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Concept Paper for U.S. Public-Private Partnership to provide for market access for agricultural products and commodities covered by China's Decree 177

Goal: To create agreements (e.g., protocols or memoranda of understanding) that provide for market access for agricultural commodities and products addressed by Decree 177, starting with U.S. soybean exports.

Background: China's Decree 177 addresses both import and export measures to be implemented by China to ensure the safety of grains. Recent initial steps taken by the U.S. and other governments to meet some of the Chinese import requirements of Decree 177, such as providing lists of firms registered to export grains to China, and additional documentation regarding foreign material content and approaches to reduce weed seeds specific to soybeans in U.S.-bound shipments to China, demonstrate the difficulties both the Chinese and U.S. governments, as well as U.S. exporters and Chinese importers, will have in complying with Decree 177 if done in isolation or on an *ad hoc* or case-by-case basis. Further, the requirements of Decree 177 may be affected by other decrees and measures being implemented by the Chinese government, which warrant evaluation.

Decree 177 provides an opportunity for the U.S. and Chinese governments, as well as affected importers and exporters, to chart a path forward that demonstrates how the U.S. system can meet the requirements of Decree 177 in a mutually beneficial way that meets China's regulatory requirements, creates a more stable, predictable and risk-averse trading environment, and enables China to provide food security by sourcing safe, affordable and high-quality U.S.-origin agricultural products – to the benefit of Chinese consumers and U.S. farmers.

Potential Options: There is a suite of approaches that could be undertaken to reach an acceptable result:

- As a starting point, the U.S. government, in collaboration with the private sector, should attempt to gain a more complete understanding of – and reach agreement with the Chinese government on meeting – China's needs as embodied in Decree 177, including a more thorough knowledge of how Decree 177 intersects with, or is affected by, other Chinese decrees and requirements. Equipped with this knowledge, the United States and China would be in a better and more informed position to develop the requisite protocol(s) or MOU(s) to facilitate predictable imports of U.S. commodities into China.
- Equipped with this knowledge, the U.S. and China could negotiate a broad-based protocol or MOU that demonstrates how the U.S. system complies with the requirements of Decree 177 and other applicable Chinese requirements. As determined necessary, the U.S. and China then could develop separate addendums to a broad-based protocol/MOU that addresses commodity- or product-specific issues that need to be considered under Decree 177 and other Chinese requirements to facilitate the necessary official approvals and import clearance of those commodities/products. We recommend that the first such addendum be developed for U.S. soybean exports to China.

The U.S. government and industry stakeholders should identify required resources needed for this effort and determine where to obtain them. Consideration should be given by each affected commodity or product value chain, working cooperatively with the U.S. government, to determine whether to utilize the expertise of a qualified third-party to manage, coordinate and ultimately develop the resulting protocol(s)/MOU(s). The U.S. government should complete the work by securing official Chinese approval of the respective protocol(s) or MOU(s) to provide for predictable and unencumbered access of the covered commodity(ies)/product(s) to the Chinese market.

- Another option would be for the U.S. and China to start by developing a U.S. soybean-specific protocol/MOU and use that as a model/framework to develop subsequent appropriate commodity- or product-specific protocols that meet the requirements of Decree 177 and other applicable Chinese requirements. The previous paragraph regarding required resources and securing official Chinese approval also applies to this option.

In the United States, we recommend that this process be approached from the standpoint that the U.S. public-private partnership desires to positively support successful implementation of Decree 177 and other relevant Chinese requirements. Creating such protocols or MOUs in consultation with relevant stakeholders (including Chinese importers, U.S. exporters and the Chinese government) should enable the Chinese government to provide access to the Chinese market for the given product or commodity with minimal interference.

The resulting protocol(s)/MOU(s) should detail how the respective U.S. production, handling and regulatory system, in coordination with actions undertaken within China, meet China's Decree 177 and other requirements, and should be accepted officially by the U.S. and Chinese governments.

The protocols/MOUs should be considered living documents, under which changes can be mutually considered and adopted as needed, with adequate advance notice and phase-in periods provided to facilitate predictable and compliant trade.

Other Considerations: To facilitate trade, and in recognition that China's Decree 177 addresses both import and export measures, the U.S. approach at the appropriate time also should include a discussion with China about its interest in facilitating exports of its agricultural products to the United States.

We believe such a reciprocal effort would engender goodwill and hopefully create a more stable and predictable trade environment that enables the United States to exercise its comparative advantage as a preferred source of agricultural commodities and products for import by China, versus commodities from competing origins. Utilizing each respective protocol/MOU, the U.S. and Chinese governments, in close cooperation with U.S. and Chinese importers and exporters, could develop further opportunities to utilize the results of such arrangements to streamline and enhance the China-U.S. agricultural commodity trading relationship, to the mutual benefit of both countries.

Respectfully Submitted,

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