

# THE DANGER CHINA POSES TO AMERICAN AGRICULTURE

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## HEARING BEFORE THE COMMITTEE ON AGRICULTURE HOUSE OF REPRESENTATIVES ONE HUNDRED EIGHTEENTH CONGRESS SECOND SESSION

MARCH 20, 2024

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## **THE DANGER CHINA POSES TO AMERICAN AGRICULTURE**

**WEDNESDAY, MARCH 20, 2024**

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON AGRICULTURE,  
*Washington, D.C.*

The Committee met, pursuant to call, at 11:33 a.m., in Room 1300 of the Longworth House Office Building, Hon. Glenn Thompson [Chairman of the Committee] presiding.

Members present: Representatives Thompson, Lucas, Austin Scott of Georgia, LaMalfa, Kelly, Bacon, Johnson, Baird, Mann, Feenstra, Miller of Illinois, Moore, Finstad, Rose, Jackson of Texas, Molinaro, De La Cruz, Langworthy, Duarte, Nunn, Alford, Chavez-DeRemer, Miller of Ohio, David Scott of Georgia, Costa, McGovern, Adams, Spanberger, Hayes, Brown, Slotkin, Caraveo, Salinas, Perez, Davis of North Carolina, Tokuda, Budzinski, Sorensen, Vasquez, Jackson of Illinois, Carbajal, Craig, and Bishop.

Staff present: Justin Benavidez, Parish Braden, Tim Fitzgerald, Justina Graff, Kelsey Holt, Josh Maxwell, Samuel Rogers, Patricia Straughn, Jennifer Tiller, Erin Wilson, Daniel Feingold, Kate Fink, Clark Ogilvie, Ashley Smith, Michael Stein, and Dana Sandman.

### **OPENING STATEMENT OF HON. GLENN THOMPSON, A REPRESENTATIVE IN CONGRESS FROM PENNSYLVANIA**

The CHAIRMAN. The Committee will come to order. Good morning, and thank you all for joining today's hearing entitled, *The Danger China Poses to American Agriculture*. After brief opening remarks, Members will receive testimony from our witnesses today, and then the hearing will be open to questions.

Traditionally, we don't do questions with our panels of our colleagues. I know that Governor Noem was interested in taking a few questions. Time-wise, I am not sure we are going to be able to do a full 5 minute round with the Governor. And the second panel will be 5 minutes of questions as normal.

So good morning, and thanks to all for being here for a timely and necessary conversation about threats China poses to American agriculture. The People's Republic of China, governed by the Chinese Communist Party, which is where this threat comes from. It doesn't come from individuals. This is imposed basically where we are looking at links to the Chinese Communist Party—has gone out of its way to reduce its reliance on American agriculture, all while aggressively pursuing tactics that threaten our nation's ability to feed itself.

Now, these threats are multifaceted, strategic, incendiary, and require a coordinated and a proactive response. These last few years have seen China steal U.S. intellectual property, hack critical cybersecurity and related infrastructure, weaponize agriculture trade, and acquire American farmland at an alarming rate. Each of these disrupt our national security, our rural communities, and our resiliency.

Now, China has long used its legal and regulatory system to steal intellectual property, and we have seen this in everything from semiconductors to seeds, not to mention the scale and the sophistication by which China can manipulate critical infrastructure has exposed vulnerabilities in American technologies. Now, this interference has ranged from data breaches and theft of agriculture research to ramping up disruptions of irrigation and transportation systems.

In 2022, Chairman Comer and I, with more than 125 of our Republican colleagues, asked the Government Accountability Office to evaluate foreign investments in U.S. farmland and its impact on national security, trade, and food security. As many of you know, in 2021, the Department of Agriculture estimated that foreign investments in U.S. agriculture land grew to nearly 40 million acres.

A few months ago, we received the final report, which showed Congress where gaps exist in our reporting framework and how better and more timely coordination between Federal agencies could help increase visibility into potential national security risks related to foreign investment. Congress took a natural first step with the recent passage of the Consolidated Appropriations Act, 2024 (Pub. L. 118–42) where the bill addressed foreign ownership of land by improving the tracking system of it.

The fact China imports almost as much food as the U.S. exports to the whole world makes this conversation more difficult. In recent years, the U.S. has seen record export values to China for soybeans, corn, beef, chicken meat, tree nuts, and sorghum, all of which are major contributors to our domestic farm economy, underscoring the importance of expanded market access and market diversity elsewhere.

So how do we strike the balance, protecting our producers and consumers in every piece of the agriculture value chain while keeping pace with China's needs? How do we reduce our reliance on one country without undermining the necessity of a strong export market? How do we think smartly about policies that mitigate threats while protecting our best assets?

Today's witnesses come to the table with lived experience and decades of knowledge on China and these very questions. And I welcome each of you and look forward to the discussion.

[The prepared statement of Mr. Thompson follows:]

PREPARED STATEMENT OF HON. GLENN THOMPSON, A REPRESENTATIVE IN CONGRESS  
FROM PENNSYLVANIA

Good morning, and thanks to all for being here for a timely and necessary conversation about the threats China poses to American agriculture.

The People's Republic of China, governed by the Chinese Communist Party, has gone out of its way to reduce its reliance on American agriculture, all the while aggressively pursuing tactics that threaten our nation's ability to feed itself. These

threats are multifaceted, strategic, incendiary, and require a coordinated and proactive response.

These last few years have seen China steal U.S. intellectual property, hack critical cybersecurity and related infrastructure, weaponize agricultural trade, and acquire American farmland at an alarming rate. Each of these disrupt our national security, our rural communities, and our resiliency.

China has long used its legal and regulatory system to steal intellectual property; we have seen this in everything from semiconductors to seeds. Not to mention the scale and sophistication by which China can manipulate critical infrastructure has exposed vulnerabilities in American technologies. This interference has ranged from data breaches and theft of agricultural research to ramping up disruptions of irrigation and transportation systems.

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The fact China imports almost as much food as the U.S. exports to the whole world makes this conversation more difficult. In recent years, the U.S. has seen record export values to China for soybeans, corn, beef, chicken meat, tree nuts, and sorghum, all of which are major contributors to our domestic farm economy, underscoring the importance of expanded market access and market diversity elsewhere.

So, how do we strike the balance of protecting our producers and consumers, and every piece of the agricultural value chain, while keeping pace with China's needs? How do we reduce our reliance on one country without undermining the necessity of a strong export market? How do we think smartly about policies that mitigate threats while protecting our best assets?

Today's witnesses come to the table with lived experience and decades of knowledge on China and these very questions. I welcome each of you and look forward to the discussion.

The CHAIRMAN. With that, I would now like to welcome the distinguished Ranking Member, the gentleman from Georgia, Mr. Scott, for any opening remarks he would like to make.

**OPENING STATEMENT OF HON. DAVID SCOTT, A  
REPRESENTATIVE IN CONGRESS FROM GEORGIA**

Mr. DAVID SCOTT of Georgia. Yes, thank you, Mr. Chairman.

Ladies and gentlemen, the purpose of today's hearing is to discuss the influence that China has on American agriculture. But unfortunately, some of the rhetoric surrounding this topic may derail us from tackling the real issues at hand and may contribute—hopefully not—but may contribute to violence against Asian Americans. And I want all Americans to know that we on the Agriculture Committee condemn all bigotry, including race-motivated threats and acts of violence. This is about agriculture policy, not people policy.

I also want us to keep in mind that China is an important trading partner to the United States, and we need a thorough and policy-heavy conversation so that we can help the American farmers and our agricultural system navigate this difficult, challenging, and somewhat thorny issue. And I hope everyone here today will engage in a serious, fact-minded, fact-based conversation and avoid fear-mongering, and alarmism.

Though I am told that this isn't the topic of this hearing, I am also pleased that the recently enacted Agriculture appropriations bill will help USDA update its outdated system of tracking foreign

agricultural land ownership in the United States of America. And if we are going to have a serious discussion about foreign influence on American agriculture, we must remember that China is our largest trade partner, accounting for \$33.7 billion in U.S. agricultural exports just last fiscal year alone.

American farmers are the most efficient and productive, and because of this, we produce far more than we Americans can consume. My colleagues will often note that we are in an agricultural trade deficit right now, and I am here to tell you that alienating our trade partners will only deepen that deficit. American farmers need large markets to export their products, and when those markets are lost, who does it harm? Our farmers, and then the American people. We saw the implications of this when the Trump Administration started a trade war with China, creating chaos and undermining markets for our American farmers and since the trade war shut American farmers out of China, guess what? Brazilian farmers have filled that gap, increasing their exports to China as our market share decreases. Now Trump is calling for a 60 percent tariff on all Chinese goods. This would have drastic impacts on American agricultural production, it would increase costs for consumers, and would almost certainly lead to devastating retaliatory tariffs place on the U.S. agriculture exports.

So I think it is fair to think that the U.S. being so dependent on a single export market, who is also a strategic competitor, raises and poses a risk for our American farmers. And one way that we can address this concern is to expand trade in existing markets while we open new markets. And I continue to support increasing the Market Access Program—that is the way to go—and Foreign Market Development Program in the farm bill. And I believe that this new trade deal is critical for our American agriculture.

However, there are many places where I am very critical of the Chinese Government. The theft of seed and other agriculture technology is highly concerning to me and continues to be a problem. Market distortion through domestic price support programs and ignoring WTO decisions hinders access and creates an uneven playing field for U.S. farmers.

And I also remain highly critical of any foreign government seeking to buy American land near essential intelligence or our military installations. This is now a major national security threat. We must protect our national security interests. This is a national security issue of soaring magnitude to this nation. We have to protect our farmland and not let it get into the hands of foreign interests, particularly China.

I look forward to hearing from our witnesses, Mr. Chairman, today and coming out of this hearing with an improved understanding of our relationship with China and how we can work together to protect America's agriculture interests. Thank you.

The CHAIRMAN. I thank the gentleman.

The chair would request that other Members submit their opening statements for the record so our witnesses may begin their testimony to ensure that there is ample time for questions. I am pleased to recognize our colleague, the gentleman from South Dakota, Mr. Dusty Johnson, to introduce our first witness today.

Mr. JOHNSON. Mr. Chairman, governing the nation should be a team sport. Unfortunately, there are a lot of free agents and politics. People who don't understand the value of shared vision and shared efforts. Luckily, our speaker this morning, my friend and my Governor, she knows how to work together. She understands that we get a lot more done when the Federal Government and the state governments are trying to find a path forward together.

I would tell you, I don't think there is a month that goes by that she isn't showing the kind of leadership necessary to be able to have our team work with her team, whether it is protecting American farmland from the Chinese Communist Party, getting TikTok off Government devices, making sure that her state pension program has the flexibility to divest from CCP influences, making sure that the farm bill priorities are right, managing the Black Hills National Forest in an appropriate way, protecting Mount Rushmore. I could go on for an hour, sir—and I know you don't want me to—of the ways that our speaker and I have been able to work together.

And so I just have to tell you, I am honored to be able to have a real South Dakotan, a real leader, and a real partner come on back to the Agriculture Committee and share some wisdom with us. Mr. Chairman, the Governor of the great State of South Dakota, Kristi Noem.

The CHAIRMAN. I thank the gentleman. And welcome, Governor Noem.

Our second witness is our esteemed colleague, the gentleman from Wisconsin, Mr. Mike Gallagher, who is the Chairman of the Select Committee on the Chinese Communist Party. Congressman, thanks for joining us.

Hopefully, our third witness today—and I know he has scheduling conflicts initially here, we are hoping he will be able to join us in time to offer his perspective—is another respected colleague of ours, somebody I work with on many issues, including career and technical education, the gentleman from Illinois, Mr. Raja Krishnamoorthi, who is the Ranking Member of the Select Committee on the Chinese Communist Party.

Thank you to all our witnesses for joining us today. We will now proceed to your testimony. You each have 5 minutes. The timer in front of you will count down to zero, at which point your time has expired.

Governor Noem, please begin when you are ready.

**STATEMENT OF HON. KRISTI L. NOEM, GOVERNOR, STATE OF SOUTH DAKOTA, PIERRE, SD**

Governor NOEM. Well, thank you. Thank you, Mr. Chairman. It is an honor to be with all of you today, and thank you, Congressman, for that very kind introduction. You are a wonderful friend, and you are doing such a great job, maybe because you stole half my staff and kept them when I left the Hill. No, but you are wonderful Representative for South Dakota. Thank you for caring so passionately for all of our people.

Chairman Thompson, I also have the honor of having one of my former Chairmen on this Committee sit in front of me today. Chairman Lucas was my Chairman as I served here in the House of Rep-

representatives and had the chance to do two farm bills, but serving under his leadership on this Committee was a special honor for me. And I loved being a member of his team as we put together farm policy, which I always refer to as food policy for the United States of America. So it is wonderful to see you again, Chairman Lucas, and I look forward to continuing to receive your advice and wisdom over the years.

Ranking Member Scott and Members of the Committee, thank you so much for letting me be here with you today to discuss this topic. As a former Member of this Committee, I know it very well, that each day that you protect not only our nation's food supply, but you also are stewards of our land. And it is a treasure for us to be able to do that each and every day.

I come before you today and sit as the 33rd Governor of South Dakota. My home state is known for its gorgeous Black Hills, its rolling plains, but also iconic Mount Rushmore. We have a lot to be proud of, and if you haven't come to visit us, you probably should because it is beautiful. Agriculture is the number one industry in our state, but tourism is our second largest industry. It is incredibly important to our people that our land stay in good shape and we continue to produce.

This year is special to me because this is the 30th year that I have worked on agriculture policy. I have spent my lifetime working on policy, not just being a farmer and a rancher and raising my family on the land, but also being involved in meetings. At just the age of 22, my dad was killed in an accident on our family farm, and I got angry when I found out how our family was going to be hit tragically by the death tax. I started showing up at meetings to talk about policy and how it impacted small farms.

At that time, the U.S. Senate Majority Leader was Tom Daschle, who was a Democrat, and I ended up with him appointing me to serve on the Farm Service Agency State Committee, which is the committee that oversees all the Federal farm programs in the State of South Dakota. I did that for many years as a young wife and mother and also as a farmer and rancher running a large operation in our state, so I was heavily involved in the implementation of Federal farm programs in our state, making sure they worked for all of our ranchers there and that they were as flexible as possible to give them the freedom to choose how they ran their farms and to do it very well.

I also served on many different commissions and task forces out here in Washington, D.C., during those years to help disadvantaged farmers, people that were in tough situations, in different critical situations, and as the general manager of our business operations, I ran our farm for many decades.

I was first elected to our state legislature in 2006, and became the Assistant Majority Leader in the House. While there, I rewrote our agricultural property tax system. I ended up running for Congress, was elected, served on this Committee, and we worked on two farm bills while I served on this Committee, also served on Natural Resources, on the Armed Services Committee, Education and Workforce Committee, and then ended on Ways and Means Committee when we did tax reform and was very proud to see that signed into law.

In 2018, I ran for Governor in our state where I won and then was reelected again in 2022 and I am in my second term now. I tell you all of this because I think it is important for you to know that my heart is with the land, and it is with our people, but when it comes to policy, that I know what I am talking about, and I know it because I live it.

Today, the focus of this Committee is the danger that China poses to American agriculture. Over the years, I have witnessed this hostile communist country work to systematically take over our food supply chain. They have decades ago started buying our fertilizer companies, controlling our ability to access fertilizer, bring it into the United States. Then I watched them buy up our chemical companies. As I worked on implementation of programs and policies at our state level and at the Federal level, I watched us as we sold citizenship to Chinese communist members of the Communist Party for investment into our processing systems, and now most of our processing facilities are owned by the Communist Party or Chinese Government.

Now they are coming for our land, and when they buy up our land, they will complete their chain of control of our food supply. Between 2010 and 2020, the Chinese Communist Party's holdings of ag land increased by 5,300 percent. Reports now show that China owns about 384,000 acres of U.S. ag land valued at over \$2 billion. This should be alarming to all of us. USDA admits that this may not even account for all of the land that they own because there is very little track of foreign interests that are involved in these large transactions. In fact, there is very little reporting that happens at the state or the Federal level and little consequences for allowing countries who hate us from owning our land.

Just this past summer, we had members of the Communist Party contact our state government and want to come and visit our processing facilities, see our farms, and visit South Dakota. We declined all of those meetings, but just within days, we received a phone call from the State Department telling us that those were Chinese spies. They were there to steal our intellectual property, to steal our genetics, and wanted to debrief us if we had met with them. Thank God we did not. We were told they were there to help improve our trade relations, that they were there to improve our business and our exports, and instead, they were there to steal from the United States of America.

So the threat is very real to us every single day, what China is doing, and they have 1,000 year plan to become the world-dominating power. And the only thing standing in their way is America. Just this past summer, it was very clear to me when those Chinese spies were in our state that China wants to control us, and they want to do that by controlling our food supply.

The Chinese Communist Party is not our friend, they are not our partner, and they are not our ally. They are our enemy, and they are a rapidly expanding national security threat that can't be ignored.

So let me be clear. They are buying up our entire food supply chain, and when America can't feed itself and we rely on members of another country to feed us, it becomes a national security issue. The country that feeds us will control us.

And let me remind you why we do a farm bill. And I am well aware that you have a priority to get that done, and I am looking forward to getting a farm bill done because that is the safety net for our farmers out there. In the past, the farm bill has always been a bipartisan issue, and it should continue to be a bipartisan issue. I had the opportunity to work on two of them, and it is simply a safety net for our farmers.

It is important, and America decided years ago that we needed to have a farm bill to ensure that every family in this country had a safe and affordable food supply, that they had the ability to go to a grocery store and to put food on the table for their families, and that if a farmer had a good year, he could pay his bills, but if he had a bad year, he could lose everything. And we didn't want to have a drought or a flood or something happened that caused us to lose all of our small family farms and allow us to lose the ability to feed ourselves. Every family in this country recognizes the importance of a farm bill. I know you do, too, and I am looking forward to you getting one completed to make sure that we continue to feed ourselves in this country.

The farm bill should be designed to help farmers and not environmental extremists. I hope that you will continue to focus on making sure that we are working—as a conservationist myself, I am committed to protecting the abundance of our natural resources in my state, but so-called climate-smart agriculture dictated by the Biden Administration does not help farmers, and it does not help us put food on the table or conserve our natural resources. We want wildlife habitat solutions that meet the needs of the people and the states that best serve this country and our ability to feed ourselves and protect ourselves. The farm bill manages risk and it is a safety net, and I hope that you can get that done.

Recent media reports show that the largest Chinese holder of American ag land is shipping food and medical supplies to China to be stockpiled by the Chinese military. We all saw when China purchased land in North Dakota that they claimed was for a corn processing plant, that there wasn't going to be enough corn in that area to supply that plant, and that it was just miles from a military installation. They were purchasing that land on purpose for national security reasons, and that is why I have made it a priority in my state to ensure that that doesn't happen on my watch.

In South Dakota, we worked for 2 years to make sure that we had a bill in place that would make sure we know who is buying our land and that it wasn't going to be from a country that hated us. China would never allow us to go to their country and buy land in their country. They don't even allow their own people to buy their land. There is no reason we should allow them to come into our country and buy our land and especially not close to our military installations.

South Dakota is the home to Ellsworth Air Force Base. It is the home of the B-1 bomber that has protected this country for the last 50 years. It is also home to the MQ-9 Reaper drones, which are in operation protecting us as well. But it will be the first home of the B-21s, which will be the bombing platform that will protect this country for the next 50 years.



And it is incredibly important that we stop China and that we make sure other evil foreign governments don't come in and have the opportunity to buy up land next to these military installations.

When we talk about food policy, please talk about it from a national security standpoint. It is important that we grow our own food, that we produce it here, and that we are doing it in a way that protects the United States of America.

And with that, Mr. Chairman, I will yield back.

[The prepared statement of Governor Noem follows:]

PREPARED STATEMENT OF HON. KRISTI L. NOEM, GOVERNOR, STATE OF SOUTH DAKOTA, PIERRE, SD

Chairman Thompson, Ranking Member Scott, and Members of the Committee. It is such an honor to be with so many of you here today. As a former Member of this Committee, I know well the vital work you do each day to protect our nation's food supply and be stewards of our treasured land.

I come before you today as the 33rd Governor of South Dakota. My home state is known for the gorgeous Black Hills, rolling plains, and, of course, the historic and iconic Mount Rushmore. If you haven't visited us yet, consider this a personal invitation.

Agriculture is our number one industry, followed by tourism, so protecting our land is incredibly important to our people.

This year marks the 30th year since I began working on agriculture policy. When I was just twenty-two, my father was killed in a tragic accident on our family farm—and I soon became the general manager of our business operations, which I ran for the next several decades with my family.

After learning of the heavy death tax burden our family faced because of this tragedy, I got angry and started showing up at meetings. I was quickly chosen to serve on local ag commodity boards. Then, I was selected by then-Senate Majority Leader Tom Daschle, a Democrat, to serve on the Farm Service Agency State Committee. This is the committee that oversees all Federal farm programs in the state.

Over the next several years, I served on many task forces and commissions dedicated to helping disadvantaged and underserved producers and bringing efficiency to programs at the Federal level.

I was first elected to the state legislature in 2006. My peers elected me as the Assistant Majority Leader in our House of Representatives, where I helped rewrite our agriculture property tax system. I then ran for Congress and served 8 years here as a Member of this body. Serving on the Agriculture, Natural Resources, Education and Workforce, Armed Services, and Ways and Means Committees. I was also part of the House leadership team.

In 2018, I ran for Governor of our state, won, and was re-elected again in 2022. I tell you all this because I think it is essential for you to know that my heart is with the land and our people, and when it comes to policy, I know what I'm talking about because I live it.

