s Market”

Thank you for the opportunity to address the Commission.

CropLife America represents more than 100 developers, manufacturers, formulators, and distributors of virtually all the crop protection products used by American farmers and growers. We are the voice of the industry that ensures the safe and responsible use of agricultural chemicals in order to provide a safe, abundant, and affordable food supply.

Our members are deeply engaged in the global agricultural economy, through trade in crop protection and biotechnology products, and through international collaboration in research and development related to those products. In this context, CropLife engages actively to promote open markets, sound and internationally converging regulation, and strong protection of intellectual property rights around the world.

Our members regard China as a market of immense promise. The American crop protection and agricultural biotechnology industries have benefited from the rapid expansion of Chinese agricultural production in recent years, and from Chinese policies that recognize that crop protection technologies and the deployment of modern biotechnology are essential to achieving China’s national agricultural objectives. In many respects, China represents a success story for crop protection, and for the American crop protection industry.

At the same time, our members continue to confront a number of intellectual property and regulatory challenges that impose limits on commercial success in the Chinese market. In our view, these limitations are also inhibiting our Chinese partners from advancing successfully with regard to their own agricultural productivity and national R&D objectives.

China, Crop Protection, and Food Security

In the China market, as everywhere around the world, CropLife America’s point of departure is that the products of our industry are critical to meeting the challenges of food, feed, and fiber security on our increasingly populous planet. Sensible, well-regulated deployment of pesticides and innovative agricultural biotechnology is helping the world ensure sustainable quantities of safe food, feed and fiber.

With its enormous population, rising production costs, and increasing focus on ensuring the safety, as well as adequate quantities, of its food supplies, China clearly recognizes that

technology is the key to many of its food security challenges. In particular, China's increasing integration of crop protection as a tool in national agricultural production has been an important part of the country's recent success in agricultural productivity.

Between 2001 and 2010, China's harvest of corn expanded by 55 percent, wheat by 22 percent, and combined grains by 21 percent (*Source: USDA/ERS data*). This progress has been largely due to unprecedented gains in productivity, reflecting, in part, China's increasing use of herbicides to control weed infestations. The herbicide application areas of crop fields have steadily increased, from less than one million hectares in the early 1970s to more than 70 million hectares in 2005. Herbicides are used on approximately 75 percent of the rice acres, 55 percent of wheat acres, 44 percent of maize acres, 50 percent of cotton acres, and 61 percent of soybean acres. (*Source: CropLife Foundation fact sheet, "China's Agricultural Success: the Role of Herbicides," August 2011.*) This trend has contributed enormously to increased yields for all of these crops. And as I noted earlier, U.S. manufacturers and exporters of crop protection products have participated actively and successfully in this growing market for herbicides and other products of our industry.

Sound Leadership in Domestic Regulation and International Regulatory Work

I would also like to note that the crop protection industry has taken note of China's constructive approach to the sound regulation of our industry's products, both domestically and in the context of international regulatory bodies. China has played an important leadership role in the Committee on Pesticide Residues of the Codex Alimentarius Commission, the international body that develops international food standards. This leadership was particularly evident in the context of efforts to develop harmonized approaches to the regulation of maximum residue levels for pesticides applied to food crops.

In a domestic regulatory context, our industry enjoys a strong and productive partnership with the Institute for the Control of Agricultural Chemicals of China's Ministry of Agriculture (ICAMA), the chief Chinese regulator of our industry's products. ICAMA is progressively raising the standard of Chinese regulations in ways that are generally shaped by science, and particularly on the use of risk-based analysis of our products. We are confident that the good collaboration between U.S. and Chinese pesticide regulators will continue to contribute to the solidification of sound science-based regulatory approaches by ICAMA.

Intellectual Property Concerns

Despite these positive trends, and China's recognition of the value of the products of our industry, we do have a number of concerns, particularly with regard to the protection of intellectual property rights. I appreciate the opportunity to summarize these today.

In recent years, U.S. companies have faced increasing instances of the circulation of counterfeit crop protection chemicals within China. These products, manufactured by criminals, are often labeled with, trademarks and packaging aimed at deceiving farmers that they are purchasing legitimate registered pesticides. This is a problem of particular concern. In addition to depriving legitimate, registered, U.S. crop protection chemicals of their place in the Chinese market, the

high incidence of counterfeiting poses substantial risks of crop destruction. Counterfeiting practices also expose farmers to unknown substances, thereby undermining China's own objectives with regard to regulation of pesticides based on risk assessment. We appreciate that Chinese officials, particularly at the central government level, have begun to focus additional attention on law enforcement in this area. We hope that this effort will be sustained, and complemented by stronger enforcement action at the provincial government level.