Today, the focus of this Committee hearing is The Danger China Poses to American Agriculture. Over the years, I have witnessed this hostile communist country work to systematically take over more of America's vital food supply chain. Decades ago, I watched China start buying our fertilizer companies and making us more dependent on them for this crop care product. Then, they went after ownership of our chemical companies. I watched our government offer citizenship to members of the CCP in exchange for investment and ownership of our food processing systems. Now, they're buying up our land.

Between 2010 and 2020, the Chinese Communist Party's holdings of U.S. agricultural land increased by 5,300%. Reports show China owns about 384,000 acres of U.S. ag land valued at about \$2 billion. This should be alarming to all of us. The USDA admits this may not even account for all of the land that has been purchased. Why? Because the Federal Government does not monitor and track foreign interests in these large transactions. There is little reporting and very few consequences for allowing countries that hate us to buy up our assets.

Just this past summer, my Department of Agriculture and Natural Resources was contacted by Chinese nationals wishing to meet, tour, and have conversations about how we process and grow our food. We declined those meetings, and within days, the State Department contacted us to notify us that those individuals were Chinese spies trying to steal our Intellectual Property and crop genetics.

Make no mistake, the CCP will do anything to control our food supply.

The Chinese Communist Party is not our friend. It is not our partner. It is not our ally. The CCP is our enemy—a rapidly expanding national security threat that cannot be ignored.

Let me be clear. China is buying up our entire food supply chain. When America can't feed itself and relies on another country to feed us, it becomes a national security issue. The country that feeds us controls us.

Let me remind you of why we do a farm bill. In the past, the farm bill has always been a bipartisan issue. I had the opportunity to work on two of them as a Member of Congress. A farm bill is simply a safety net. America decided years ago that our nation's security needed a safe and affordable food supply that we grow.

Every family in this country should be able to afford to go to a grocery store and buy their family's necessities. The farm bill ensures that. Farmers who get up every day to make sure there are groceries on those shelves can have one good year and pay their bills and look forward to the next planting season, or have one bad year and have drought, hail, or flooding and lose everything. It is a risky business, and I've often said some of the biggest gamblers I know are our family farmers.

The farm bill should be designed to help farmers, not environmental extremists. Our farmers don't want President Biden dictating their agriculture practices to fulfill his extreme climate agenda. As a conservationist committed to protecting the abundance of natural resources in my state, so-called "climate-smart" agriculture dictated by the Biden Administration does not help farmers who need help developing conservation, natural resource, and wildlife habitat solutions that best meet their needs at the local level.

It is in our nation's best interests that those farmers exist because we do not want one entity to eliminate their ability to keep prices low for our families.

The farm bill manages that risk and is their safety net. I implore you to do your jobs and get it done.

Recent media reports show the largest Chinese holder of American ag land is shipping food and medical supplies to China to be stockpiled by the Chinese military.

We all saw when China purchased land in **North** Dakota that they **claimed** it was for a corn processing plant. But there wasn't enough corn around to support that kind of a facility. And it was just a few miles from a U.S. Air Force base.

South Dakota is home to Ellsworth Air Force Base, the B-1 bomber, and the MQ-9 Reaper drone. It will soon be home to our next-generation bombers—the B-21s. This platform will protect our nation for the next 50 years. As Governor, I refused to let what happened in North Dakota happen in South Dakota.

For almost 2 years, I worked with our legislature, our ag community, and our business community to **stop** China and five other Evil Foreign Governments from buying ag land in our state near our military assets. I'm happy to report that we've banned them—and strengthened reporting requirements to identify and stop illegal purchases in the future.

States like South Dakota have stepped up in many ways and will continue to do so. South Dakota led the movement to ban TikTok for state government devices, and dozens of states followed our lead. Congress passed a bill that does that at the Federal level as well—thank you for following South Dakota's example. That's a significant step in preventing America's most prominent adversary from continuing to poison the minds of our young people. You closed the back door and locked it . . . but you can't open the front door.

China doesn't allow American companies to own their land—they don't even allow their people to own land. Why would we allow them to purchase our most significant asset?

It's clear President Biden does not have a plan to protect the American people—not against crime in our major cities, not at the southern border, and not against the threat of China. So, today, I'm here urging Congress to stop the CCP and other nations that hate us from infiltrating our country.

In summary, let me remind you that for decades, China has manipulated their currency, stolen our IP, spied on us, mistreated us in trade practices, is purchasing our nation's debt, controls our nation's prescription drug supply chain, is poisoning our children with Fentanyl, unleashed a deadly virus on the world, uses TikTok to spy on and control our nation's population and is willing to put their people through horrific situations to fulfill the plan they have had for thousands of years to be the dominating world power. The only thing standing in their way is us.

America.

If we lose this country, where will we go?

The time is now to ensure that every policy we pass and champion puts America First.

Our safety depends on it. Our security depends on it. Our American way of life depends on it.

Thank you, Mr. Chairman, for holding this Committee hearing on this critical topic. I yield back my time.

The CHAIRMAN. Very good. Thank you, Governor. I am now pleased to recognize Chairman Gallagher. Begin when you are ready.

**STATEMENT OF HON. MIKE GALLAGHER, A REPRESENTATIVE  
IN CONGRESS FROM WISCONSIN; CHAIRMAN, SELECT  
COMMITTEE ON THE STRATEGIC COMPETITION BETWEEN  
THE UNITED STATES AND THE CHINESE COMMUNIST  
PARTY, U.S. HOUSE OF REPRESENTATIVES, WASHINGTON,  
D.C.**

Mr. GALLAGHER. Thank you, Chairman Thompson, Ranking Member Scott, and Members of the Committee. What an incredible opportunity to be able to discuss the threat posed by the Chinese Communist Party in general but to American agriculture in particular. I want to thank the Governor for her leadership in really sounding the alarm about this threat and also for carrying the burden of dealing with Dusty Johnson before he leaves the room. He may not technically weigh that much, but that is a heavy burden, and I believe he is from your Dakota. I always get it confused.

A year ago, a gentleman named Xiang Haitao, a PRC national, pled guilty to conspiracy to commit economic espionage and was sentenced to more than 2 years in prison for stealing intellectual property from his employer, which was a Monsanto subsidiary. Xiang took copies of the algorithm on a one-way flight back to China, where he later worked for the Chinese Academy of Sciences Institute of Soil Science. So here you have an example of someone stealing American technology and bringing it directly back to the Chinese Communist Party, which reflects the CCP's approach to agriculture and food security in that it is not just about economic competition, to quote General Secretary Xi Jinping himself, it is a national security issue of extreme importance.

The PRC is the largest importer of corn, soybeans, wheat, rice, and dairy products in the world. The CCP views food security as an existential issue. Xi understands that if China were to invade Taiwan, it would be subject to blockade and economic sanctions, and therefore, the PRC would face massive challenges in feeding its population. So to put it bluntly, the Chinese Communist Party is actively engaged in economic warfare against the United States, and our agriculture sector is already a prime target.

The Governor mentioned the share of U.S. farmland owned by Chinese-linked firms increasing more than fivefold between 2010 and 2021. These are only the acquisitions that we know about. There could be much more because, as you all know, the Federal oversight system for reporting foreign ownership is alarmingly lax, and enforcement is very minimal. For example, the Governor referenced the issue with the Fufeng Group, which attempted to purchase land close to Grand Forks Air Force Base in the other Dakota in 2021. They did not report the purchase to USDA until the U.S. media started asking questions about it. That is unacceptable.

If you look more broadly at the entire CFIUS (Committee on Foreign Investment in the United States) process, at least three problems emerge. One, the U.S. Government has no way of tracking land purchases by foreign adversaries. There was a recent GAO report that found USDA is incapable of properly tracking such land purchases by problematic actors.

Second, even upon discovering a problematic transaction, CFIUS often finds it has no jurisdiction, despite the fact that in the FIRRMA bill (H.R. 5841, Foreign Investment Risk Review Modernization Act of 2018, 117th Congress) we tried to give CFIUS said jurisdiction. So just as happened with the Fufeng acquisition, because the Air Force Base in question was not listed as a sensitive site by CFIUS, CFIUS claimed they had no authority to even review the transaction. That is unacceptable.

And third, and finally, CFIUS can't review greenfield investments in our farmland or consider our domestic food security as a risk factor, so our foreign adversaries are able to purchase thousands of acres of our farmland, and CFIUS can't even consider the potential impact on our food supply.

This strikes me as something that Democrats and Republicans could come together right now in this Congress and solve by passing something like the Protecting U.S. Farmland and Sensitive Sites from Foreign Adversaries Act (H.R. 4577). I know there are Members of this Committee on both sides of the aisle. Ms. Slotkin and I have worked very productively on this issue. This is something we can get done even in divided government. Give CFIUS the authorities and resources it needs to make sure that our foremost adversary can't buy land near critical infrastructure and military bases. It should be a no-brainer.

I would also suggest we can do better in protecting our agricultural IP by passing bills like the BIOSECURE Act (H.R. 7085), which my Ranking Member Raja Krishnamoorthi is a cosponsor of. This would ensure that U.S. taxpayer dollars don't go to CCP-backed firms like Beijing Genomics Institute that want to collect the genetic sequences of plants and animals from American farmers. And on the flip side, we should protect our food security for generations to come by cataloging the genetic sequences of U.S. plants and animals that we need to help keep American families fed.

So in closing, I will just say I spent a lot of my time as Chairman of the Select Committee on China asking why any of this matters. Why are you having this hearing? Why do we care about the threat posed by the Chinese Communist Party? And it is not just that they are stealing our intellectual property or trying to dominate our food supply. I really do think—and I don't think this is alarmism. I think this is a recognition of reality if you read what Xi Jinping is saying to the party and to his people. I believe that the CCP is preparing for a war with the United States. There is no doubt they would prefer the fruits of war without the actual costs. That is to be sure. But they are preparing nonetheless. And he has told us repeatedly that he is prepared to use force if necessary to achieve his lifelong ambition, which is, of course, taking Taiwan, thereby dominating the region and ultimately displacing the United States as the most powerful country in the world.

So if we want to avoid that outcome, which would be a terrible outcome—a war with China would be horrific if you have ever participated in a wargame. And I know there are many on this Committee that served that understand the costs of war. We have to abide by the old adage, if we want peace, we must prepare for war. And that is the challenge, to mobilize our colleagues and our constituents to do difficult, costly, but important things that put us on a path to deterring war.

Thank you for having this important hearing, and thank you for letting me go a little bit longer.

[The prepared statement of Mr. Gallagher follows:]

PREPARED STATEMENT OF HON. MIKE GALLAGHER, A REPRESENTATIVE IN CONGRESS FROM WISCONSIN; CHAIRMAN, SELECT COMMITTEE ON THE STRATEGIC COMPETITION BETWEEN THE UNITED STATES AND THE CHINESE COMMUNIST PARTY, U.S. HOUSE OF REPRESENTATIVES, WASHINGTON, D.C.

Chairman Thompson, Ranking Member Scott, Members of the Committee, thank you for the opportunity to address the Committee on the threat posed by the People's Republic of China (PRC) and the Chinese Communist Party (CCP) to U.S. national security as it relates to agriculture. We should be clear: the CCP is engaged in economic warfare against the United States on a daily basis. Agriculture and our critical food supply chains are no exception.

The CCP considers agriculture and related technology to be critical to its national defense. Part of its strategy involves degrading its adversaries' capabilities and subjecting them to the CCP's whims and wishes. The CCP's acquisition of land in the United States, its investments in U.S. agricultural technology, and its collection of U.S. farm data and trade secrets represent offensive maneuvers designed to degrade U.S. preparedness and competitiveness. Simultaneously, the CCP prioritizes defensive strategies, such as domestic investment in agricultural biotechnology, to ensure the CCP's adversaries cannot use its offensive playbook against itself. The U.S. Government has been slow to recognize the problem, and even slower to act. Today, we lack sufficient authorities to combat these challenges. I look forward to working on these issues with you and ensuring we are properly prepared to protect our agricultural industry and national security.

### 1. The CCP's View of Agriculture and Food Security

For decades, the CCP has considered agriculture and food security not just as national security issues, but as critical to securing the survival of the regime. Amidst the COVID-19 pandemic, disruptions to the food supply sparked waves of protests in more than a dozen cities, with protesters demanding, "we want food, not COVID tests," a rare public demonstration of dissent against the CCP.<sup>1</sup> Ultimately, its food security policies center on safeguarding and boosting domestic production, buoyed by degrading the United States' security.

At an annual central rural work conference in December 2022, CCP General Secretary Xi Jinping declared that agriculture is a "national security issue of extreme importance" and emphasized the need for food self-sufficiency.<sup>2</sup> Indeed, Beijing views the issue of agriculture security as life-or-death. According to a former CCP official in charge of rural economic research, the PRC must ensure "absolute" security of staple foods because the global economy would never save the country. Xi himself believes that "once something is wrong with [our] agriculture, our bowls will be held in someone else's hands,"<sup>3</sup> and that "the food of the Chinese people must be made by and remain in the hands of the Chinese."<sup>4</sup> These beliefs are grounded in the fact that without food security, the future of the party is at stake.

<sup>1</sup> Liu, Zhongyuan Zoe, "China's Farmland Is in Serious Trouble." *Foreign Policy*, February 27, 2023, <https://foreignpolicy.com/2023/02/27/china-xi-agriculture-tax/>.

<sup>2</sup> Mandy Zhou, "China's Xi Jinping Says Ukraine War Has Shown the 'Extreme Importance' of Food Security," *South China Morning Post*, March 16, 2023, <https://www.scmp.com/economy/china-economy/article/3213767/chinas-xi-jinping-says-ukraine-war-has-shown-extreme-importance-food-security>.

<sup>3</sup> *Ibid.*

<sup>4</sup> Donnellon-May, Genevieve, "Understanding China's Food Priorities for 2024." *The Diplomat*, January 6, 2024. <https://thediplomat.com/2024/01/understanding-chinas-food-priorities-for-2024/>.

Just last month, the CCP published its National Food Security Law, which aims to ensure that the PRC achieves “absolute security” in staple grains for food use and basic self-sufficiency in all others.<sup>5</sup> At the same time, the CCP reiterated its concerns over food security in its annual agricultural policy document. The “No. 1 Central Document” outlines priorities for promoting rural revitalization, with “safeguarding national food security” being the primary pillar to do so.<sup>6</sup> The document emphasizes reducing reliance on foreign agricultural imports (particularly soybeans and corn), diversifying foreign import sources, developing a PRC seed industry, and innovating in agricultural biotechnology.<sup>7</sup>

The CCP’s views that it cannot afford to rely on foreign sources of food make clear the CCP has started the clock on importing agriculture products from the United States. In pursuit of this goal, the CCP anticompetitively supports PRC companies abroad, buys foreign agricultural land, and bolsters domestic capacity to the detriment of the United States. Moreover, attempts to develop a PRC seed industry and biotechnology innovations rely on stealing U.S. intellectual property and U.S. data. These activities directly harm U.S. national security and U.S. agricultural competitiveness.

## 2. PRC Land Purchases in the United States

A critical part of the CCP’s policy to boost its food security and control over global food supply chains, it must purchase non-PRC farmland. This is because the PRC has a dramatic shortage of arable land compared to other major countries, with the PRC’s arable land per capita at  $\frac{1}{3}$  the average for member states of the Organization of Economic Cooperation and Development (OECD), and freshwater resources per capita are less than  $\frac{1}{10}$  of the OECD average.<sup>8</sup> According to the U.S.-China Economic and Security Review Commission: “the amount of arable land [the PRC] does have is not sustainable or sufficient for meeting its food production goals.”<sup>9</sup> To feed its population, the CCP must import food, a fact the regime recognizes. The 2007 No. 1 document explicitly called for farming and agriculture “going out” into the world as a national strategy to reduce foreign reliance, and the 2016 document focused on international agricultural investment and supporting PRC companies’ overseas operations.<sup>10</sup>

The desire to control foreign agriculture does not just sit on a policy wish list—it is being actioned by the CCP. The U.S. Department of Agriculture (USDA) reported in 2018 that the PRC’s international agricultural investments have grown more than tenfold since 2009.<sup>11</sup> In the United States, the PRC’s share of U.S. farmland has risen more than five times between 2010 and 2021.<sup>12</sup> From PRC firms acquiring Smithfield Foods in 2013 and the agricultural land the company owned (then the world’s largest pork producer), to attempting to install wind farms in Texas near sensitive sites, to using U.S. arable land for agricultural technology research, the CCP is attempting increase its influence in our food supply and agriculture industry to support its goals of food security, all while increase PRC leverage over the U.S. agriculture industry.

Although official data indicates a small percentage of U.S. agricultural land is owned by PRC interests, the Federal oversight system for reporting foreign ownership is lax, and enforcement is minimal. For example, Fufeng Group, which attempted to purchase land close to Grand Forks Airforce Base in North Dakota in 2021, did not report their purchase to USDA until U.S. media inquired into the

<sup>5</sup> “China: National Food Security Law Published,” U.S. Department of Agriculture, February 14, 2024, <https://fas.usda.gov/data/china-national-food-security-law-published>.

<sup>6</sup> “China’s No. 1 Central Document for 2024 Charts Road-Map for Rural Revitalizations,” The State Council Information Office The PRC, February 4, 2024, [http://english.scio.gov.cn/m/topnews/2024-02/04/content\\_116985045.htm](http://english.scio.gov.cn/m/topnews/2024-02/04/content_116985045.htm).

<sup>7</sup> *Ibid.*

<sup>8</sup> “Chapter 2. Overview of the Food and Agriculture Situation in China.” Essay. In *OECD Food and Agriculture Reviews*. Paris: OECD Publishing, n.d.

<sup>9</sup> Lauren Greenwood, rep., *China’s Interests in U.S. Agriculture: Augmenting Food Security through Investment Abroad* (Washington, D.C.: U.S.-China Economic and Security Review Commission, May 26, 2022), [https://www.uscc.gov/sites/default/files/2022-05/Chinas\\_Interests\\_in\\_U.S.\\_Agriculture.pdf](https://www.uscc.gov/sites/default/files/2022-05/Chinas_Interests_in_U.S._Agriculture.pdf).

<sup>10</sup> Liu, Zhongyuan Zoe, “China’s Farmland Is in Serious Trouble.” *Foreign Policy*, February 27, 2023, <https://foreignpolicy.com/2023/02/27/china-xi-agriculture-tax/>.

<sup>11</sup> Ryan McCrimmon, “China is buying up American farms. Washington wants to crack down.” *Politico*, July 19, 2021, <https://www.politico.com/news/2021/07/19/china-buying-us-farms-foreign-purchase-499893>.

<sup>12</sup> Nathan Owens and Julia Himmel, “How farms became the latest battleground in U.S.-China relations,” *Agriculture Dive*, December 5, 2023, <https://www.agriculturedive.com/news/us-china-foreign-ownership-farmland-agriculture/700792/>.

deal.<sup>13</sup> CFIUS later determined it did not have jurisdiction over the purchase, which would have led to a green light for the deal if it had not been for state and local government intervention.

In fact, the U.S. Government Accountability Office (GAO) recently reported that USDA is incapable of properly tracking agricultural land purchases by foreign adversaries. In a January 2024 report, GAO found that USDA published errors in the reporting of PRC agricultural land holdings, such as listing the largest PRC land holding twice.<sup>14</sup> USDA was also found to not share data with the national security apparatus (CFIUS, DOD, NSC, *etc.*) on land purchases in an effective manner, and data USDA is required to collect under the Agriculture Foreign Investment Disclosure Act (such as names, countries of citizenship, when the land was transferred/acquired, *etc.*) is not typically shared.<sup>15</sup>

CFIUS relies in part, on USDA, as an expert agency, for help analyzing the national security implications of farm purchases. With the Fufeng Group's purchase of land in North Dakota in 2021, and Gotion's purchase of land in Michigan in 2023, both of which pose serious national security concerns, it is alarming that the U.S. Government agency responsible for tracking those purchases cannot adequately share basic information.

There are 2.4 million acres of U.S. land under unknown foreign ownership.<sup>16</sup> We have little understanding of who really owns our land and who is operating in the United States, yet the CCP's policies advocate for increased foreign land ownership. Our national security is jeopardized daily by our inability to respond to a very blatant threat: the CCP's acquisition of U.S. farmland.

### 3. PRC Investment and Activity in the U.S. Agricultural Sector

Past examples of investments and acquisitions by the CCP in the U.S. agricultural sector underscore the threat posed by CCP control in our agricultural industry and supply chain. CCP investments in U.S. agriculture target land, livestock, seeds, and supporting infrastructure, all to support the regime's goals of food security and self-sufficiency. By owning these assets, the CCP can diversify their supply chains and mitigate risks from issues such as natural disasters, expedite production processes from farm to table, and acquire new technology and know-how. These advantages come at the expense of the United States' national security.

Nowhere is the PRC's pursuit of overseas agriculture infrastructure more clear than the \$7.1 billion purchase in U.S. agriculture giant Smithfield Foods by PRC company WH Group in 2013. Smithfield Foods was the largest pork producer in the United States. Its sale to WH Group was approved by CFIUS despite concerns raised by lawmakers that WH Group's then Chairman, Wan Long, was tied to the CCP. WH Group gained more than 146,000 acres of U.S. farmland in the acquisition (which held hog farms, processing plants, and feed mills), and Smithfield's advanced hog genetics and valuable technology were cutting-edge and desirable to a regime looking to increase yields and diversify.<sup>17</sup> Smithfield has supplied the PRC with record levels of pork, one of the CCP's primary focuses for its agricultural stockpile, as the country's domestic pork production cratered due to disease and pandemic lockdowns in 2020 and 2021.<sup>18</sup> In a May 2022 report, the U.S.-China Economic and Security Review Commission (USCC) warned that "if further consolidations and Chinese investments in U.S. agricultural assets take place, [the PRC] may have undue leverage over U.S. supply chains."<sup>19</sup>

If direct investments do not demonstrate the CCP's recognition of the agricultural industry as vital to national security, their treatment of their domestic agriculture market provides further proof. The PRC's Foreign Direct Investment Act, among

<sup>13</sup> Laura Stickler and Nicole Moeder, "Is China really buying up U.S. farmland? Here's what we found," *NBC News*, August 25, 2023, <https://www.nbcnews.com/news/investigations/how-much-us-farmland-china-own-rcna99274>.

<sup>14</sup> <https://www.gao.gov/products/gao-24-106337>.

<sup>15</sup> *Ibid.*

<sup>16</sup> Kristen Sindelar, "Foreign land investments exposes U.S. security issues," *Midwest Messenger*, October 26, 2023, [https://agupdate.com/midwestmessenger/news/state-and-regional/foreign-land-investments-exposes-u-s-security-issues/article\\_24f6c0e8-6de7-11ee-ad7b-f78ca99a0325.html](https://agupdate.com/midwestmessenger/news/state-and-regional/foreign-land-investments-exposes-u-s-security-issues/article_24f6c0e8-6de7-11ee-ad7b-f78ca99a0325.html).

<sup>17</sup> Lauren Greenwood, rep., *China's Interests in U.S. Agriculture: Augmenting Food Security through Investment Abroad* (Washington, D.C.: U.S.-China Economic and Security Review Commission, May 26, 2022), [https://www.uscc.gov/sites/default/files/2022-05/Chinas\\_Interests\\_in\\_U.S.\\_Agriculture.pdf](https://www.uscc.gov/sites/default/files/2022-05/Chinas_Interests_in_U.S._Agriculture.pdf).

<sup>18</sup> *Ibid.*

<sup>19</sup> Lauren Greenwood, rep., *China's Interests in U.S. Agriculture: Augmenting Food Security through Investment Abroad* (Washington, D.C.: U.S.-China Economic and Security Review Commission, May 26, 2022), [https://www.uscc.gov/sites/default/files/2022-05/Chinas\\_Interests\\_in\\_U.S.\\_Agriculture.pdf](https://www.uscc.gov/sites/default/files/2022-05/Chinas_Interests_in_U.S._Agriculture.pdf).

other legislation, includes prohibitions on seed sales, technology licensing, mergers and acquisitions, and land ownership by foreign companies due to national security concerns.<sup>20</sup> The PRC also maintains broad discretion to limit or condition foreign investment in sectors designated as “restricted.” In agriculture, these include GMO research, production, processing, or import; agricultural related transportation; production, sale, or trade of food; transfer of land management rights, and other areas.<sup>21</sup>

Yet, in the United States, we allow these activities by PRC companies. PRC state-owned enterprises (SOEs) operate without impediment in the U.S. agriculture market. Syngenta Group, a wholly owned subsidiary of the PRC SOE ChemChina, and the China Oil and Foodstuffs Corporation (COFCO) are prominent SOEs which conduct business in the United States, and which pose national security risks. Syngenta is the world’s largest seed and agricultural chemicals conglomerate, with 21 manufacturing, and research and development facilities in just the United States. Syngenta operates an outsized role in the domestic crop protection industry; its insecticide, herbicide, fungicide, and similar crop protection product sales in the United States amounted to \$3.2 billion in 2021, and its seed business engages in licensing arrangements of genetically engineered seed technologies designed and owned by U.S. farmers. Syngenta and the CCP have deeply rooted themselves in our agricultural supply chains, creating untenable dependencies and giving the CCP leverage over the United States in a possible conflict.

In October 2022, Syngenta’s parent company, ChemChina, was designated on the U.S. Department of Defense’s 1260H List, which identifies “Chinese military companies operating in the United States.” Similarly, COFCO represents the PRC’s largest food processor, manufacturer, and trader and one of the country’s largest SOEs. COFCO maintains outsized influence over the U.S. agricultural industry and exports; it was the largest single customer for U.S. soybean and U.S. corn in 2021 and receives preferential access to the PRC market over international firms. A COFCO subsidiary was placed late last year on the UFLPA Entity List by the U.S. Department of Homeland Security for using forced labor in its supply chains. Not only are we giving away our food security to the CCP, but we are giving it to the regime’s companies responsible for its military modernization and human rights abuses.

#### 4. Investments in Agricultural Technology

These concerns are especially salient when we consider U.S. and PRC investments in agricultural biotechnology. Per USDA, agricultural biotechnology is a range of tools, including traditional breeding techniques, that alter living organisms to make or modify products; improve plants or animals; or develop microorganisms for specific agricultural uses. It represents the next battlefield of food security, enabling more efficient, nutritious, and risk-tolerant crop yields. Although the PRC has yet to develop any genetically engineered food or fed products for domestic commercial cultivation, the CCP outpaces the United States in biotechnology R&D. It has provided significant support for the development of genetically modified food products and continues to highlight advancements in agricultural biotechnology as a critical piece of its food security plan. At the end of 2020, for example, just one special research project received nearly \$3.5 billion of investment to develop new biotechnology varieties.<sup>22</sup>

In some areas of agricultural biotechnology, the PRC also outperforms the United States. As one expert testified before the Select Committee, the PRC maintains a strong lead in publishing research papers describing the use of CRISPR-based gene-editing techniques. Its applications can involve the biomanufacturing of meat from animal stem cells to provide new protein sources to meet growing demands, efforts which have been explicitly endorsed by General Secretary Xi.<sup>23</sup> We are losing the agricultural biotechnology competition with the CCP, and without stronger action by the United States, our future food security is in jeopardy.

<sup>20</sup> Karen M. Sutter, rep., *China’s Recent Trade Measures and Countermeasures* (Washington, D.C.: Congressional Research Service, December 10, 2021), <https://crsreports.congress.gov/product/pdf/R/R46915>.

<sup>21</sup> *Ibid.*

<sup>22</sup> United States Department of Agriculture—Foreign Agricultural Service, “Agricultural Biotechnology Annual,” Foreign Agricultural Service Staff. CH2022–0112, Global Agricultural Information Network, 2022. [https://apps.fas.usda.gov/newgainapi/api/Report/DownloadReportByFileName?fileName=Agricultural%20Biotechnology%20Annual\\_Beijing\\_China%20-%20People%27s%20Republic%20of\\_CH2022-0112.pdf](https://apps.fas.usda.gov/newgainapi/api/Report/DownloadReportByFileName?fileName=Agricultural%20Biotechnology%20Annual_Beijing_China%20-%20People%27s%20Republic%20of_CH2022-0112.pdf) (accessed March 14, 2024).

<sup>23</sup> “Growing Stakes: The Bioeconomy and American National security,” *Testimony before the Select Committee on the Strategic Competition Between the United States and the Chinese Communist Party*, 118th Cong. (2024) (testimony of Dr. Tara O’Toole, In-Q-Tel)



## 5. PRC Acquisition of U.S. Farm Data and Intellectual Property

When the PRC cannot co-opt U.S. agricultural technology legally, it resorts to illegal means. The PRC considers developing a seed industry paramount to its goal of self-sufficiency. Advanced seed technology can mitigate risks posed by droughts, pests, and diseases, and it can minimize the amount of land required for planting. The 14th Five-Year Plan specifically advocates for developing new agricultural varieties, accelerating the commercialization and industrial application of biological breeding, and fostering “leading enterprises in the seed industry with international competitiveness.”<sup>24</sup>

Innovation had generated billions of dollars in revenue for U.S. companies, such as Monsanto, but the process is expensive. Creating a single hybrid seed, for example, requires breeding two inbred seed lines. USCC estimates that “each inbred seed can cost up to \$30 million to \$40 million in lab costs, field work, and trial and error, not to mention the time spent completing this work.”<sup>25</sup>

PRC entities frequently resort to IP theft. For example, on April 4, 2018, PRC scientist Zhang Weiqiang was sentenced to more than 10 years in prison for conspiring to steal samples of a variety of rice seeds from a Kansas biopharmaceutical research facility. According to trial evidence, Zhang acquired hundreds of rice seeds produced by Ventria Bioscience and stored them at his residence in Manhattan, New York. The seeds have a wide variety of health research applications and represent millions of dollars of R&D investment by Ventria. Personnel affiliated with the Tianjin Academy of Agricultural Sciences visited Zhang at his residence, and U.S. Customs and Border Protection officers later found the Ventria seeds in the visitors’ luggage as they prepared to leave the United States for the PRC.<sup>26</sup>

In another case, just 2 years earlier, PRC national Mo Hailong, also known as Robert Mo, was sentenced to 3 years in prison for conspiracy to steal trade secrets on October 5, 2016, and was ordered to forfeit two farms in Iowa and Illinois that he purchased and utilized during the conspiracy. Mo was employed as the Director of International Business of the Beijing Dabeinong Technology Group Company (DBN), a PRC conglomerate with a corn seed subsidiary company, Kings Nower Seed. Mo admitted, through a plea agreement, to participating in a long-term conspiracy to steal trade secrets from DuPont Pioneer and Monsanto. Mo aimed to steal inbred corn seeds for the purpose of transporting the seeds to DBN.<sup>27</sup>

Agricultural technology is not just tied to seed innovation. Analytic software and data flows are vital components of agricultural efficiency and maximization. Once again, the CCP sponsors trade secret theft to gain a competitive edge. In 2022, Xiang Haitao, a PRC national, pled guilty to economic espionage and was sentenced to more than 2 years in prison. Charges of economic espionage require evidence that the activities were state-sponsored and for the benefit of a foreign government. Xiang was employed by Monsanto and its subsidiary, The Climate Corporation, which develops digital farming software that farmers use to visualize and analyze field data. A critical component to the platform is a proprietary predictive algorithm, which Monsanto considered a valuable trade secret. Xiang traveled to the PRC on a one-way flight with copies of the algorithm and later worked for the Chinese Academy of Science’s Institute of Soil Science. Xiang was arrested when he returned to the United States 2 years later.<sup>28</sup>

Even beyond illegal activities, there are no legal restrictions on the flow of agricultural data across the United States border. Restrictions only exist when imposed by corporations on trade secrets and intellectual property-designated data, such as gene sequences of genetically modified organisms.

<sup>24</sup> People’s Government of Fujian Province, *Outline of the 14th Five-Year Plan (2021–2025) for National Economic and Social Development and Vision 2035 of the People’s Republic of China*, August 9, 2021.

<sup>25</sup> Lauren Greenwood, rep., *China’s Interests in U.S. Agriculture: Augmenting Food Security through Investment Abroad* (Washington, D.C.: U.S.-China Economic and Security Review Commission, May 26, 2022), [https://www.uscc.gov/sites/default/files/2022-05/Chinas\\_Interests\\_in\\_U.S.\\_Agriculture.pdf](https://www.uscc.gov/sites/default/files/2022-05/Chinas_Interests_in_U.S._Agriculture.pdf).

<sup>26</sup> Office of Public Affairs, “Chinese Scientist Sentenced to Prison in Theft of Engineered Rice,” U.S. Department of Justice, April 4, 2018, <https://www.justice.gov/opa/pr/chinese-scientist-sentenced-prison-theft-engineered-rice>.

<sup>27</sup> Office of Public Affairs, “Chinese National Sentenced to Prison for Conspiracy to Steal Trade Secrets,” U.S. Department of Justice, October 5, 2016, <https://www.justice.gov/opa/pr/chinese-national-sentenced-prison-conspiracy-steal-trade-secrets>.

<sup>28</sup> Office of Public Affairs, “Chinese National Sentenced for Economic Espionage Conspiracy,” U.S. Department of Justice, April 7, 2022, <https://www.justice.gov/opa/pr/chinese-national-sentenced-economic-espionage-conspiracy>.

## 6. Policy Recommendations for the Committee

Despite these concerns, there are fortunately a few ways Congress can act to shore up the United States' food security and supply chains in our competition with the CCP.

1. **Pass H.R. 4577, the Protecting U.S. Farmland and Sensitive Sites from Foreign Adversaries Act:** The Committee on Foreign Investment in the United States (CFIUS) has limited jurisdiction over specific land purchases and does not require mandatory disclosure if a foreign adversary tries to purchase land near a sensitive national security site. The Protecting U.S. Farmland and Sensitive Sites from Foreign Adversaries Act address this challenge by expanding CFIUS to cover the purchase of agriculture land; require mandatory disclosure for foreign adversaries purchasing land near military sites; and expands the list of sites that are designated as "sensitive" to include key infrastructure projects such as telecommunication nodes.
2. **Pass H.R. 7085 the BIOSECURE Act:** The PRC is rapidly making inroads in the U.S. and global biotech market through state-backed firms like BGI and its subsidiaries MGI and Complete Genomics. BGI has been a global campaign to collect the genetic sequences of plants and animals, with a focus on plants that have implications for agriculture. The BIOSECURE Act ensure U.S. taxpayer dollars are not subsidizing this activity, by creating a framework to restrict the flow of U.S. taxpayer dollars to foreign adversary biotech companies, such as BGI, and firms that contract with these firms.
3. **Stop the Flow of Agriculture Data to Foreign Adversaries:** Despite an increased recognition that the United States should protect its data for national security and privacy concerns, agriculture data is often forgotten as a critical source of data. The PRC is able to acquire mass amounts of data related to U.S. farmland, including satellite images, chemical and pesticide use, and even the genetic data of the plants we grow in our fields. The United States should impose a restriction on the flow of U.S. agriculture data to foreign adversaries.
4. **Stop Foreign Adversary Ag Drones from Operating on our Farms:** The threat posed by PRC drones operating in the United States is well known. PRC drones, including those from DJI, tuned for agriculture collect mass amounts of sensitive data about our fields and are undercutting U.S. agriculture drone providers, creating a supply chain risk. The U.S. Department of Agriculture should impose requirements on any recipient of USDA funds that prevent recipients from acquiring agriculture drones that are produced in a foreign adversary country.
5. **Create a Plant Genome Project:** Genetic data is rapidly becoming one of the most valuable resources in advancing biotechnology. The U.S. Government led the way, beginning in the 1990s, to sequence the human genome. The next frontier in biological data is plants. As of 2021, only 10% of the nearly 700 historically cultivated food crops have been genetically sequenced. We cannot allow the PRC to sequence our own plants critical to our food supply before the United States. The USDA should be tasked and resourced to lead an international "Plant Genome Project" that would give our farmers and developers of ag biotech the data they need to continue leading food production into the 21st century.

The CHAIRMAN. Mr. Chairman, thank you so much. Thanks for your leadership and your testimony. And I know you have a hearing to get to, so feel free to—

Mr. GALLAGHER. I could imagine what Raj would say if he were here if you would like me to—we have spent so much time together, I feel like I could finish his sentences.

The CHAIRMAN. There you go. Well, C-SPAN is covering this hearing. You will be able to hear him time delayed.

Mr. GALLAGHER. All right. Thank you so much.

The CHAIRMAN. No, thank you.

We are going to take an opportunity while Mr. Krishnamoorthi is at another hearing right now on his way, and so we are going to take two questions from each side of the dais here for the Gov-

ernor, who has been more than generous with her time, so, first, I recognize Mr. Lucas from Oklahoma for 5 minutes of questions.

Mr. LUCAS. Thank you, Mr. Chairman.

And, Governor, it is good to see you back in this room again. I think we both agree that a strong, healthy, vibrant rural America and production agriculture is a key to our national security, but I serve in a body now where memories are short, and I would like to go back 10 years ago to when you and I worked together, that 2½ year struggle, as you remember, to create the third-generation farm bill. And maybe memories have numbed with time, but not just the way you conducted yourself in this Committee on behalf of your constituents, but in those Republican conference committee meetings where we together battled diligently to get the attention of elected leadership about the importance of these farm bills, I will forever be eternally grateful for you backing me up in the way you handled the Speaker and the Floor leader on behalf of rural America and production agriculture, so thank you for that tenacity, which I suspect has only grown stronger with time in your role as Governor.

Governor NOEM. Well, sir, you keep lighting people on fire, and they get a little tougher, and understand that what you all say matters and what you do matters. The words you use have consequences, and it matters who is in leadership. So I have gone at times in my different roles and recognize that leadership needs to sit and listen to people and have conversations. We have become a country that has become addicted to being offended by each other, and therefore, we would love to be offended by something that somebody has said. And I would just ask that we start listening to each other.

The farm bill should be bipartisan. It should be bipartisan, that we be able to put a safety net out there, and I am asking you to do it for the consideration of our food policy. If we think a pandemic was scary, can you imagine what happens if we can't feed our people? We are only three meals away from a crisis. And I have recognized and noticed as Governor, as the CEO of my state, how much control China has, not just over manipulating our currency, stealing our IP, things we have known forever that even I—my pension funds, I can't even get Vanguard to say that China's not an emerging market anymore. Everybody in the world will agree that they are not an emerging market. They should give me an ability to invest in a fund that doesn't have China if I don't want to do that as a Governor for my people to get them the best returns possible.

But now when I look at our food supply system and our processing system, and we recognize that China's not our ally. We do trade with them, and when we do trade—and I worked on trade agreements when I served on the Ways and Means Committee, I had the ability to notice that when we did trade agreements, we created friendlier neighborhoods. But we can't do that if we are not talking to each other and having conversations.

So that farm bill, even though I picked a lot of fights with my own fellow Republicans, we got them done, and we are going to have to challenge Members of both parties to come back to the

table to make sure we have that safety net so we continue to feed our families.

Mr. LUCAS. And thank goodness for that tenacity you demonstrated then and continue to demonstrate.

With that, I yield back, Mr. Chairman.

The CHAIRMAN. The gentleman yields back.

I am now pleased to recognize the Ranking Member for 5 minutes of questions.

Mr. DAVID SCOTT of Georgia. Thank you very much.

Governor, how are you?

Governor NOEM. Doing good. Good to see you again.

Mr. DAVID SCOTT of Georgia. And it is good to have you with us. But tell me this. What is your opinion of Trump's proposal for a 60 percent tariff on all Chinese imports? And are your farmers ready to face the potential consequences of this?

Governor NOEM. I think that that is a proposal that people are still looking at and having conversations about, and that is a great conversation for you to continue to have as well with the Republican Members here as well to weigh in to make sure we get the best policy in place because policy is what matters. And the debate and the discussion is incredibly important.

You made a comment in your opening statement, Ranking Member Scott. You talked about the fact that we were here to talk about ag policy, not about people policy. And for me, I would say that all ag policy is people policy, that what you do on this Committee is people policy. It is about feeding people. It is about the programs that take care of needy folks that need to have that kind of help. It is also about making sure we have many farmers out on our land and that we have that safety net there. So you have an incredible opportunity to do something here in this Committee that is not happening anywhere else on Capitol Hill, and I hope you catch that vision.

Nobody really cared, I would say, years ago that much about a little state called South Dakota. We get one Member of the House. When I came here as a Congresswoman, I didn't get a delegation. I was all by myself. So I became friends with everybody, Republicans or Democrats, because if I wanted to get stuff done, I could.

We were the first state to ban TikTok and after that, dozens of states banned TikTok because of the threat that it is. We also—

Mr. DAVID SCOTT of Georgia. Okay. Governor, I got one more question for you, in my short time.

Governor NOEM. Yes, sir.

Mr. DAVID SCOTT of Georgia. If you listened to my opening statement, I hope you understand how concerned I am about foreign governments coming in and buying up our land, especially our farmland. Food makes the Agriculture Committee the most powerful Committee up here in Congress because you can do without a lot of things, but the one thing we cannot do without is food.

Governor NOEM. Right.

Mr. DAVID SCOTT of Georgia. And I am concerned about the China impact, especially, in buying up this farmland. And when you correlate that with the number of immigrants coming into this country from China, that is a long way to walk. And they aren't walking to get to Mexico or South America to get in those trips

where they are coming across our border. I have to wonder about that. And I want to ask you. How much land in South Dakota has gone to foreign interests?

And I want you to know that I agree with you. This is a national security of high monumental interest, and we have to get to the bottom of it. How is your state reacting to the buying up of land by foreign governments, particularly China, in your state?

Governor NOEM. Well, sir, that was the question that I had when I became Governor, and what I found is we had a law on the books that prevented foreign evil governments from buying our land, but there was no reporting mechanism, and there were no consequences. So therefore, we didn't know who owned our land. We couldn't determine that because nobody was reporting it, and then if we did find that there was somebody purchasing land that was a country such as North Korea, Iran, Russia, China, Venezuela, Cuba, there was no reporting. Therefore, we didn't know, and there would be no consequences if we did find out.

So last year to my legislature I brought a bill that would have allowed me to create a CFIUS board at the state level. That is really what I wanted to have in place was that the states had the opportunity to have a CFIUS board that reviewed those transactions and then put forward consequences to make sure that it was done closer to the people, and that we had more accountability, and we are truly looking at real estate transactions and putting that in place.

That bill did not pass, and what we ended up passing this year was a bill that added reporting mechanisms to the law we already had with consequences forcing the sale of that land.

So now I will know when we have a bill in the books that has those two components we need to know to really truly get the answer that you are looking for.

Mr. DAVID SCOTT of Georgia. But there are foreign interests that are buying land in South Dakota?

Governor NOEM. I believe that there are countries that own land that are friendly to the United States. I do not know if there are unfriendly ones that are buying ag land right now. I do know that some of our biggest processing facilities are owned by China. I mean, Smithfield Foods processes in Sioux Falls, South Dakota, my largest city, and they are Chinese-owned, and they have been difficult for me to work with so—

Mr. DAVID SCOTT of Georgia. Well, I want to thank you, Chairman, for having this hearing because I truly believe that food is now a national security issue. Thank you.