Another aspect of IPR protection that concerns our industry is the misappropriation of trade secrets. Trade secrets are a critical element of protecting the innovation that goes into the creation of crop protection and biotech products. Here again, crop protection manufacturers have experienced the unauthorized misappropriation of their trade secrets, and the use of those secrets to produce infringing products. CropLife America appreciates that issues related to trade secrets have been identified as a subject of bilateral cooperation in the context of the U.S.-China Joint Commission on Commerce and Trade (JCCT), and we hope that both sides will work vigorously to address concerns in this area. It is particularly important to ensure that trade secrets provided in the context of regulatory approval processes are fully safeguarded from disclosure, and that regulatory authorities refrain from requesting trade secrets that are not relevant to regulatory approval.

The protection of regulatory test data submitted in connection with regulatory approval of crop protection products is a matter of particular and global importance for CropLife America. Under World Trade Organization rules, such data must be protected against unfair commercial use. In joining the WTO, China committed to protecting such data for a period of six years. CropLife America holds the view that a minimum of ten years of data protection is justified with regard to the products of our industry, and this standard has been pursued in the context of U.S. free trade agreements. While CropLife America acknowledges that China is bound only by the more limited commitment reflected in its WTO accession protocol, we hope that China will recognize that its own interests in innovation and the attraction of investment merit an extension of the protection period to ten years.

On a related issue, we are seeing an increase in China's registration of crop protection products that remain subject to a valid patent. While such practices may not directly contravene international IP rules, we believe the practice may have a chilling effect on innovation in the development and marketing of new crop protection products.

Unmet Potential of R&D Collaboration

These shortcomings in protection and enforcement of IPR clearly raise concerns for the protection of U.S. rights and the products of U.S. innovation. Importantly, these concerns also affect the confidence of U.S. companies with regard to R&D collaboration with Chinese colleagues. Improved Chinese enforcement of protected data, trade secrets, patents and trademarks related to crop protection will bring about an increase in that confidence, creating stronger potential for R&D collaboration and advancing the Chinese government's objectives in strengthening their country's profile as an innovation leader.

Recommended Focus for U.S.-China Policy Engagement

In conclusion, allow me to offer a few suggestions with regard to how the issues I've raised today might be addressed in policy channels between the United States and China.

First, it is vital that the United States and China remain engaged with respect to the global challenge of food, feed, and fiber security. This challenge is not going away, and as two of the world's leading agricultural economies, the United States and China will need to exert shared leadership to ensure appropriate, market-driven outcomes. CropLife America hopes that the critical role of crop protection and modern biotechnology in addressing food security can continue to be an important feature of bilateral dialogue in this area.

Second, IPR protection and enforcement in China should continue to be addressed as a priority matter by officials at all levels of the U.S. and Chinese governments. CropLife America applauds the vigorous approach of the current U.S. Administration and its predecessors in this area, and we acknowledge that China, recognizing its own interests in innovation, has adopted a more constructive posture with respect to enforcing its own laws in this area. But it is clear that major challenges remain, and must be addressed. In this respect, CropLife America urges particular attention to the misappropriation of trade secrets, enforcement against illicit, counterfeit crop protection products, and consideration of data protection for agricultural chemicals that is both longer in duration and more secure in administration.

Third, CropLife America urges an expansion and intensification of dialogue and cooperation between U.S. and Chinese regulators of crop protection and biotechnology products. Collaboration between the U.S. Environmental Protection Agency and China's Institute for Control of Agricultural Chemicals has brought about real, tangible results, reinforcing China's movement towards sound, risk-based regulation of crop protection products. EPA's experience in regulating the products of our industry can help to inform Chinese counterpart authorities in useful ways. Dialogue also offers Chinese regulators the opportunity to reflect on particular priorities or challenges that they face. It may be useful to consider creating structures to institutionalize a shared focus on crop protection products as part of broader efforts to address food security concerns. This sort of enhanced bilateral regulatory dialogue should make room for industry perspectives as well.

Indeed, CropLife America has devoted considerable effort to thinking about effective, sensible regulation in our sector, and is interested in contributing our views in the context of U.S.-China cooperation. My thanks to the Commission for the opportunity to provide these views.