Governor NOEM. Thank you, Ranking Member.

The CHAIRMAN. I thank the gentleman.

We are going to have two additional questions for the Governor, and then we are going to get testimony from my good friend from Illinois, my son and daughter-in-law's Congressman, Mr. Krishnamoorthi. So I am going to yield to Congressman Austin Scott, and that will be followed by Congresswoman Slotkin. Mr. Scott, yield 5 minutes for questioning.

Mr. AUSTIN SCOTT of Georgia. Thank you, Mr. Chairman.

And I am going to get a little technical in this, but the reason that it is so important for us to be aggressive with China on the

ag issue is that this is a basic necessity. We are not talking about toys. We are talking about the chemicals it takes for our food supply. We are talking about the technology in our seed supply. And U.S. companies less than 10 years ago were 80 percent of the global seed supply, and today, we are about 30 percent of the global seed supply. And so when you allow countries like China, through companies like Syngenta that have become one of the largest seed suppliers in the world and the largest chemical supplier in the world, I might add, then you are putting one of your basic daily needs at risk, which is your food supply.

And so, Governor, I want to commend you for being aggressive with that. I think that it is way past time we be aggressive with China. They are not an economic competitor anymore. They are an adversary, and we have to acknowledge that. And if tariffs are what it takes to bring manufacturing back not just to the United States and to the Western Hemisphere, then that is just part of what it is going to take for us to have self-control over our basic necessities.

You were here during the last farm bill. One of the big discussions that we have asked for help for and not been able to get it from many of my colleagues on the other side of the aisle is an increase in reference prices. As you have talked with your farmers and your producers out there, can you tell me what you are hearing from them about the increase in input costs and the need for an increase in reference prices so that they have a safety net as we push forward?

Governor NOEM. If you don't address the increase in reference prices and don't bring them up to where they should be, there is no safety net. So just as far as doing these programs and making sure that you are making adjustments to all the programs and the components that are a part of a farm bill, that is one of the very most important things you can do to manage risk.

And I want you to remember what farmers do every year. And for those of you that aren't farmers, they literally go to a bank and they borrow money to buy land. Then they borrow more money to go buy a tractor and a corn planter, and then they go back and they get an operating note so that they can buy their seed, their fertilizer, their chemical, and then they put it in the dirt. And they hope that maybe it will rain and something will grow, and that months later, they will be able to go back and pick something up and harvest enough so that they can pay their bills. They are some of the biggest gamblers that I know in the world because they bury millions of dollars in the dirt, and they are taking a chance because they really, truly do believe that producing food is a world need, and it is a need that America needs to have.

So at least give them a safety net because it is not just the fact that they operate on faith and that they operate heavily leveraged, that is why they can have 1 year that is a drought and lose their entire operation was because of the risk that they take. But increasing those reference prices is critical to them to give them a safety net that even works and functions to get them through a situation like that.

And that is why I have always talked about the farm bill as our national food policy. It is because we decided as a country it was

important that we always feed ourselves, that we don't depend on another country to feed us, and therefore, it does us good to have a much more competitive and affordable food supply—there are a lot of farmers out here—and that it is a safe and an affordable one because we have a farm bill, and we have a safety net program to ensure that they stay on the land.

Mr. AUSTIN SCOTT of Georgia. Well, let me say thank you for your testimony. I appreciate you and the type of Member that you were when you were here and the Governor you have been.

I would finish with this, Mr. Chairman. I think the last call I got was not actually from a farmer. It was from a banker.

Governor NOEM. Yes.

Mr. AUSTIN SCOTT of Georgia. His response was I don't think that there is a commodity that we grow in the State of Georgia where our farmers can make a profit this year at the current prices with the input costs where they are.

So I will yield back, and I appreciate you.

The CHAIRMAN. The gentleman yields back. I now recognize Congresswoman Slotkin for 5 minutes.

Ms. SLOTKIN. Thank you, Mr. Chairman. Thank you, Governor, for being here.

I want to reiterate and support I think what you have seen on a bipartisan basis, which is food security is national security. I am a former CIA officer. There are two of us on this Committee, and that is my entire sort of lens with which I look through this. We should always be able to feed ourselves by ourselves. And you are right, during COVID, my family is in the hotdog business, and during COVID, we were concerned with the meat processing plants going down with COVID.

Governor NOEM. Right.

Ms. SLOTKIN. Americans don't know what it is like to walk into a store and see no protein on the shelves and the panic that that would create and the concern that that would create. I also live on my family farm.

I guess just to pick up on a thread that Representative Gallagher mentioned, this idea of having farmland purchases go through what is called the CFIUS process—and I think, again, I see it as a Federal issue because, based on your example, right, where the intelligence community, the full weight of our sort of insider information that we may have on a company, on individuals, on their intentions does reside within the Federal Government. I respect your attempt to do one at the state level, but just like you were about to meet with a bunch of businessmen and the State Department came in and said we have real issues with them, that resides at the Federal Government level.

So there is a bunch of bipartisan bills on putting all purchases of farmland not just farmland adjacent to a military base, adjacent to a sensitive site, but all farmland to go through that CFIUS process and let our intelligence community tell us whether this is a risk or not.

Last week, myself and Congressman Blake Moore from Utah, a Republican, went a step further, and I would ask you to think about this. And we said, it is not just farmland. If you have a company coming in building a big manufacturing site—I am from

Michigan, right? If you have a company coming in to do a huge purchase of our infrastructure like hog slaughter.

Governor NOEM. Right.

Ms. SLOTKIN. You should be putting that through that same intelligence community process to help us understand if that is a strategic threat to us. And I think we all are trying to solve the same problem, which is how do we make sure that nations that could be real adversaries potentially down the road are not able to purchase major infrastructure and assets in the United States. But we have to make distinction. We can't hit it with a giant club.

Biggest purchasers of farmland in Michigan are Canada and Holland. I am not real stressed about the Canadians who are my neighbors. I used to go there to drink when the drinking age was 19.

Governor NOEM. Yes.

Ms. SLOTKIN. I am not real stressed about the Canadians buying land in the State of Michigan. It has to be limited, tailored. But I do think it is an area of bipartisan cooperation.

We have to do that without demonizing people from China who are living under this government that I bet they really, really don't like. We want the best and brightest from China to want to be students here and stay here and build their lives here, as opposed to take information back to China.

So that is my one ask is let's have a real policy conversation. Let's do it on a bipartisan basis. We have the will here, but let's also in the process not demonize all human beings with a giant brush in a way, again, as you mentioned, where leaders set the tone.

But I agree with you on many, many things on this, would ask you to think about taking it one step further from just farmland to the big infrastructure that we know that they are interested in purchasing here with connections to the Chinese Communist Party.

Governor NOEM. Well, and that would be something that obviously we have had a lot of conversations about in South Dakota because I am alarmed at that because the next question is, well, what about commercial property? What about—

Ms. SLOTKIN. Yes.

Governor NOEM. I mean, it is not that they haven't been conducting nefarious activities from smaller tracts of land, and where does this stop? We should all be analyzing it. That is why I proposed a CFIUS model at the state level is because I get the privilege and I get the opportunity to be solely focused on South Dakota, so I know what is going on there better than I think someone does that doesn't live in South Dakota and lives all the way across the country.

And it is no offense to the Federal Government, but it is very rare that you guys fix anything. And a lot of times when we are doing something, I am doing it in South Dakota or another Governor's doing it, and you are taking that as a model then and using it. And frankly, the Constitution of the United States gives us states' rights and a lot more opportunities to lead than what it grants to the Federal Government.

So by giving us the opportunity for me to fight for my people and to bring policies forward, it gives other states the chance to do that,



and the Federal Government follows in place. I would use TikTok as an example. By us leading by banning TikTok on government devices, dozens of states followed our lead. Then the Federal Government came in and recognized the threat that TikTok was and how it was collecting data and spying on us and being used to study the American people and figure out how to continue to steal our information.

So, I would think let the states be incubators of using what our Constitution intended us to be on possible models like this that then the Federal Government as well can proliferate and move forward and do things right. I am much more nimble than the Federal Government is.

The CHAIRMAN. I thank the gentlelady, and I thank the Governor.

Governor NOEM. Yes, thank you, sir.

It is an honor and a privilege.

The CHAIRMAN. Thank you so much for taking the time, the expense to come and to spend some time with us and your leadership on this issue. It is much appreciated.

So at this point, you are excused.

I am going to recognize my good friend from Illinois who is the Ranking Member of the Select Committee on China, Mr. Raja Krishnamoorthi for his 5 minute testimony. Congressman, go ahead whenever you are ready.

**STATEMENT OF HON. RAJA KRISHNAMOORTHI, A REPRESENTATIVE IN CONGRESS FROM ILLINOIS; RANKING MINORITY MEMBER, SELECT COMMITTEE ON THE STRATEGIC COMPETITION BETWEEN THE UNITED STATES AND THE CHINESE COMMUNIST PARTY, U.S. HOUSE OF REPRESENTATIVES, WASHINGTON, D.C.**

Mr. KRISHNAMOORTHI. Thank you, Mr. Chairman. Thank you, Ranking Member Scott. Thank you to the Committee for inviting me to speak today.

Ag has always been a cornerstone of the U.S.-China relationship, and Chairman Gallagher and I work closely with our Members on the Agriculture Committee on this important issue. In August 2023, the Chairman and I traveled to Dysart, a small town in Iowa. In 2011, not very far from Dysart, a farmer saw a man digging in the cornfields. After some investigation, authorities discovered that this man was not just digging for fun. He was looking for proprietary corn seeds to send back to his employer, a Chinese seed corn company. The man eventually tried to ship 250 pounds of corn seeds to Hong Kong disguised in Costco-sized packs of microwavable popcorn just like this. The total cost of this one case of IP theft was estimated to be \$30 million because the folks in China wanted to reverse engineer the contents of this to be able to produce the same back in China.

Ag technology is a prime target of IP theft because American technology and farming are the best and most productive in the world. The Select Committee's bipartisan economic report released in December last year included broad recommendations on how to best protect IP. For the ag sector, we need to continue to improve coordination between local and Federal law enforcement agencies

and properly resource and train the DOJ to prosecute these particular crimes.

There are other ag-related concerns addressed in our economic report. Congresswoman Slotkin and Congresswoman Hinson have already transformed another economic report recommendation into the Securing American Agriculture Act (H.R. 8003), which will require the USDA to study the supply chains of our ag inputs, including vitamins, animal feed, and pesticides, where China has been increasingly dominating the market and crowding out American and other suppliers.

As we continue to remain in an era of uncertainty in our trade relationship with China, we also need to better protect American farmers from retaliation by the CCP, including by diversifying ag export markets for American farmers.

Now, I know this Committee has been looking at the issue of land sales. There are legitimate concerns with certain land purchases by CCP-affiliated entities, especially close to sensitive and military sites. However, as we address these problems, we have to make sure that the cure is not worse than the disease. Some purported solutions have had very real and harmful effects on the Asian American community as well.

Dozens of bills across the country, for instance, target Chinese nationals regardless of whether they are affiliated with the CCP and regardless of the proximity of their land acquisitions to sensitive sites. Florida, for example, passed SB 264 (Interests of Foreign Countries), a law that prohibits Chinese nationals from purchasing real property in the state. This law had a serious negative impact on the Asian American community. I will just give you one example. There is a case of Zhiming Xu, a political asylee living in Florida who was persecuted by the CCP and who fled to the United States. He was beginning to rebuild his life in Florida. Since the passage of SB 264, Mr. Xu was forced to cancel the contract for the purchase of what was otherwise going to be his new home in his new country.

The lesson here is very clear. When land purchase bills target individuals who are merely Chinese immigrants, they often target those outside of the intended audience. The Asian American Legal Defense and Education Fund filed a lawsuit against this particular Florida law on equal protection grounds. Laws like SB 264 are neither fair nor justified. And in the early 20th century, states passed similar alien land laws in more than a dozen other states prohibiting Chinese and Japanese immigrants from becoming landowners. Those policies severely restricted economic opportunities and exacerbated discrimination, and every single one of those laws were repealed one by one by one in all of those states.

So please, as you consider these land purchase laws, let's be careful. You folks don't want to pursue policies that discriminate against anybody. So in that spirit, let's be careful not to adopt or to encourage those types of policies.

Chairman Thompson and Ranking Member Scott, thank you again for this very special opportunity to testify before this very distinguished Committee. The Select Committee very much looks forward to working with your Committee in the future, and I thank you again.

[The prepared statement of Mr. Krishnamoorthi follows:]

PREPARED STATEMENT OF HON. RAJA KRISHNAMOORTHY, A REPRESENTATIVE IN CONGRESS FROM ILLINOIS; RANKING MINORITY MEMBER, SELECT COMMITTEE ON THE STRATEGIC COMPETITION BETWEEN THE UNITED STATES AND THE CHINESE COMMUNIST PARTY, U.S. HOUSE OF REPRESENTATIVES, WASHINGTON, D.C.

Chairman Thompson, Ranking Member Scott, Members of the Committee, thank you for the invitation and the opportunity to speak today. Congressman Johnson, Congresswoman Brown, it's great to see you from this side of the dais.

Agriculture is and has historically been a cornerstone of the U.S.-China relationship, and Chairman Gallagher and I have worked closely with our Members on the Agriculture Committee on this important issue. In August 2023, the Chairman and I traveled to Dysart, a small town in Iowa.

In 2011, not very far from Dysart, a farmer saw a man digging in the cornfields. After some investigation, authorities discovered that this man was not just digging for fun. He was looking for proprietary corn seeds to send back to his employer, a Chinese corn seed company.<sup>1</sup> The man eventually tried to ship 250 pounds of corn seeds to Hong Kong disguised in Costco-sized packs of microwave popcorn. The total cost of this *one case* of IP theft was estimated to be \$30 million.

Agricultural technology is a prime target of intellectual property theft because American technology and farming are the best and most productive in the world. The Select Committee's bipartisan Economic Report, released in December last year, included broad recommendations on how to best protect our intellectual property. For the ag sector, we need to continue to improve coordination between local and Federal law enforcement agencies, and properly resource and train the Department of Justice to prosecute these crimes.

There are other ag-related concerns addressed in our Economic Report. Congresswomen Brown and Slotkin, along with Congresswoman Hinson, have already transformed another Econ Report recommendation into the Securing American Agriculture Act, which will require the USDA to study the supply chains of our agricultural inputs, including vitamins, animal feed, and pesticides, where the PRC has been increasingly dominating the market and crowding out American and other suppliers. As we continue to remain in an era of uncertainty in our trade relationship with the PRC, we also need to better protect American farmers from retaliation by the CCP, including by diversifying American agricultural exports to different markets.

Chairman Gallagher has spoken about the issue of land sales. There are legitimate concerns with a few land purchases by PRC entities close to sensitive and military sites. However, as we address these problems, we have to make sure that the cure is not worse than the disease. Some purported solutions have had very real and harmful effects on the Asian American community as well. Dozens of bills, for instance, target Chinese nationals regardless of their connection to the CCP and regardless of their proximity to sensitive sites.

Florida, for example, passed SB 264, a law that prohibits individuals who are "domiciled" in the PRC and are not U.S. citizens or green card holders from purchasing buildings or land in the state. This law had a profound impact on the Asian American community, and families that are trying to build lives suddenly found themselves in an impossible position. Take the case of Zhiming Xu, a political asylee living in Florida who was persecuted by the PRC Government. He had fled the U.S. earlier and was beginning to rebuild his life in United States. Since the passage of SB 264, Mr. Xu was forced to cancel the contract for the purchase of what was supposed to be his new home. Both his property and his \$30,000 deposit were in jeopardy.<sup>2</sup> The lesson here is clear: when land purchase bills target individuals who are Chinese immigrants, they often target those outside their intended audience.

The Asian American Legal Defense and Education fund filed an injunction against the Florida law on equal protection grounds. Laws like SB 264 are neither fair nor justified. In the early 20th century, states passed similar "alien land laws" in more than a dozen other states, prohibiting Chinese and Japanese immigrants from becoming landowners. These racist policies severely restricted economic opportunities and exacerbated discrimination against Asian communities in the United States, be-

<sup>1</sup> Federal Bureau of Investigation, "Protecting Vital Assets: Pilfering of Corn Seeds Illustrates Intellectual Property Theft," December 19, 2016, <https://www.fbi.gov/news/stories/sentencing-in-corn-seed-intellectual-property-theft-case>.

<sup>2</sup> Carroll, Michael, "Florida Record: Appeals court blocks Florida from enforcing property restrictions against 2 Chinese citizens," February 26, 2024, <https://www.aaldef.org/news/florida-record-appeals-court-blocks-florida-from-enforcing-property-restrictions-against-2/>.

fore eventually being overturned one by one. We must be clear that we do not stand for laws that discriminate based on ethnicity and nationality.

Chairman Thompson, Ranking Member Scott, thank you again for this opportunity to testify today. The Select Committee looks forward to working with your Committee in the future.

The CHAIRMAN. Well, Congressman Krishnamoorthi, thank you so much for your testimony. I know that this is a busy day for all of us, including you. You have been bouncing from hearings, and so we are going to excuse you from the panel as well, but thank you for joining us. Thank you for your leadership and for sharing with us this morning, much appreciated.

Mr. KRISHNAMOORTHY. Thank you so much.

The CHAIRMAN. We are going to take just a brief break, no more than 5 minute recess to allow our first panel witnesses to depart and our second panel of witnesses to take their seats, and then we will reconvene. So we will reconvene basically as soon as our witnesses gets comfortably seated here and ready to go.

[Recess.]

The CHAIRMAN. The Committee will come to order. I am really pleased to welcome our second panel on this topic today regarding the threats of China to American agriculture.

Our first witness for the second panel of our hearing today is Mr. Josh Gackle, who is the President of the American Soybean Association.

Our second witness for this panel is Mr. Nova Daly, who brings extensive public- and private-sector experience, numerous agencies, the Senate, and the CFIUS Committee, all involved on national security matters.

Our third and final witness for this panel is a great friend of the Committee and of the industry, Ambassador Kip Tom, the former United States Ambassador to the United Nations' Agencies for Food and Agriculture.

Thank you to our witnesses for joining us today. We will now proceed with your testimony. You will each have 5 minutes. The timer in front of you will count down to zero, at which point your time has expired, and then that will be followed by a question-and-answer period after all three of you have spoken.

So, Mr. Gackle, please begin whenever you are ready.

**STATEMENT OF JOSH GACKLE, PRESIDENT, AMERICAN SOYBEAN ASSOCIATION, WASHINGTON, D.C.**

Mr. GACKLE. Thank you, Chairman Thompson, Ranking Member Scott, and Members of the House Agriculture Committee, and thank you for allowing me to testify today.

My name is Josh Gackle, and I am a soybean farmer from North Dakota, where I farm with my dad and brother on a third-generation family farm. This year, I also have the privilege of serving as President of the American Soybean Association, which represents U.S. soybean farmers across 30 states.

Soybeans are the largest U.S. agricultural export, and robust international trade is a priority for our farmers. U.S. soy is actively working in 112 markets across the world to introduce new customers to our high-quality, high-protein crop. Opening new markets is just one step followed by time, attention, and long-term relationship maintenance to ensure market access.

Our trading partners are all critical to the success of U.S. soy farmers, but no export destination compares to China. In the last marketing year, the export value of U.S. soybeans totaled over \$32 billion. China accounted for nearly \$19 billion of this total. For prospective, the next largest destination by value totaled approximately \$3 billion. The sheer scale of China's demand for soybeans cannot be replaced. In farmer terms, one in every three rows grown in the U.S. is shipped to China to fill demand.

During the 2018 trade war, U.S. soybean exports to China came to a halt. In an estimate of the impact of retaliatory tariffs on U.S. agriculture, the USDA found that the value of U.S. exports to China decreased 76 percent from 2017 to 2018. It also estimated the trade war cost U.S. agriculture over \$27 billion. Soybeans accounted for 71 percent of these annualized losses.

This has had major consequences on the competitive landscape for U.S. soybean growers. As a result of the trade war, Brazil ramped up production to meet Chinese demand. Beyond capturing additional market share in China, Brazil was prompted to increase its land area in agriculture production. In the 2017 and 2018 marketing year, Brazil overtook the United States as the world's largest producer of soybeans. Our farmers now face increasing competition with Brazil in every export market, not just China.

The trade war also damaged our reputation as a reliable provider of soybeans and soy products in global markets. The section 301 tariffs and the retaliatory trade actions have jeopardized our place in these markets and damaged in-country relationships developed over decades. At times, our customers looked elsewhere for their needs to avoid trade risk or excess duties.

As the United States considers actions to protect our national security interests, we must also maintain and protect our economic and trade interests as well. Soybean growers need predictability and certainty that we will retain market access in China.

My written testimony provides three policy recommendations. Number one, reject legislative attempts to repeal or modify China's permanent normal trade relation status. ASA is very concerned that revoking PNTR for China would have severe consequences. In 2018, U.S. soybean exports to China were among the first agricultural commodities targeted for retaliatory tariffs, and if past is prologue, it is entirely possible that U.S. soybeans would be impacted yet again.

Number two, pass a comprehensive farm bill this year that meets the needs of U.S. agriculture. The new farm bill should include additional investment into trade promotion programs that are critical to the long-term success of U.S. soy abroad. Funding levels for the Market Access Program and the Foreign Market Development Program have been largely unchanged for decades even though demand for these programs has increased. The new farm bill should also include improvements to the farm safety net. During the trade war, U.S. soybean farmers experienced firsthand the insufficient farm safety net under the current farm bill. Very simply, we need better tools to help farmers in times of economic disruption and greater resources to expand and diversify trade markets.

And finally, number three, exercise Congressional oversight authority to press the Administration to reengage in negotiations for

bilateral and multilateral free trade agreements. The U.S. was once a leader in establishing new free trade agreements, but our last new FTA entered into force in 2012 despite the U.S. having negotiated the Trans-Pacific Partnership. That is over 10 years of inactivity for codified market expansion that could have helped U.S. agriculture, while at the same time our international competitors have worked to gain increased market access.

So thank you again. As a farmer from North Dakota and on behalf of the American Soybean Association, it is a privilege to be with you, and thank you for this opportunity to share the perspective of U.S. soybean farmers with you. I look forward to your questions, Mr. Chairman.

[The prepared statement of Mr. Gackle follows:]

PREPARED STATEMENT OF JOSH GACKLE, PRESIDENT, AMERICAN SOYBEAN ASSOCIATION, WASHINGTON, D.C.

### Introduction

Chairman Thompson, Ranking Member Scott, and Members of the House Agriculture Committee, it is an honor to testify before you today to share the viewpoint of U.S. soybean farmers concerning China. My name is Josh Gackle. I am a soybean farmer from Kulm, North Dakota, on a third-generation farm where I farm with my dad and brother. Our family farm is our sole business and means of economic livelihood. This year, I have the privilege of serving as President of the American Soybean Association (ASA). Our association, founded in 1920, represents all U.S. soybean farmers on domestic and international policy issues important to the soybean industry. ASA has 26 affiliated state soybean associations representing more than 500,000 farmers in 30 primary soybean-producing states.

The U.S. soybean industry has a profound, positive impact on the U.S. economy. We have long been U.S. agriculture's No. 1 export crop, and a by-the-numbers look demonstrates soy's value to our domestic economic health. The U.S. Department of Agriculture (USDA) projects 82.4 million acres of soy will be harvested in 2024, with a production forecast of 4.2 billion bushels. Soybean production accounts for more than \$4 billion in wages and over \$80 billion in economic impacts, according to a study by the United Soybean Board (USB)<sup>[1]</sup>/Soy Checkoff and National Oilseeds Processors Association (NOPA).<sup>[2]</sup> This does not even include secondary soy markets and supporting industries like biodiesel, grain elevators, feed mills, ports, rail, refining, barges, etc., which bring soy's national total economic impact to a significant \$124 billion.

Soybeans are the largest agricultural export in the U.S., and robust international trade is a priority of the U.S. soybean industry. In conjunction with our partners at the U.S. Soybean Export Council (USSEC), the World Initiative for Soy in Human Health (ASA-WISHH), USDA, and the Office of the U.S. Trade Representative (USTR), U.S. soy is working actively across the world to open new markets and introduce new customers to the value of high quality, high protein U.S. soy. Opening new markets is just the beginning: Markets require time, attention, and long-term relationship maintenance to ensure that once a market is open to U.S. soybean exports, access remains unhindered.

Our trading partners are all critical to the success of U.S. soy growers, but no export destination compares to China. In marketing year (MY) 2022/2023, the export value of U.S. soybeans totaled approximately \$32.6 billion. China accounted for over \$18.8 billion of this total; for perspective, the next largest destination by value totaled approximately \$3.3 billion. The sheer scale of China's demand for soybeans—more than 60% of global soy imports—cannot be replaced. One in three rows of soybeans grown in the U.S. is destined for China.

As this Committee—and Congress more broadly—discusses the complex relationship our nation has with China, there are two distinct considerations. There is a geopolitical relationship that affects national security and includes issues such as data privacy, human rights, and intellectual property; and there is the economic,

<sup>[1]</sup><http://asa.informz.net/z/cjUucD9taT05NjMxMTMyJnA9MSZ1PTExMzkyMDY0NzAmbGk9ODEwOTg5OTM/index.html>

<sup>[2]</sup><http://asa.informz.net/z/cjUucD9taT05NjMxMTMyJnA9MSZ1PTExMzkyMDY0NzAmbGk9ODEwOTg5OTQ/index.html>

commercial trading relationship. Our strong appeal is that careful consideration be given to maintain, rather than alienate, the economic relationship when discussions move forward in addressing geopolitical and other significant issues.

Soybeans have held the unfortunate distinction of serving as the prime casualty for what happened when the United States imposed tariffs on Chinese imports, and China responded with retaliatory tariffs on U.S. exports, including soybeans. In 2018, we saw not only an immediate loss in market share in our largest export market but also a price drop of \$2 per bushel<sup>1</sup> practically overnight.

This statement provides insights into the soybean industry's work in China, how farmers were impacted by the U.S.-China trade war in recent years, how our global competitors gained market share as a result, and policy recommendations for consideration.

### U.S. Soy's Work in China

While U.S. soy is actively working in 112 markets around the world, I will focus my testimony today on our largest export market: China. Our industry has been developing the Chinese market since 1982 when ASA opened an international marketing office in Beijing. At the time, China did not have a vertically integrated animal feed industry, and livestock production lacked health and nutritional standards. Chinese farmers did not incorporate soy into their animal feed rations, despite maintaining the largest swine herd in the world. The same is true for aquaculture production; while China produces more farmed fish than the rest of the world combined, no Chinese producers were incorporating soy into fish feed at the time.

Due to the work of U.S. soy in China, soy utilization there has changed dramatically. Since 1995—and prior to the trade disruption in 2018—soybean meal use in animal feed has grown by 389%. Use of soybean meal in aquaculture feed has also risen dramatically, from zero to nearly 6 million metric tons in 2022. China is now the world leader in pork, egg, and aquaculture production. The country also leads the world in soy food consumption. U.S. soy contributed to this progress through professional and technical training, conducting animal feeding experiments and organizing seminars to exchange knowledge with local organizations; this work helped Chinese businesses capture value from U.S. soybeans and soy components.

Exports to China were also boosted in 2000 when President Clinton signed legislation into law granting Permanent Normal Trade Relations (PNTR) status to China. ASA strongly supported and applauded China's ascension to PNTR status, having seen the growth potential for U.S. soybeans. At the time PNTR was granted, exports of soybeans and soy products to China were valued at \$1 billion, and our industry estimated at the time those export numbers could double by 2010.<sup>2</sup>

Our estimations were wrong: The numbers far surpassed doubling. In the MY 2022/2023, U.S. exporters shipped 67.6 million metric tons (MMT) of soy (beans, meal and oil) to foreign markets, accounting for nearly \$40 billion in sales. Of those exports, 31.4 MMT of soybeans were bound for China, which is primarily a whole soybean importer. That volume represents 60% of U.S. soybean exports and accounts for \$18.8 billion in value for U.S. soybean farmers. By comparison, our next two largest export markets were the Mexico and the European Union (EU). Mexico purchased 6.6 MMT of U.S. soy (beans, meal, and oil), and the EU purchased 6.4 MMT. For U.S. soybean farmers, China's demand for soybeans is greater than the rest of our foreign export markets combined, despite continuous efforts to diversify.

I farm soybeans in the Northern Plains. The growth of soybean production in this area has corresponded with China's increased imports. Almost all the soybeans from my farm are sent by rail to the Pacific Northwest, where they are loaded onto ships—many of which are bound for China. Without access to China's market, soybean production in my part of the country and on my farm would be reduced significantly due to a loss of demand. During the trade war, soybeans stored in my area (*versus* exported) increased significantly due to the loss of our primary market, and our local prices dropped at a rate higher than national prices.

### The 2018 Trade War

In 2018, President Trump levied tariffs on imports from China under Section 301 of the Trade Act of 1974, starting a tit-for-tat trade war between our two global economies. As a response, China applied retaliatory duties against U.S. soybeans that reached up to 27.5%. These duties, combined with uncertainty in the trade relationship, severely constrained U.S. soybean exports to China, which had exceeded a record amount of 36.1 MMT in MY 2016/2017, the last complete marketing year

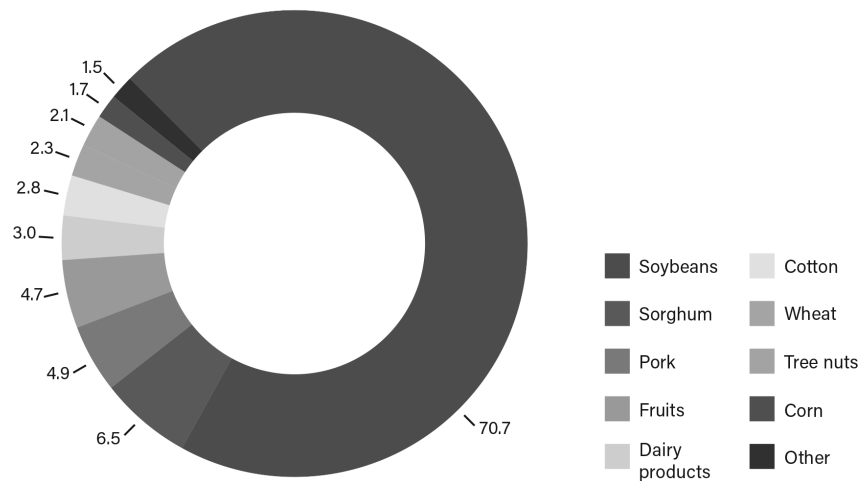
<sup>1</sup>The standard weight for a bushel of soybeans is 60 pounds—<https://ussec.org/resources/conversion-table/>.

<sup>2</sup><https://soygrowers.com/news-releases/asa-celebrates-signing-of-pntr-for-china-legislation/>.

before implementation of the retaliatory tariffs. When tariffs were imposed late in MY 2017/2018, we saw an immediate impact, with the year finishing at 28.2 MMT exported to China—a 22% decrease from the previous year. In MY 2018/2019 and 2019/2020, these exports fell to 13.4 and 16.1 MMT, drops of 62% and 55% respectively from MY 2016/2017.

The impact of this crippled market was severe for both farmers and exporters. USDA's Economic Research Service (ERS) estimated the impact of retaliatory tariffs on U.S. agriculture, including Section 301 tariffs and Section 232 tariffs on steel and aluminum: The ERS estimate shows a 76% reduction in the value of U.S. exports to China from 2017 to 2018. ERS also estimated the trade war cost U.S. agriculture over \$27 billion.<sup>3</sup> Soybeans accounted for 71% of the annualized losses.

**Figure 4. Percent Share of Annualized Losses Caused by Retaliatory Tariffs by Commodity**



[Source: <https://www.ers.usda.gov/webdocs/publications/102980/err-304.pdf>]

Notes: Estimates reflect annualized losses calculated using data from mid-2018 through the end of calendar year 2019. Shares calculated over selected commodities reported in *Appendix 2*. Data may not equal 100 due to rounding.

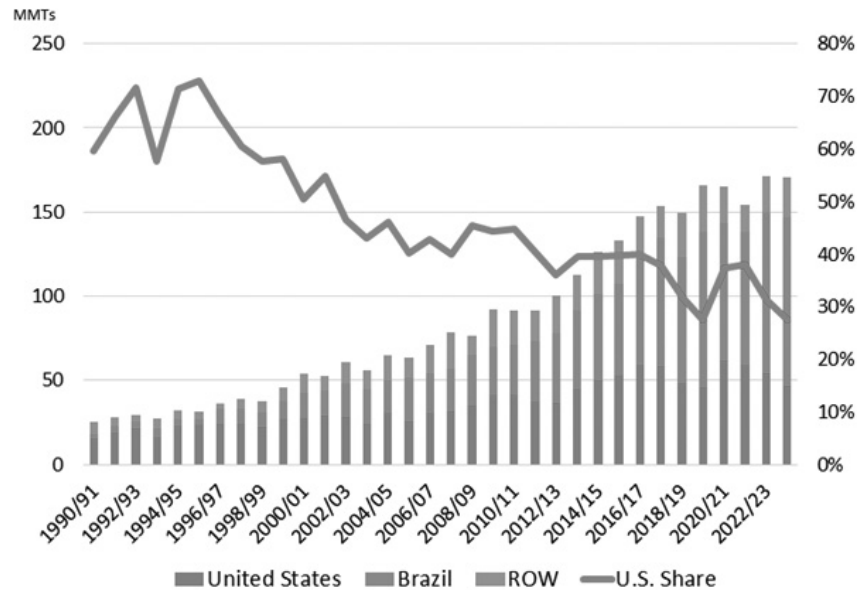
Source: USDA, Economic Research Service (ERS) estimations using data from USDA, ERS, *State Exports, Cash Receipts Estimates, Trade Data Monitor* (2021), and Grant, *et al.* 2021. "Agricultural Exports and Retaliatory Trade Actions: An Empirical Assessment of the 2018/2019 Trade Conflict," *Applied Economic Perspectives and Policy* 43: 619–640.

Loss of about  $\frac{1}{3}$  of the demand for U.S. soybeans has had major consequences. As a result of the trade war, Brazil ramped up production to meet Chinese demand. Beyond capturing additional market share in China, Brazil was prompted to increase its land area in agricultural production: This has done irreparable and long-lasting harm to the U.S. soybean industry. In the 2017/2018 marketing year, Brazil overtook the United States as the world's largest producer of soybeans. As a result of the trade war and the incentives it provided to Brazil to significantly increase production, our industry now faces increasing competition with Brazil in every export market, not just China.

<sup>3</sup>Morgan, Stephen, Shawn Arita, Jayson Beckman, Saquib Ahsan, Dylan Russell, Philip Jarrell, and Bart Kenner. January 2022. *The Economic Impacts of Retaliatory Tariffs on U.S. Agriculture*, ERR-304, U.S. Department of Agriculture, Economic Research Service.



### Global Soybean Exports



Source: USDA Office of the Chief Economist.

The U.S.-China Phase One agreement was signed January 15, 2020. This agreement was critical in providing relief from damaging retaliatory tariffs, as it provided an exclusion mechanism for Chinese importers. Customers were able to apply to their government to reduce the trade war tariff level of 27.5% back to Most Favored Nation (MFN) levels of 3%. As a result, U.S. soybean exports to China stabilized and have returned to near pre-2018 levels. While that exclusion process is functional, it is not guaranteed by China and could change at any time. China may choose to discontinue the waiver procedure, a move that would have an immediate damaging effect on U.S. soy exports.

This environment, anti-China rhetoric from Congress, the continued threat of tariffs from both the U.S. and China, and the lack of a roadmap for long-term resolution of these challenges combine to increase uncertainty for U.S. farmers and exporters. There is substantial risk that more unanticipated tariff action will undermine investments, export prices, and farm income.

Finally, the trade war also damaged U.S. soy's reputation as a reliable provider of soybeans and soy products in global markets. Section 301 tariffs and the retaliatory trade actions have jeopardized our place in these markets, undermined the U.S.'s reliable reputation, and thus damaged in-country relationships developed over decades. Because trade uncertainty has brought into question our reliability as a consistent supplier, it has in some years forced our customers to look elsewhere for their needs to avoid trade risk or excess duties. Despite regaining our foothold in the Chinese market, the long-term reputational damage to U.S. soybean growers will not be so quick to rebound.

I cannot emphasize this point enough—even as the United States considers actions to protect our national security interests, we must also maintain and protect our economic and trade interests as well. Soybean growers need predictability and certainty that we will retain market access in China. U.S. soy growers started building the China market for U.S. soybeans more than 40 years ago. Soybean growers are keenly aware of the time, financial and other related investments it takes to establish new markets and are likewise aware that markets, once lost, are extremely difficult to rebuild.

#### ASA Policy Recommendations

ASA appreciates the work Congress has invested in examining ways the legislative body could best address the relationship between the U.S. and China. We want to extend our appreciation to Chairman Mike Gallagher, Ranking Member Raja Krishnamoorthi, and Members of the House Select Committee on the Chinese Com-

unist Party (SCCCP) for their endeavors over the past year, which resulted in the committee's release of over a hundred policy recommendations in its December 2023<sup>4</sup> report. While ASA does not have a position on all the issues outlined, there were several recommendations we strongly support, including directing USTR to publish a full assessment of China's compliance with the Phase One agreement, reauthorization of the Generalized System of Preferences (GSP) program, renewal of Trade Promotion Authority (TPA), and the addition of the Secretary of Agriculture to the Committee on Foreign Investment in the United States (CFIUS).

ASA recognizes that the foreign ownership of farmland by China is a hot topic at both the state and national levels. ASA's voting delegates have adopted resolutions that take a prudent approach to this issue and address both national security and farmer concerns; we urge Congress to take a prudent approach as well. Specifically, ASA's voting delegates adopted a resolution last year that supports a Federal approach to this issue. It protects national security and economic interests without limiting soybean industry research or market access. And less than a month ago, ASA's voting delegates adopted additional language that supports adding the Secretary of Agriculture to the Committee on Foreign Investment in the United States (CFIUS) and stated our belief that CFIUS is the proper entity to review agricultural and other transactions by China and others to ensure national security interests are appropriately protected. We were grateful to see the inclusion of the Secretary of Agriculture in CFIUS was included in H.R. 4366, the Consolidated Appropriations Act, 2024, and thereafter signed into law by President Biden on March 9, 2024.

As this Committee and others look to the Select Committee's report and other policy ideas to curtail China's influence on the United States, ASA offers the following recommendations from the perspective of U.S. soybean growers:

1. **Reject legislative attempts to repeal or modify China's Permanent Normal Trade Relations (PNTR) status.**

As highlighted in this testimony, China's ascension to PNTR status helped U.S. soy exports to China skyrocket. From 191 million bushels, or 5.2 MMT of soybeans sold in MY 1999/2000, to 31.4 MMT sold in MY 2022/2023, the pre-trade war certainty our customers in China gained from tariff stability was invaluable in growing that market to the behemoth it is today.

All members of the World Trade Organization (WTO) are granted MFN/PNTR as part of joining the WTO. Revocation of PNTR would move China from Column One of the Harmonized Tariff Schedule to Column Two. Countries in Column One enjoy duties set at a very low rate and are agreed upon by both countries. Countries in Column Two are subject to much higher duties that can be lowered and raised by the U.S. at any time. Currently, the only countries subject to Column Two duty rates are Cuba, North Korea, Russia, and Belarus (the latter two added most recently due to the invasion of Ukraine).

ASA is very concerned that revoking PNTR for China would immediately raise tariffs on imports from China. As this testimony has laid out, it is very likely that a change in China's trade status would result in immediate retaliation from Beijing. In 2018, U.S. soybean exports to China were among the first agricultural commodities targeted for retaliatory tariffs, and if past is prologue, it is entirely possible that U.S. soybeans would be impacted yet again.

Bear in mind, the retaliatory tariffs levied by China in 2018–2019 are technically still in place. While currently waived due to the Phase One Agreement, that agreement does not include an enforcement mechanism and could go away at any time. Were that to happen, we would be back to facing a 27.5% tariff to enter the Chinese market—before any additional potential retaliation.

During the trade dispute, USDA created the Market Facilitation Program (MFP) and the Agricultural Trade Promotion (ATP) program to provide some relief for producers. MFP was created to provide *ad hoc* financial assistance to farmers and ranchers of commodities directly impacted by foreign retaliatory tariffs. ATP's purpose was to help U.S. agricultural exporters develop new markets and mitigate the adverse effects of other countries' tariff and non-tariff barriers.

In the SCCC's report, the committee recommends Congress should also consider additional appropriations to offset retaliation for farmers and ranchers, U.S. exporters, and other American workers, acknowledging that in-

<sup>4</sup> <https://selectcommitteeontheccp.house.gov/sites/evo-subsites/selectcommitteeontheccp.house.gov/files/evo-media-document/reset-prevent-build-scc-report.pdf>.

creased tariffs and retaliation against U.S. agriculture unfortunately go hand in hand. As ASA stated publicly in 2019 when the MFP was announced by USDA, it is important to note the key word in that program's name is "facilitation." Trade assistance only facilitates growers' ability to farm. It does not make their losses whole, or their tariff woes disappear long term. Trade assistance is a short-term solution for a trade war with long-term consequences. Farmers would prefer access to open, predictable and profitable markets, rather than reliance on government payments.

2. **Pass a comprehensive farm bill this year that meets the needs of U.S. agriculture.**

The long-term success of U.S. soy abroad would not be possible without the foresight of Congress. Resources provided through USDA are vital in assisting farmers with promoting agricultural products on a global stage and expanding and diversifying export opportunities. ASA is a longtime cooperator of these programs, particularly the Market Access Program (MAP) and Foreign Market Development (FMD) program. Utilizing MAP and FMD, ASA has leveraged funds received to increase market access, address technical barriers to entry and create on-the-ground capacity and demand for U.S. soy. These cost-share programs are an excellent example of public-private partnership.

Over the lifespan of these programs, however, industry funds have risen dramatically while funding from the U.S. Government has remained stagnant. Seventy-seven percent of total annual spending on market development and promotion now comes from industry dollars, up from just 45% in 1996.

We greatly appreciate the USDA's recent creation of the Regional Agricultural Promotion Program (RAPP) and the additional investments it will create in cultivating new markets abroad. However, this funding does not change the very real need for additional funds in the farm bill to enhance long-term market development and diversification opportunities.

While these programs have been greatly successful, it is concerning that government investment levels have remained mostly unchanged—even as the number of cooperators to these programs has increased. FMD has been funded at the same level—\$34.5 million annually—since the 2002 Farm Bill, and MAP funding has been level at \$200 million since 2006. As we look toward the next farm bill, ASA strongly supports efforts to double these funding numbers to \$400 million for MAP and \$69 million for FMD.

Outside the farm bill's Title III programs, there is a need for certainty in farm country, particularly when access to export markets may be at risk. During the U.S.-China trade war, U.S. soybean farmers endured significant market impacts but experienced an insufficient farm safety net under the current farm bill. This farm safety net must be improved in the next farm bill. A soybean farmer's worst-case scenario during a time of export market loss or other economic disruption is a combination of policy developments that looks like this: a new farm bill that maintains or further diminishes the inadequate farm safety net for soy, restrictions placed on USDA that limit its ability to respond to farmers in need, and a Congressional stalemate on emergency appropriations for farmers in need. This is a scenario that ASA hopes will not come to fruition, and we look forward to working with the Committee to develop a more meaningful, predictable farm safety net.

3. **Exercise Congressional oversight authority to press the Administration to reengage in negotiations for bilateral and multilateral free trade agreements (FTA).**

Trade promotion and market access are major priorities for the U.S. soybean industry. Tariff and non-tariff barriers to trade are frequent problems for our exports, and these barriers limit the potential for predictable global market access for soybeans, soybean meal and soybean oil. Barriers facing U.S. soybeans and soy products include tariffs and quotas, unjustified or risk-unproportionate sanitary and phytosanitary measures, and rules and regulations not based in science. These obstacles distort markets and reduce the potential for U.S. soy exports.

As we previously have stated before this Committee, we remain greatly concerned with the current U.S. approach to bilateral and multilateral agreements. The U.S. was once a leader in establishing new free trade agreements. Nevertheless, the FTA landscape has changed considerably since the last new U.S.-based FTA was signed with Colombia. While the U.S. has engaged in negotiations of existing agreements such as USMCA and the updated U.S. Korean Free Trade Agreement (KORUS), our last new FTA entered into force in 2012, despite having negotiated the Trans-Pacific Partnership (TPP). That

is over 10 years of stagnation for codified market expansion for U.S. agriculture.

ASA recognizes the international landscape has changed since the U.S. first negotiated the original TPP, and we are grateful for Ambassador Katherine Tai's leadership both during those negotiations and now in her role as the U.S. Trade Representative. Continued market access in the Indo-Pacific region is of critical importance to the ongoing success of U.S. soybean growers. Outside of China, several of U.S. soy's top ten export markets are in the region: Indonesia, Japan, Taiwan, Thailand, and Bangladesh.

The importance of expanded market access for U.S. soybean exports cannot be overstated, particularly if we are to diversify our export markets and decrease our reliance on the Chinese market. An original intent of TPP was to create a hedge around China, and ASA still believes that agreement and the markets party to that agreement hold tremendous potential for U.S. agriculture. We encourage Congress to press the Administration on the importance of traditional FTAs, and we likewise encourage USTR to look to multilateral free trade agreements to maximize the U.S.'s strategic position in the global economy and provide U.S. agriculture much-needed market access in emerging economies.

Finally, ASA strongly encourages Congress to reauthorize TPA. TPA is an important tool in the toolbox for the U.S. to engage in FTA negotiations. Ensuring TPA is in place will not only allow the President a chance to codify both the priorities of this Administration and Congressional intent in negotiating procedures, but also it will give assurance to our trading partners that there will be a straightforward procedure in the U.S. Congress for consideration of a final deal.

### **Conclusion**

Chairman Thompson, Ranking Member Scott, and Members of the House Agriculture Committee, thank you again for the opportunity to testify on behalf of U.S. soybean farmers regarding the importance of the Chinese market to our industry. The scars of the 2018 trade war are still fresh—and ongoing—for our farmers. Market access is one of the most important issues for U.S. soy, and we need certainty that access to our largest trading partner will remain, despite ongoing geopolitical issues.

ASA appreciates and understands the momentous work ahead of this Committee, and I am grateful for the opportunity to share the perspective of U.S. soybean farmers with you. The soy industry stands as a resource for the Committee, Congress, and the Administration as this dialogue continues to unfold. Thank you again for the opportunity to testify today.

The CHAIRMAN. Mr. Gackle, thank you so much for your leadership and your testimony today.

I am now pleased to recognize Mr. Daly. Please begin when you are ready.

### **STATEMENT OF NOVA J. DALY, SENIOR PUBLIC POLICY ADVISOR, WILEY REIN LLP; FORMER DEPUTY ASSISTANT SECRETARY FOR INVESTMENT SECURITY, U.S. DEPARTMENT OF THE TREASURY, WASHINGTON, D.C.**

Mr. DALY. Chairman Thompson, Ranking Member Scott, and distinguished Members of this Committee, thank you for the opportunity to appear before you today to discuss this critical and timely matter. I am honored and humbled to be before you today among the exceptional panelists that you have assembled. The views I share are my own and are informed by my service in the U.S. Government, where I was fortunate enough to serve along colleagues in the National Security Council, Commerce Department, Senate, and the Treasury, where I ran the Committee on Foreign Investment in the United States.

I got to witness firsthand for many years the actions of China as it conducted and directed actions through its businesses nefariously through third parties. Given that experience and years of private-

sector helping U.S. companies address competition and malicious activity by Chinese entities, the focus of my testimony is the national and economic security considerations involved in Chinese acquisition of U.S. agriculture and agriculture-related business and supply chains.

That said as a baseline, and as my witness testimony relays, recent laws implemented by China effectively compel any Chinese entity to act at the direction of the Chinese State, *i.e.*, the Communist Party of China. So the question before the Committee is really what do you, as leaders of this country, believe that the United States should accept regarding ownership and control by the Communist Party of China over U.S. assets of agriculture land, production, and supply chains?

Problematically, as you know, there are serious gaps in current Federal laws and reporting that expose our military and critical infrastructure to vulnerabilities and increasingly impact U.S. farmers, ranchers, and producers as they face challenges from state-driven Chinese actors. Forwarded and planned Chinese investments like the Fufeng wet corn mill plant in North Dakota and land and farm acquisitions in Oregon, Texas, Nevada. The close proximity to point-of-the-spear U.S. military bases and nuclear facilities is not coincidental.

Given China's regional and global military-intense vectors that provide intelligence are constantly being sought where they provide locations for cranes, silos, windmills, or farms above or adjacent to military or sensitive facilities or telecommunication towers or underground cables. Brazen IP violations of U.S. seed, GMOs, and other agricultural technologies have placed at risk the nation's continued agricultural technology leadership. There are ample cases of Chinese agents having been caught attempting to take such technologies. China's perpetual dependence on agricultural imports ensures that their goals for independence from foreign dependencies will remain a priority.

Further, China's massive cyber warfare divisions, notably PLA Unit 61398, have the capability to disrupt key American infrastructure critical to our agriculture. This includes power and water utilities, as well as communication and transportation systems.

China's global acquisitions and supply chain monopolies including Internet-of-Things technologies continue to expand unchecked and unaddressed. We have significant dependencies on parts, electronics, and other inputs to our agricultural machinery. The nutritional needs of our livestock is also under significant dependence, as well as inputs to pesticides and herbicides.

China is also acquiring companies as export platforms for Chinese market globally and in the United States. Such diversion of product can have sizeable negative impacts on U.S. producers. Further, China's acquisition of global agricultural storage and logistic assets and trading markets should be examined.

Last, given the advances in farm technologies, our reliance on supply chains that provide nefarious Chinese actors kill switches to our machinery, all eyes are on our production. These all are matters that should be addressed.

But there are solutions. Federal laws addressing foreign ownership should be considered, changes to them, given the legal

vulnerabilities of state-to-state restrictions. There are adjustments that can be made to the jurisdiction of CFIUS to better respond to Chinese farm and other agricultural acquisitions.

As led by this Committee, the GAO has provided solutions for better foreign farm ownership reporting standards, and a number of Members have pointed to additional solutions in reporting. Stronger cybersecurity vigilance championed by Members here is also critical, and there are a host of other possible solutions in the face of funding challenges that can ensure our nation remains vigilant on applying solutions to the uninvited, unwarranted, and increasingly sophisticated threats that certain actors present to our nation and food security.

That concludes my opening remarks, and I look forward to hearing from you and addressing to the best of my ability any questions on matters you wish to raise.

[The prepared statement of Mr. Daly follows:]

PREPARED STATEMENT OF NOVA J. DALY, SENIOR PUBLIC POLICY ADVISOR, WILEY REIN LLP; FORMER DEPUTY ASSISTANT SECRETARY FOR INVESTMENT SECURITY, U.S. DEPARTMENT OF THE TREASURY, WASHINGTON, D.C.

**Chinese Acquisitions of U.S. Agriculture and Land Holdings and Control of Relevant U.S. Supply Chains: Addressing National Security Risks**

Chairman Thompson, Ranking Member Scott, and distinguished Members of this Committee,

Thank you for the opportunity to appear before you today to discuss this critical and timely matter, namely the danger that the People's Republic of China (PRC or China) poses to American agriculture. I am honored and humbled to be among the exceptional panelists that you have assembled before you today.

The views I share are my own and are informed by my years of service in Federal Government, as an analyst at the U.S. Department of Commerce (Commerce), where I adjudicated antidumping and countervailing duty (AD/CVD) cases (many involving dumped and subsidized Chinese goods); as a trade policy advisor to the Secretary of Commerce; in my service at the U.S. Senate Committee on Finance; as a director at the National Security Council in the White House; as a Deputy Assistant Secretary at Treasury responsible for the administration and determinations of the Committee on Foreign Investment in the United States (CFIUS); and finally in private practice, where I have had the privilege to represent clients facing and addressing unwarranted, unfair, and/or illegal actions by Chinese entities and the Chinese state.

In my early years in Federal Government, and for a good portion of that service, there was a generally held notion that China, through economic and trade liberalization, would become more democratic and a more responsible stakeholder, globally. There was also a view that Chinese private entities functioned as more rational economic actors, differently and generally separate from Chinese state-owned and controlled entities (SOEs). Further, such private Chinese entities were treated differently under U.S. laws and practice. However, over time, China has implemented an ever-tightening strand of laws and policies that have effectively eclipsed the notion that its private entities and actors can or will act separately from state goals or direction.

Informative to that, recently implemented Chinese laws effectively compel any Chinese entity to act at the direction of the state, thus at the direction of the Chinese Communist Party (CCP). For instance, China's 2017 National Intelligence law requires that: "All organizations and citizens shall support, assist, and cooperate with national intelligence efforts," with the term "national intelligence" involving "the national security and interests of the People's Republic of China."<sup>1</sup> At Article

<sup>1</sup> See Federal Bureau of Investigation, *The Threat Posed by the Chinese Government and the Chinese Communist Party to the Economic and National Security of the United States* (July 7, 2020), available at <https://www.fbi.gov/news/speeches/the-threat-posed-by-the-chinese-government-and-the-chinese-communist-party-to-the-economic-and-national-security-of-the-united-states>; see also Elaine K. Dezenski and David Rader, *The U.S. Must Combat CCP-Sanctioned Overseas Spying by Private Entities*, Foundation for Defense of Democracies (Nov. 22, 2023), available at

14 of that law, Chinese intelligence agencies are provided with the authority to demand cooperation. Further, China's 2021 Counterespionage Law effectively empowers or normalizes all its citizens to act as agents of the state on intelligence matters. Given the breadth of these and other Chinese laws, and formal and informal penalties inflicted on entities or individuals that do not comply, effectively, any information, and broadly constructed, any possession that comes under ownership or control of a Chinese entity can ultimately be utilized by the CCP as a resource or asset.

Given that our food security is our national security, the fundamental question before this Committee and its Members, as leaders of our country, is what the United States should accept regarding the ownership and control by the CCP over U.S. agriculture land, production, and/or supply chains.

Problematically, as you know, U.S. state laws restricting foreign land ownership have their limitations and legal hurdles. Further, Federal laws, notably CFIUS, have jurisdictional gaps. Compounding that, as this Committee has pointed out, there are reporting problems concerning foreign acquisitions of U.S. agricultural land, as recently highlighted by the U.S. Government Accountability Office (GAO). Lastly, multiple critical U.S. and global supply chains for agricultural inputs and technologies are controlled by China.

This witness statement hopes to inform this Committee in its assessment of the breadth of what may be considered acceptable in terms of CCP ownership and control, to explore what can or should be done to address agricultural assets and supply chains that should not be owned or controlled by the CCP, and to consider action and resources that may be leveraged to address these matters. To that end, my statement addresses four broad topics:

- I. National and economic security considerations involved in Chinese acquisitions of U.S. farm and land holdings and agriculture and agricultural-related businesses;
- II. National and economic security considerations involved in China's control of agricultural supply chains;
- III. China's broader global agriculture and supply chain policies and controls; and
- IV. Policy and legal options and considerations.

#### **I. National and Economic Security Concerns Regarding Chinese Acquisitions of U.S. Agricultural Land and Production**

While it is well reported that U.S. agricultural land holdings by Chinese entities are relatively small compared with other foreign countries,<sup>2\*</sup> these acquisitions have increased fivefold over the past decade and 30 percent from 2019–2020.<sup>3</sup> Given a U.S. reporting system in need of reform (as noted by the GAO),<sup>4</sup> complex corporate structures and investment vehicles, as well as “other land” holding categories under U.S. Department of Agriculture (USDA) reporting, the amount of Chinese agricultural land holdings may be higher than reported.

Notable recent transactions include the Fufeng Group's acquisition of 370 acres of land to build a wet corn mill plant near the Grand Forks Air Force Base in North Dakota;<sup>5</sup> a series of land acquisitions by Sun Guangxin (a billionaire from Xinjiang

<https://www.fdd.org/analysis/2023/11/22/the-u-s-must-combat-ccp-sanctioned-overseas-spying-by-private-entities-2/>.

<sup>2</sup>China owns approximately 384,000 acres, or one percent of foreign-owned agricultural land holdings in the United States. See Ximena Bustillo and Connie Hanzhang Jin, *China owns 380,000 acres of land in the U.S. Here's where*, NPR (June 26, 2023), available at <https://www.npr.org/2023/06/26/1184053690/chinese-owned-farmland-united-states>. A map of Chinese-owned farmland is attached as Annex 1.

<sup>3</sup>**\*Editor's note:** the referenced Annex 1 was not included in Mr. Daly's submitted statement. **However**, the referenced article, *China owns 380,000 acres of land in the U.S. Here's where*, does have two images of maps (specifically, interactive graphics) one of which is named, *Where in the U.S. do Chinese entities own farmland?*. A screenshot of this map is located on p. 49.

<sup>4</sup>Emily Washburn, *How Much U.S. Farmland Does China Really Own? More Than Bill Gates—And Less Than 17 Other Countries*, FORBES (Mar. 1, 2023), available at <https://www.forbes.com/sites/emilywashburn/2023/03/01/how-much-us-farmland-does-china-really-own-more-than-bill-gates-and-less-than-17-other-countries/?sh=3c7cb93f421f>.

<sup>5</sup>See U.S. Government Accountability Office, *Foreign Investments in U.S. Agricultural Land: Enhancing Efforts to Collect, Track, and Share Key Information Could Better Identify National Security Risks* (Jan. 18, 2024), available at <https://www.gao.gov/products/gao-24-106337> (“GAO Report”).

<sup>6</sup>Jerry Dunleavy, *North Dakota rejects Chinese project near U.S. military base after Biden Administration refuses to act*, WASHINGTON EXAMINER (Feb. 7, 2023), available at <https://>

Province and a former captain for the People's Liberation Army) to build a wind farm near Laughlin Air Force Base, which is a training ground for military pilots;<sup>6</sup> and the discovered ownership, since 2015, of 200,000 acres of forest land in Oregon by Chinese video gaming magnate Tianqiao Chen (making him the second-largest non-U.S. citizen owner of U.S. land).<sup>7</sup>

National security concerns arising from Chinese acquisitions of agricultural property near military and other U.S. critical infrastructure is not a recent development. Notable past transactions include the 2012 acquisition by Chinese-owned Ralls Corporation (Ralls) of interests in four wind farm project companies in Oregon. The project sites, conveniently, overlapped with a restricted airspace and a bombing zone used by military aircraft out of Naval Air Station Whidbey Island. Other acquisitions that raised serious national security concerns included a 2009 deal by China-based Northwest Nonferrous International Investment Company Ltd. and a 2013 deal by China National Machinery Industry Corporation. Both transactions involved properties very near the Fallon Naval Air Station in Nevada, where the Top Gun flight training school is located. While these transactions were eventually blocked by CFIUS, some had to be discovered as they were never originally notified.

Additional acquisitions of U.S. land holdings, specifically agricultural, that also included proximity to U.S. military bases include the Shuanghui (now WH Group) acquisition of pork producer Smithfield in 2013 and the 2016 acquisition of Syngenta by China National Chemical Corporation. Both deals, unlike those above, were approved by CFIUS.

While recent transactions involving agriculture are not voluminous, they are significant, and there is a growing trend. Further, given Chinese intelligence activities in the United States, whether stemming from spy balloons, the theft of U.S. seed technology, or otherwise, such acquisitions and land holdings raise compelling national and economic security concerns.

#### A. National Security Concerns

As noted above, there have been a number of Chinese acquisitions involving agricultural and other land holdings near U.S. military bases. The following examples provide an indication of the national security considerations raised by Chinese entity acquisitions of U.S. agricultural and other properties.

##### a. Fufeng Group

In November 2021, the Fufeng Group, a large Chinese bi-fermentation corporation, announced its intent to construct a wet corn mill 12 miles from the Grand Forks Air Force Base.<sup>8</sup> Concerns were quickly raised regarding the proximity of the planned facility and the potential for PRC espionage. North Dakota Senators Kevin Cramer and John Hoeven requested a closer review of the matter.<sup>9</sup>

In December 2022, CFIUS found that it did not have jurisdiction to review the planned Fufeng facility, as the U.S. Air Force base was not listed as a sensitive facility.<sup>10</sup> This lack of CFIUS jurisdiction due to the confines of its regulations was troubling, especially given that the base's mission was being expanded by the Air Force to include leading future intelligence surveillance reconnaissance missions.<sup>11</sup> Given the lack of regulatory jurisdiction by CFIUS, the Air Force sent a letter to Senator Cramer relaying the Department's view that: "The proposed project presents a significant threat to national security with both near- and long-term risks of significant impacts to our operations in the area."<sup>12</sup> This lack of CFIUS jurisdic-

[www.washingtonexaminer.com/news/justice/1062498/north-dakota-town-rejects-chinese-project-near-us-military-base-after-biden-administration-refuses-to-act/](https://www.washingtonexaminer.com/news/justice/1062498/north-dakota-town-rejects-chinese-project-near-us-military-base-after-biden-administration-refuses-to-act/).

<sup>6</sup>See Nathan Owens and Julia Himmel, *How farms became the latest battleground in U.S.-China relations*, AGRICULTUREDIVE (Dec. 5, 2023), available at <https://www.agriculturedive.com/news/us-china-foreign-ownership-farmland-agriculture/700792/>.

<sup>7</sup>See Zoe Saylor, *Oregon's Biggest Landowner Sparks Controversy*, PORTLAND MONTHLY (Jan. 22, 2024), available at <https://www.pdxmonthly.com/news-and-city-life/2024/01/landowner-foreign-oregon-acres>.

<sup>8</sup>GRAND FORKS HERALD, *The Fufeng Controversy*, available at <https://www.grandforksherald.com/businesses-organizations/fufeng>.

<sup>9</sup>*Id.*

<sup>10</sup>Khushboo Razdan, *Chinese agribusiness giant Fufeng gets U.S. Federal clearance for controversial North Dakota land sale*, SOUTH CHINA MORNING POST (Dec. 14, 2022), available at <https://www.scmp.com/news/china/diplomacy/article/3203228/chinese-agribusiness-giant-fufeng-gets-us-federal-clearance-controversial-north-dakota-land-sale>.

<sup>11</sup>Sommer Brokaw, *North Dakota Air Force base to lead future intelligence missions*, SPACEWAR (Aug. 26, 2021), available at <https://www.spacewar.com/reports/North-Dakota-Air-Force-base-to-lead-future-intelligence-missions-999.html>.

<sup>12</sup>Office of Kevin Cramer, *Fufeng Land Purchase Poses 'Significant Threat to National Security'* (Jan. 31, 2023), available at <https://www.cramer.senate.gov/news/press-releases/sen-cramer-statement-air-force-says-fufeng-land-purchase-poses-significant-threat-to-national-security>.



tion is further discussed in the recommendations section of this statement. Despite CFIUS' inability to take action, following the Air Force letter, local Grand Forks leaders stepped in to prevent the construction of the facility, and this past fall, Fufeng listed its land holding in Grand Forks for sale.<sup>13</sup>

Fufeng is a major producer of food additives, biochemical products, and starch-based products based in Shandong Province, China. It has manufacturing plants throughout China, including a prominent facility in the Xinjiang Uyghur Autonomous Region (XUAR).<sup>14</sup> Fufeng's facility in Xinjiang is located in close proximity to three Uyghur re-education camps. Fufeng also has U.S. subsidiaries—Fufeng USA Inc., headquartered in Chicago, Illinois, and First Biotech Inc., located in Brea, California—that sell biological products in the United States.

Substantial evidence and market intelligence indicate that Fufeng is affiliated with and possibly controlled by the Government of China and that its operations in the XUAR involve forced labor. Despite the evidence, Fufeng has not been sanctioned under the Uyghur Human Rights Policy Act of 2020 (UHRPA) or otherwise placed on the U.S. Government's Specially Designated Nationals and Blocked Persons (SDN) List. Although Fufeng was prevented from building its agricultural processing plant in North Dakota, it is still seeking to build plants in the United States, including seeking property to do so in Indiana.<sup>15</sup>

Given Fufeng's ties to the Chinese state, and the new and significant mission of the Grand Forks Air Force Base, the planned wet corn milling plant could provide numerous vectors for espionage and intelligence, including possible electronic monitoring placed on the mill facilities.

#### b. Ralls

One past transaction that harkens to the land acquisitions by Sun Guangxin to build a wind farm near Laughlin Air Force Base in Texas is the Ralls matter. In March 2012, Ralls, an Oregon corporation owned by two Chinese nationals who also held senior management positions within the Sany Group (Sany), a Chinese global manufacturing company, acquired interests in four wind farm-project companies in Oregon. The project sites were in close proximity to Naval Air Station Whidbey Island, which conducts advanced weapons testing involving unmanned drones and electronic warfare aircraft.<sup>16</sup>

Ralls' planned to begin construction at the project sites to install wind turbine generators constructed in China. Ralls did not voluntarily notify CFIUS of the transaction prior to closing the deal. Instead, it submitted a CFIUS notice only after CFIUS requested that it do so. While the U.S. Department of the Treasury advised Ralls to postpone construction on the project sites until after CFIUS' review was completed, Ralls declined. Ultimately, to stop Ralls, President Obama was forced to issue a Presidential Order prohibiting the acquisition, on account of "credible evidence" indicating that the parties, "through exercising control of the [companies,] might take action that threatened to impair the national security of the United States."<sup>17</sup>

Electronic devices can be placed in wind towers, as well as cranes that load and unload cargo,<sup>18</sup> and atop plants (like the wet corn mill facility that Fufeng sought to build) to monitor U.S. military capabilities and technologies. The higher the facilities, the better. Troubling as well, important telecommunication/fiber optic cables

<sup>13</sup>Greg Norman, *Chinese company's North Dakota corn mill project struck down by Grand Forks, prompting cheers of 'USA!'*, FOX BUSINESS (Feb. 7, 2023), available at <https://www.foxbusiness.com/economy/china-fufeng-north-dakota-corn-mill-project-halted-grand-forks-city-council>; Matthew Voigt, *Fufeng land in Grand Forks for sale; tax payments are up to date*, INFORUM (Oct. 7, 2023), available at <https://www.inforum.com/news/north-dakota/fufeng-land-in-grand-forks-for-sale-taxes-are>.

<sup>14</sup>Fufeng Group Limited, *2021 Annual Report* (Apr. 23, 2022) at 75, available at <http://www.hkexnews.hk/listedco/listconews/sehk/2022/0422/2022042200520.pdf> ("Fufeng 2021 Annual Report").

<sup>15</sup>Whiney Downard, *Senate moves foreign ownership of farmland bill over economic development concerns*, INDIANA CAPITAL CHRONICLE (Mar. 5, 2024), available at <https://indianacapitalchronicle.com/2024/03/05/senate-moves-foreign-ownership-of-farmland-bill-over-economic-development-concerns/>.

<sup>16</sup>See Thilo Hanemann and Daniel H. Rosen, *Ralls vs. CFIUS: What Are the Implications for Chinese Investment?*, Rhodium Group (Oct. 5, 2012), available at <https://rhg.com/research/ralls-vs-cfius-what-are-the-implications-for-chinese-investment/>.

<sup>17</sup>See *Regarding the Acquisition of Four U.S. Wind Farm Project Companies by Ralls Corporation*, 77 FED. REG. 60,281 (Executive Office of the President Oct. 3, 2012), available at <https://www.govinfo.gov/content/pkg/FR-2012-10-03/pdf/2012-24533.pdf>.

<sup>18</sup>See Isaac Kardon, *Washington Tackles a New National Security Threat: Chinese-Made Cranes*, Carnegie Endowment for International Peace (Feb. 28, 2024), available at <https://carnegieendowment.org/2024/02/28/washington-tackles-new-national-security-threat-chinese-made-cranes-pub-91843>.

often run under U.S. agricultural land or abutting such land, which also creates a ground vulnerability. Thus, espionage technologies need not be utilized on towers to have effect and depending on the target.

The acquisition of U.S. agricultural land located near military bases raises direct national security considerations. However, given other U.S. ground base vulnerabilities including telecommunication cable and rail lines and proximity to other critical infrastructure, acquisitions of agricultural land broadly, depending on the investor or beneficiary, can raise serious national security concerns where CFIUS and other Federal laws lack jurisdiction to address the matter.

#### B. Economic Security Concerns

China's agricultural acquisitions pose multiple national economic security risks. In the first part, such acquisitions have been found to be specifically designed as export platforms for the Chinese market. As an example, following the Smithfield takeover, the WH Group significantly increased its share of exports to China, leading to potential increases in U.S. retail pork prices due to tightening supply.<sup>19</sup> Such supply diversion represents potential risks to U.S. agricultural security, as food security in many countries remains vulnerable to economic and geopolitical shocks, which contribute to economic strains that stoke regional conflicts and instability.<sup>20</sup>

As discussed below, China currently and for the perceivable future will face domestic agricultural production issues due to natural disasters, shifting demographics, and diminishing arable land, among other factors.<sup>21</sup> For these reasons, food, farm, and agricultural firms outside China are a common target for PRC investors. The most high-profile of these types of acquisitions in the United States were the 2013 takeover of Smithfield Foods and the 2016 purchase of Syngenta, both of which benefitted from Chinese Government support. Syngenta, a Swiss agrichemical and seed company, is the largest seller of agrichemicals in the United States and a major seller of U.S. field crop seeds.<sup>22</sup> It is a leading player in seed treatment and genetically modified traits.<sup>23</sup>

Given China's import [dependence], there has also been a pattern of intellectual property theft of U.S. genetically modified seeds and other agricultural IP. In December 2013, the Federal Bureau of Investigation indicted six Chinese nationals for conspiring to steal trade secrets from several American seed manufacturing companies.<sup>24</sup> More recently, in April 2022, Xiang Haitao, a Chinese national, was sentenced to 29 months in prison and fined \$150,000 for stealing the Nutrient Optimizer algorithm from Monsanto by transferring it to a memory card and attempting to take it to China.<sup>25</sup> Larger-scale schemes have also been discovered. In 2016, Chinese scientist Robert Mo collected thousands of seed samples from Monsanto and Pioneer test fields.<sup>26</sup> Acquisitions of U.S. trade secrets, through agricultural espionage, impact the ability of U.S. companies to fund continued improvements in agricultural R&D.

To illustrate that economic security concern further, illicit acquisitions of genetically engineered seeds may erode U.S. competitiveness in agriculture technology that supports food production.<sup>27</sup> Genetically engineered seeds promise new opportunities for mitigating risk of drought and pests while improving seed stock to mini-

<sup>19</sup> *Id.*

<sup>20</sup> Office of the Director of National Intelligence, *Annual Threat Assessment of the U.S. Intelligence Community* (Feb. 5, 2024) at 5–6, available at <https://www.odni.gov/files/ODNI/documents/assessments/ATA-2024-Unclassified-Report.pdf>.

<sup>21</sup> U.S.-China Economic and Security Review Commission, *China's Interests in U.S. Agriculture: Augmenting Food Security through Investment Abroad* (May 16, 2022) at 1, available at [https://www.uscc.gov/sites/default/files/2022-05/Chinas\\_Interests\\_in\\_U.S.\\_Agriculture.pdf](https://www.uscc.gov/sites/default/files/2022-05/Chinas_Interests_in_U.S._Agriculture.pdf) ("USCC Report").

<sup>22</sup> Jacob Bunge and Brent Kendall, *Merger of Dow, DuPont likely to get close antitrust scrutiny*, WALL STREET JOURNAL (Dec. 9, 2015), available at <https://www.wsj.com/articles/merger-of-dow-dupont-likely-to-get-close-antitrust-scrutiny-1449709088>.

<sup>23</sup> Syngenta, *Annual Review 2015* at 8–10, available at <https://www.syngenta.com/sites/syngenta/files/presentation-and-publication/updated/annual%20reports/2015/syngenta-annual-review-2015.pdf>.

<sup>24</sup> Federal Bureau of Investigation, *Six Chinese Nationals Indicted for Conspiring to Steal Trade Secrets from U.S. Seed Companies* (Dec. 19, 2013), available at <https://archives.fbi.gov/archives/omaha/press-releases/2013/six-chinese-nationals-indicted-for-conspiring-to-steal-trade-secrets-from-u.s.-seed-companies>.

<sup>25</sup> U.S. Department of Justice Office of Public Affairs, Press Release: *Chinese National Pleads Guilty to Economic Espionage Conspiracy* (Jan. 6, 2022), available at <https://www.justice.gov/opa/pr/chinese-national-pleads-guilty-economic-espionage-conspiracy>.

<sup>26</sup> Robert Farley, Robert Mo, Wen Ho Lee, and Non-Military Chinese Intellectual Property Theft, THE DIPLOMAT (July 7, 2020), available at <https://thediplomat.com/2020/07/robert-mo-wen-ho-lee-and-non-military-chinese-intellectual-property-theft/>.

<sup>27</sup> USCC Report at 2.

mize the amount of farmland required for production. The United States exported \$173.91 million of seeds to China in 2021,<sup>28</sup> but illicit acquisitions of genetically modified seeds deprive American companies of additional revenue. Further, these acquisitions of technology pose national security risks because agricultural genetic technologies present dual-use potential.<sup>29</sup> Agricultural IP can potentially be weaponized as it offers an opportunity to discover vulnerabilities in U.S. crops.<sup>30</sup>

China's acquisitions of agricultural land are not limited to the United States. China has been going global with acquisitions of farmland, as discussed further below. Syngenta operates in 90 countries and Smithfield has facilities in Mexico, Romania, and Poland.<sup>31</sup> Further, while direct ownership of land near military installations can raise serious national and economic concerns, control over global supply chains can present more dire risks.

## II. CCP Control in Certain U.S. Agricultural Supply Chains

### A. Farm Technology and Internet of Things

Cellular connectivity modules, or components that enable Internet of Things (IoT) devices, supplied by companies subject to the jurisdiction, direction, or control of the CCP pose potential significant national security risks to the United States.<sup>32</sup>

The United States uses such connectivity modules in a wide variety of devices, including smart devices and domestic telecom networks.<sup>33</sup> These modules serve as a link between devices and the internet, which means that they have the capacity to both stop devices from operating as well as potentially accessing the data flowing from devices to the web server that runs each device.<sup>34</sup> Importantly then, nefarious actors could exfiltrate data or remotely shut down the IoT device should they be able to control the connectivity module. In the coming years, American farmers will increasingly use IoT devices to plant and monitor their crops.<sup>35</sup> Vulnerabilities in these devices and the potential consequences of such vulnerabilities could prove detrimental in their impacts to farmers and other agricultural producers.

Recent international events demonstrate the immense power of these modules. In May 2022, for example, the Russian military stole \$5 million worth of farm equipment from a John Deere dealership in Ukraine and attempted to bring it to Russia.<sup>36</sup> However, this equipment, which incorporated Western-made connectivity modules, ultimately could not be used by the Russian army because its owners remotely locked the equipment.<sup>37</sup>

### B. Vitamins

Vitamins included in animal feed are a critical part of the agriculture supply chain ecosystem, helping to provide adequate yields for American agricultural products by ensuring that livestock are nutritionally healthy. Vitamins are considered critical for livestock feeds. Such vitamins ensure various biological processes, including proper growth, reproduction, milk production, and immune response. Despite their importance to the U.S. supply chain, China has become the predominant producer and provider of many of these vitamins. Chinese control over these vitamins poses a potential serious risk to the U.S. agricultural market and to the U.S. supply chain. Disruptions to supply could notably reduce domestic production and any restriction on such vitamin access would greatly impact the U.S. agriculture market.

<sup>28</sup> *Id.* at 15.

<sup>29</sup> *Chinese Investment in the United States: Impacts and Issues for Policymakers: Hearing Before the U.S.-China Economic and Security Review Commission*, 114 Cong. 2 (Jan. 26, 2016) (Statement of Patrick Woodall, Research Director and Senior Policy Advocate, Food & Water Watch) at 16, available at [https://www.uscc.gov/sites/default/files/Woodall\\_USCC%20Hearing%20Testimony012617.pdf](https://www.uscc.gov/sites/default/files/Woodall_USCC%20Hearing%20Testimony012617.pdf) ("Woodall Testimony").

<sup>30</sup> *Id.*

<sup>31</sup> *Id.* at 13.

<sup>32</sup> Letter from Mike Gallagher, Chairman, Select Committee on the Chinese Communist Party and Raja Krishnamoorthi, Ranking Member, Select Committee on the Chinese Communist Party to Jessica Rosenworcel, Chairwoman, Federal Communications Commission (Aug. 7, 2023) at 1, available at <https://docs.fcc.gov/public/attachments/DOC-396816A1.pdf> ("CCP Select Committee Letter").

<sup>33</sup> Charles Parton, *Cellular IoT modules—Supply Chain Security* (Nov. 25, 2022), available at <https://www.fcc.gov/ecfs/document/10509287356174/1>.

<sup>34</sup> CCP Select Committee Letter at 2.

<sup>35</sup> Jonathan Seelig, *Five Use Cases For IoT And Edge Cloud Technology In Smart Farming* (June 16, 2022), available at <https://www.forbes.com/sites/forbesbusinesscouncil/2022/06/16/five-use-cases-for-iot-and-edge-cloud-technology-in-smart-farming/?sh=1d6ee38f89dc>.

<sup>36</sup> Olexsandr Fylyppov and Tim Lister, *Russians plunder \$5M farm vehicles from Ukraine—to find they've been remotely disabled*, CNN (May 1, 2022), available at <https://www.cnn.com/2022/05/01/europe/russia-farm-vehicles-ukraine-disabled-melitopol-intl/index.html>.

<sup>37</sup> CCP Select Committee Letter at 1.

### C. Pesticides and Herbicides

Pesticides and herbicides are an essential part of the agricultural supply chain, ensuring that planted croplands are protected against weeds, grass, and pests and that croplands produce adequate yield to meet demand. Chinese ownership over the U.S. supply chain for pesticides and herbicides creates significant risks for U.S. agricultural production. Restrictions on the availability of popular pesticides and herbicides would reduce the yield of U.S. farmland, raising costs for U.S. farmers and consumers. China maintains a dominate global position in the production of the following popular pesticides and herbicides.

#### i. Glyphosate

Glyphosate, also known by its trade name Roundup, is the most commonly used herbicide in the United States.<sup>38</sup> China is the dominant global producer of glyphosate, controlling between 60 and 70 percent of the worldwide market.<sup>39</sup>

#### ii. Atrazine

Atrazine is the second-most widely used weed killer in the United States, primarily used on crops such as sugarcane, corn, and sorghum.<sup>40</sup> Atrazine was invented by and primarily produced by Sygenta Corporation.<sup>41</sup> Sygenta Corporation is owned by Chinese state-owned company ChemChina.<sup>42</sup>

#### iii. Paraquat

Paraquat is one of the most common herbicides in the United States and sold under the brand name Gramoxone.<sup>43</sup> Similar to Atrazine, Paraquat is owned and produced by Sygenta, which itself is owned by ChemChina.<sup>44</sup>

#### iv. Imidacloprid

Imidacloprid is the world's most used insecticide and has been in the U.S. market since 1994.<sup>45</sup> The PRC is the largest producing and exporting country of imidacloprid.<sup>46</sup>

#### v. Acephate

Acephate is a common U.S. insecticide used on a variety of crops including cotton, tobacco, cranberries, and mint.<sup>47</sup> The United States uses approximately 4 to 5 million pounds of Acephate each year. The PRC is one of the global leaders in the production of Acephate.<sup>48</sup>

### III. China's Global Agricultural Program

Food security is one of the most important issues facing China's economic security. The PRC is the world's largest food importer, and conditions in the Chinese agricultural sector point to Chinese import dependence growing in the coming years.<sup>49</sup> Increased urbanization and industrial growth have covered what was once

<sup>38</sup> U.S. Dep't of Agriculture Economic Research Service, *ERS Charts of Note*, available at <https://www.ers.usda.gov/data-products/charts-of-note/charts-of-note/?topicId=29b0f43-e3cd-4b16-8f34-76a69ce2ed48>.

<sup>39</sup> Tyne Morgan, *What in the World is Going On With Glyphosate Prices?*, AG WEB (July 19, 2023), available at <https://www.agweb.com/news/crops/crop-production/what-world-going-glyphosate-prices>.

<sup>40</sup> Environmental Protection Agency, *Indicators: Atrazine*, available at <https://www.epa.gov/national-aquatic-resource-surveys/indicators-atrazine>.

<sup>41</sup> Mikaela Conley, *Atrazine, an endocrine-disrupting herbicide banned in Europe, is widely used in the U.S.*, U.S. Right to Know (Sept. 12, 2023), available at <https://usrth.org/pesticides/atrazine/>.

<sup>42</sup> *Id.*

<sup>43</sup> University of Tennessee Institute of Agriculture, *Paraquat Herbicide Information*, available at <https://psep.tennessee.edu/paraquat>.

<sup>44</sup> Mikaela Conley, *Atrazine, an endocrine-disrupting herbicide banned in Europe, is widely used in the U.S.*, U.S. Right to Know (Sept. 12, 2023), available at <https://usrth.org/pesticides/atrazine/>.

<sup>45</sup> American Chemical Society, *Molecule of the Week Archive: Imidacloprid* (Aug. 25, 2014), available at <https://www.acs.org/molecule-of-the-week/archive/i/imidacloprid.html>.

<sup>46</sup> Xusheng Shao, et. al., *Overall status of neonicotinoid insecticides in China: Production, application and innovation*, JOURNAL OF PESTICIDE SCIENCE (2013), available at [https://www.jstage.jst.go.jp/article/jpestics/38/1/38\\_D12-037/\\_html/-char/en](https://www.jstage.jst.go.jp/article/jpestics/38/1/38_D12-037/_html/-char/en).

<sup>47</sup> Environmental Protection Agency, *Acephate Facts* (Sept. 2001), available at [https://www.epa.gov/pesticides/chem\\_search/reg\\_actions/reregistration/fs\\_PC-103301\\_1-Sep-01.pdf](https://www.epa.gov/pesticides/chem_search/reg_actions/reregistration/fs_PC-103301_1-Sep-01.pdf).

<sup>48</sup> Agropages, *China conducts risk reviews of acephate, three other pesticide products* (Aug. 20, 2015), available at <https://news.agropages.com/News/NewsDetail---15646.htm>.

<sup>49</sup> PEOPLE'S DAILY ONLINE, *China becomes world's largest food importer* (Dec. 4, 2023), available at <http://en.people.cn/n3/2023/1204/c90000-20105550.html>; see U.S.-China Economic and Security Review Commission, *China's Interests in U.S. Agriculture: Augmenting Food Security*

productive agricultural land.<sup>50</sup> In addition, pollution due to Chinese industry has resulted in 15.5 percent of Chinese groundwater and 19.4 percent of soil being polluted and/or unusable for Chinese agricultural production.<sup>51</sup> Overgrazing and deforestation have resulted in increased desertification in China's Western and Central provinces, further limiting the availability of arable land.<sup>52</sup> China's agricultural sector has also faced climate and ecological challenges. Livestock diseases such as African swine fever have been a perpetual challenge for the Chinese swine industry, and pests such as the Fall Army Worm have been a continued challenge to Chinese crop production.<sup>53</sup> Rising global temperatures have also resulted in more extreme weather events in China, damaging Chinese agricultural output.<sup>54</sup>

The CCP has recognized the existential threat faced by increasing agricultural export dependence, with Xi Jinping discussing the matter regularly and engaging in numerous public appearances revolving around agricultural matters.<sup>55</sup> The most recent version of "Document Number 1," a CCP report on the Chinese Agricultural sector, again focused heavily on food security matters highlighting steps to reduce Chinese dependence on foreign agriculture and agricultural supply chains.<sup>56</sup> Domestically, the CCP has taken several steps to bolster the agricultural industry, including significant investment in improving cropland resiliency, increasing mechanization, and reducing agricultural pollution.<sup>57</sup>

However, steps to improve domestic agricultural throughput will not be enough to address the gap between PRC agricultural supply and demand. As a result, the PRC has dedicated substantial efforts to improving the resiliency of their agriculture imports by engaging in a large-scale agricultural asset acquisition campaign. According to AEI's Chinese Investment Tracker, the PRC has invested over \$106 billion in foreign agricultural projects since 2005.<sup>58</sup> PRC agricultural FDI can be found in over 100 countries with a particular level of investment in regions involved in the PRC's Belt and Road Initiative and African states.<sup>59</sup> In 2022, at the China-Africa Summit, Xi Jinping announced several initiatives to boost Chinese imports from Africa, including agricultural products, to achieve \$300 billion in yearly African imports by 2035.<sup>60</sup> Given China's agricultural dependencies, its farm and food production acquisitions tend to be export oriented.<sup>61</sup> \*\*

Chinese ownership extends beyond farmland and includes components throughout the agricultural supply chain, including mills, logistics companies, and numerous critical agricultural intellectual property owners. Companies acquired by or partnered with Chinese companies such as Smithfield, Syngenta, Growmark, and Lansing Trade Group are examples of an increasingly concerning trend.

As mentioned, the PRC's agriculture supply chain vulnerability will not improve in the near term, and the CCP will likely take ever-increasingly aggressive steps to ensure the security of its supply. The United States should expect further efforts by the PRC to acquire agricultural assets domestically and worldwide.

### III. Recommendations

China restricts nearly all foreign investment into its agricultural sector unless companies incorporate in and share data with China. As such, Congress should consider a policy of reciprocity with respect to China while maintaining the long-

through *Investment Abroad* (May 26, 2022), available at [https://www.uscc.gov/sites/default/files/2022-05/Chinas\\_Interests\\_in\\_U.S.\\_Agriculture.pdf](https://www.uscc.gov/sites/default/files/2022-05/Chinas_Interests_in_U.S._Agriculture.pdf) ("USCC Chinese Agriculture Report").

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> Amelia Browne, *Desertification in China: Causes, Impacts, and Solutions*, Earth.Org (Dec. 20, 2022), available at <https://earth.org/desertification-in-china/>.

<sup>53</sup> USCC Chinese Agriculture Report.

<sup>54</sup> *Id.*

<sup>55</sup> Kevin Dong, et al., *China's Food Security: Key Challenges and Emerging Policy Responses*, CSIS (Mar. 15, 2024), available at <https://www.csis.org/analysis/chinas-food-security-key-challenges-and-emerging-policy-responses>.

<sup>56</sup> Scott Rozelle and Scott Kennedy, *China's Latest Document Number One: Promoting Rural Development* (Feb. 16, 2024), available at <https://www.csis.org/blogs/trustee-china-hand/chinas-latest-document-number-one-promoting-rural-development>.

<sup>57</sup> USCC Chinese Agriculture Report.

<sup>58</sup> American Enterprise Institute, *China Global Investment Tracker*, available at <https://www.aei.org/china-global-investment-tracker/>.

<sup>59</sup> Elizabeth Gooch and Fred Gale, *China's Foreign Agriculture Investments*, U.S. Dep't of Agriculture, available at <https://www.ers.usda.gov/webdocs/publications/88572/eib-192.pdf>.

<sup>60</sup> Duncan Miriri and Joe Bavier, *Insight: Africa's dream of feeding China hits hard reality*, REUTERS (June 28, 2022), available at <https://www.reuters.com/world/africa/africas-dream-feeding-china-hits-hard-reality-2022-06-28/>.

<sup>61</sup> See Woodall Testimony at 12.

\*\* **Editor's note:** the above footnote appears to be formatted as a hyperlink. However, there is no hyperlink in the submitted statement. It has been reproduced herein as submitted.

standing U.S. policy of encouraging foreign investment, where it does not threaten national and economic security. China's policy is a deliberate exercise of directing investments toward global and U.S. agricultural supply chains. Given the breadth of recent Chinese laws that condition the behavior of Chinese entities operating abroad, such investments can raise significant threats, depending on the vulnerabilities in the U.S. agricultural assets and/or supply chain. Further, investments in farmland located near U.S. military installations present clear and pressing risks to U.S. national security. Congress should consider legislative changes to that would address these matters. Moreover, Congress should target investments in and strengthen U.S. food supply chains.

*A. Empowering CFIUS and USDA to Effectively Address National Security Risks from Investments in Agriculture*

i. The Secretary of Agriculture as a Member of CFIUS

With the passage of the 2024 Consolidated Appropriations Act the Secretary of Agriculture is now officially a member of CFIUS on a case by case basis with respect to covered transactions involving agricultural land, agriculture biotechnology, or the agriculture industry (including agricultural transportation, agricultural storage, and agricultural processing), as determined by the CFIUS Chairperson in coordination with the Secretary of Agriculture.<sup>62</sup> Section 787 of the Act also codifies USDA's role in reviewing investments by directing the Secretary of Agriculture to notify CFIUS if it has reason to believe that any agricultural land transaction is a covered transaction that may pose a risk to national security, with emphasis on foreign governments or entities of concern, including China, the Democratic People's Republic of Korea, Russia, and Iran.<sup>63</sup> USDA would also report to CFIUS whether the transaction was reported through a filing under the Agricultural Foreign Investment Disclosure Act of 1978 (AFIDA). This was a useful step and will build on the growing capabilities of CFIUS.

*B. Modify CFIUS Jurisdiction for Real Estate Holdings to Allow Swift Action*

i. Bypass Notice and Comment for Designation of Military Installations

FIRRMA expanded CFIUS's jurisdiction to cover real estate transactions within close proximity of "military installations" and other sensitive U.S. facilities. Appendix A to 31 CFR § 802 lists these facilities for use in determining whether a real estate transaction is a covered investment pursuant to 31 CFR § 802.211. Under the current regulatory framework, to designate additional military installations and other facilities, Treasury must promulgate a modified rule under Section 553(b) of the Administrative Procedure Act (5 U.S.C. § 553) (APA).

In the Fufeng transaction, for example, CFIUS did not have jurisdiction for two reasons. First, the Grand Forks Air Force Base was not listed in Appendix A to 31 CFR § 802, and second, the land on which the wet corn mill plant was to be built is considered to be in an urbanized zone, which are exempt from CFIUS review. Real estate transactions and the construction of buildings and facilities happen quickly. CFIUS should at least have discretion to designate a military installation where there is an immediate and significant national security concern, without the need to first provide public notice and a comment period.

To provide CFIUS with the discretion to designate military installations, Congress should consider a modification to the definition of a covered real estate transaction<sup>64</sup> in relevant part to include real estate that "is in close proximity to a United States military installation or another facility or property of the United States Government that is sensitive for reasons relating to national security **as designated where the Committee, in consensus, makes a finding of significant national security concerns**". In time sensitive situations, CFIUS needs this catch-all to enable it to review transactions concerning real estate within extended range of a military installation or government facility where notice and comment requirements would be impracticable, unnecessary, or contrary to the public interest.

ii. Give CFIUS Discretion to Make Exceptions to the Urban Zone Exclusion

FIRRMA excludes real estate in "urbanized areas" from CFIUS's jurisdiction. Recent attempts to acquire land near sensitive military installations in urbanized areas demonstrate that the carveout in FIRRMA may be inappropriate in certain

<sup>62</sup> *Consolidated Appropriations Act, 2024*, available at <https://www.congress.gov/bill/118th-congress/house-resolution/1061/text>.

<sup>63</sup> *See Consolidated Appropriations Act, 2024*, available at <https://www.congress.gov/bill/118th-congress/house-bill/4366/text>.

<sup>64</sup> 50 U.S.C. § 4565(a)(4)(B). The specific provision to be modified is 50 U.S.C. § 4565(a)(4)(B)(ii)(II)(bb)(AA).

cases. Specifically, FIRRMA exempts “real estate in ‘urbanized areas’, as defined by the Census Bureau in the most recent census, except as otherwise prescribed by the Committee in regulations in consultation with the Secretary of Defense.”<sup>65</sup>

Under the current CFIUS regulations governing certain transactions by foreign persons involving real estate in the United States, 31 CFR part 802, real estate transactions are excepted from CFIUS review when they are within an urbanized area or urban cluster<sup>66</sup> unless the real estate is located within close proximity of any military installation or a U.S. Government property or facility as identified in Appendix A to Part 802, or is a covered port.<sup>67</sup> Close proximity is defined as the area extending outward 1 mile from the boundary of a military installation, government facility, or government property.<sup>68</sup> Transactions involving real estate that is not in an urbanized area or urban cluster is covered if it is in the area that extends 99 miles outward from the boundary of a listed military installation or U.S. Government site.<sup>69</sup>

Congress can make a slight modification to the text of 50 U.S.C. § 4565(C)(i)(II) to provide an exception when a significant national security exception exists. 50 U.S.C. § 4565 (C)(i)(II) could read, with the modification, “real estate in ‘urbanized areas’, as defined by the Census Bureau in the most recent census, except **where the Committee, in consensus, makes a finding of significant national security concerns** or as otherwise prescribed by the Committee in regulations in consultation with the Secretary of Defense.”

#### *C. Address the Concerns Raised in the GAO Report*

As this Committee knows well, in response to a request from 51 Members of Congress, the GAO in January 2024 released a report on enhancing efforts to collect, track, and share key information on foreign investments in U.S. agricultural land to better identify national security risks.<sup>70</sup> The Agricultural Foreign Investment Disclosure Act of 1978 (AFIDA) requires foreign persons and legal entities acquiring or transferring interests in U.S. agricultural land to file a report with the USDA containing information on the transactions. It provides for increasing civil penalties of up to 25% of the land’s value when a filing is late.<sup>71</sup> The USDA assessed only eight penalties for AFIDA late-filing or non-filing between 2012 and 2021. USDA is currently reliant on foreign persons to self-report AFIDA information.<sup>72</sup>

In addition to the recommendations made by the GAO report, Congress should address potential gaps in reporting requirements, including reporting complex ownership structures and investment intentions, among other changes.

#### *D. Provide Funding and Support to Secure U.S. Agricultural Supply Chains*

In the recent past, Congress has identified reshoring the U.S. agricultural supply chain as an important priority. In 2021, as a part of the American Rescue Plan, Section 1001(b)(4) directed the USDA Secretary to create grant programs that would invest in American agricultural supply chain resiliency.<sup>73</sup> As a result of this section, the USDA established several grant programs that supported domestic supply chain resiliency, including the Food Supply Chain Guaranteed Loan Program,<sup>74</sup> the Meat and Poultry Processing Expansion Program,<sup>75</sup> and the Meat and Poultry Intermediary Lending Program.<sup>76</sup> Unfortunately, Congress rescinded the funding for these critical programs as part of the Fiscal Responsibility Act of 2023.

It would be useful for Congress to allocate funding for domestic food supply chain resiliency to address critical vulnerabilities in the U.S. agricultural supply chain. Congress could also pair investments in domestic food supply chain resiliency with increased efforts to invest in agricultural R&D to develop innovative practices that provide U.S. producers a technological advantage over foreign competition. Such

<sup>65</sup> 50 U.S.C. § 4565 (C)(i)(II); P.L. 155–232 (Aug. 13, 2018), Title XVII Sec. 1703.

<sup>66</sup> 31 CFR § 802.216(c).

<sup>67</sup> See *id.*, referencing 31 CFR § 802.211(a), 31 CFR § 802.211(b)(1).

<sup>68</sup> 31 CFR § 802.203.

<sup>69</sup> 31 CFR § 802.211(b)(2); 31 CFR § 802.217.

<sup>70</sup> GAO Report at 1.

<sup>71</sup> 7 U.S.C. § 3502.

<sup>72</sup> GAO Report at 2.

<sup>73</sup> See American Rescue Plan Act of 2021, H.R. 1319, 117th Cong. § 1001(b)(4) (2021).

<sup>74</sup> See U.S. Dep’t of Agriculture, Rural Development, *Food Supply Chain Guaranteed Loan Program*, available at <https://www.rd.usda.gov/food-supply-chain-guaranteed-loans>.

<sup>75</sup> See U.S. Dep’t of Agriculture, Rural Development, *Meat and Poultry Processing Expansion Program*, available at <https://www.rd.usda.gov/programs-services/business-programs/meat-and-poultry-processing-expansion-program>.

<sup>76</sup> See U.S. Dep’t of Agriculture, Rural Development, *Meat and Poultry Intermediary Lending Program*, available at <https://www.rd.usda.gov/programs-services/business-programs/meat-and-poultry-intermediary-lending-program>.

strategic investment would strengthen the domestic supply chain and ensure its health and adaptability into the future. Where reshoring the domestic supply chain is not economically feasible, efforts could be made to develop a secure supply chain for agricultural inputs through trusted U.S. partners.

Last, given the vulnerabilities to U.S. supply chains stemming from existing and new technologies, especially those that address farm productivity and security, Congress should focus on policies and reporting that build stronger cybersecurity awareness and protections for America's agricultural producers and supply chains.

#### *E. Consider Ways to Address State-by-State Ownership Restrictions*

The growing number of state laws that address foreign investments in agricultural land create uncertainty and inconsistencies across states and with state rights *vs.* Federal law.

While 24 U.S. states have enacted laws limiting foreign land ownership,<sup>77</sup> those laws can be subject to challenges in state and Federal court. For example, *Shames v. Nebraska* was a challenge to Nebraska's law restricting aliens and corporations not incorporated under Nebraska laws from acquiring title under Nebraska laws in Federal court.<sup>78</sup> Although the U.S. District Court of Nebraska upheld the law, such challenges can delay implementation of or overturn state laws. Notably, the U.S. Court of Appeals for the Eleventh Circuit recently granted a partial injunction blocking the enforcement of a Florida law restricting certain foreign investments in land holdings. The court's order rests on the plaintiffs' argument that the law violates the Supremacy Clause of the U.S. Constitution in conflicting with the Federal Government's powers (*i.e.*, CFIUS) to regulate land purchases by foreign investors.<sup>79</sup>

These state laws can also be challenged or circumvented when the land at issue in a transaction is reclassified. In *Koepnick v. Arizona State Land Department*, the Court of Appeals of Arizona upheld a reclassification of land at issue as "commercial" to allow greater flexibility for buying and selling land.<sup>80</sup> Further, the definition of "agricultural land" is inconsistent across state laws. For example, Pennsylvania's definition of "agricultural land" includes timber as a potential use that would make land qualify as agricultural<sup>81</sup> while the definition under North Dakota's statute does not.<sup>82</sup>

#### **Conclusion**

Given the recent action by the U.S. Court of Appeals, and likely continued challenges to state-to-state laws involving land ownership restrictions, Congress should consider whether broader Federal law is warranted. In either case, U.S. laws and policies designed to address national security matters arising out of Chinese ownership and control of U.S. agricultural assets and supply chains is incomplete and exposes our military and critical infrastructure to vulnerabilities. Importantly, such vulnerabilities do and may increasingly impact U.S. farmers, ranchers and producers as they face challenges from state driven actors. Lastly, the continued technological leadership of our agricultural sector is in danger of erosion if we do not remain vigilant on finding solutions to the uninvited, unwarranted and increasingly sophisticated threats that certain actors present to our nation and our food security.

<sup>77</sup>National Agricultural Law Center, *Foreign Ownership of Agricultural Land: FAQs & Resource Library* (listing Alabama, Arkansas, Florida, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Utah, Virginia, and Wisconsin) (accessed Mar. 17, 2024) <https://nationalaglawcenter.org/foreign-investments-in-ag/>.

<sup>78</sup>323 F. Supp. 1321, 1136 (D. Neb. 1971).

<sup>79</sup>See <https://nationalaglawcenter.org/eleventh-circuit-narrowly-blocks-florida-from-enforcing-foreign-ownership-law>.

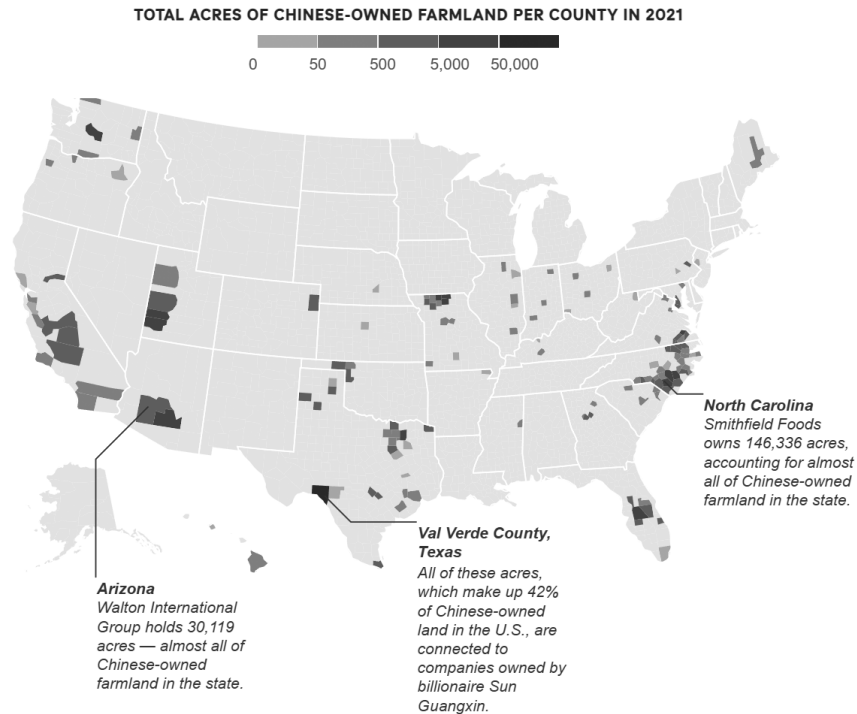
<sup>80</sup>212 P.3d 62, 72 (Ariz. Ct. App. 2009).

<sup>81</sup>68 PA. STAT. § 41 (West 1980).

<sup>82</sup>See 68 P.S.C.S. § 47.



[SCREENSHOT]



Source: *USDA AFIDA annual report*<sup>[1]</sup>  
Credit: Connie Hanzhang Jin/NPR

The CHAIRMAN. Sir, thank you very much. I appreciate your significant experience, and your input.

I am now pleased to recognize Ambassador Tom. Please proceed with 5 minutes of testimony whenever you are ready.

**STATEMENT OF HON. KIP TOM, MANAGING MEMBER AND CHIEF EXECUTIVE OFFICER, TOM FARMS LLC; FORMER UNITED STATES AMBASSADOR TO THE UNITED NATIONS AGENCIES FOOD AND AGRICULTURE, LEESBURG, IN**

Mr. TOM. Honorable Chairman Thompson, Ranking Member Scott, and distinguished Members of the House Committee on Agriculture, as a lifelong farmer and a former Ambassador to the Rome-based U.N. Food and Agriculture Organizations, I would like to share my perspective with you today on the threat of China to America's food supply and agricultural systems. I add, the world is watching us today.

Americans need to understand that our national security is dependent upon our food security. Americans cannot any longer take agriculture and our food systems for granted. Xi Jinping and the Chinese Communist Party recognize the importance of food in relation to their position of power in the world. The CCP's goal is to

<sup>[1]</sup>[https://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdafiles/EPAS/PDF/2021\\_afida\\_annual\\_report\\_through\\_12\\_31\\_2021.pdf](https://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdafiles/EPAS/PDF/2021_afida_annual_report_through_12_31_2021.pdf)

reshape the world order through their control of the BRIC nations, global trade, and the Belt and Road Initiative, all to attain economic superiority over the United States and our allies. To meet these goals, they are strategically growing their agriculture production domestically and globally at the expense of the United States.

I will address a number of these risks by the CCP that we could deal with immediately. First, cybersecurity: Threats to United States agriculture are diverse and can have significant impacts on the industry. Some of the key concerns include intellectual property theft. The Chinese have targeted proprietary farming data such as crop yield data, seeding or fertilizer algorithms, breeding information, and biotechnology research, which will lead to a loss of competitive advantage for the United States. I have seen this firsthand in the seed production industry. Several Chinese nationals were sending proprietary seeds in our area from production fields and shipping them back to China. These Chinese nationals were caught and convicted, but how many were not caught? According to the American Seed Trade Association, it takes 5 to 15 years to develop a seed variety at a cost of over \$100 million. It also estimates that the annual value of agriculture seed production in the U.S. is over \$11 billion annually.

Data-driven attacks: Precision agriculture rely heavily on this data as examples like farms like ours produce over a terabyte of data annually that is exclusive to our farm and is a major driver to our sustainability and productivity. We are at extreme risk of the theft or attack of this data, which could alter or disrupt our systems and lead to incorrect farming decisions and likely harm yields. There have been numerous attempts also by the Chinese to steal this data, but fortunately, they have been caught and convicted. Again, how many were not caught?

Infrastructure attacks: Critical infrastructure from the electrical grid to supply chain logistics and broadband could be targeted in disrupting our food supply. When we consider ransomware, farming operations could be halted by ransomware attacks, demanding payments to restore access to essential digital systems. And we all can remember the ransom attacks on JBS several years ago, which disrupted the entire supply chain from livestock production operations to the consumers' dinner table. The \$11 million ransom was paid, but the cost to JBS and the agricultural supply chain was many multiples greater.

Espionage: The Chinese are creative in their attempts to steal as much information as possible from as many sources as possible from the USDA FSA offices, to our industries, to cranes in our ports, and from any conduit that flows data or conversations. Although the U.S. Government is aware of these threats, we need to strengthen protection for America's food supply and economic advantage. This includes identifying vulnerabilities and improving the protective measures of government and private entities against cyber threats.

Next, portions of our supply chain have been offshored, including several critical building blocks for our food systems such as crop protection products and crop nutrients. These are the basic elements that nourish crops, protect them from weeds, insects, and diseases. A recent USDA supply chain report indicates that 70 per-

cent—70 percent—of the crop protection products that are produced globally, most from China. Another 40 percent of the world's phosphorus supply originates in China. Imagine if they shut off our supply.

Without crop protection, products, or crop nutrients, yields will decrease, requiring substantially more land to maintain current production levels. The economic impact to farmers, consumers, and our nation would have devastating consequences. This would lead to higher consumer prices and food insecurity in United States and around the world. This is a national security threat to the United States and our allies.

Therefore, the absence of crop protection and crop nutrient products would have a complex and far-reaching impact. The answer is we need to allow for reasonable and durable regulations to prevail to allow the United States to bring this manufacturing capacity back home, while supporting those that are already manufacturing these critical products here at home in the U.S. to feed the Americans and the world.

In summary, whether the impact is from cybersecurity threats or from minimized access to crop nutrients or crop protection products, the Chinese are strategically attempting to build their dominance in a world over food systems. These moves are coming at the expense of American innovation that are amplified by our burdensome regulatory environment. The people in these chambers on this Hill need to take action to bring our supply chains home, protect our innovation, and increase our funding for research and development. Now is the time for a national strategy for our agricultural and food systems. If not, America could once again face food insecurity like we did 100 years ago. It is time to stop taking agriculture and our food systems for granted. Again, the world is watching.

I yield the floor back to you, Chairman Thompson.

[The prepared statement of Mr. Tom follows:]

PREPARED STATEMENT OF HON. KIP TOM, MANAGING MEMBER AND CHIEF EXECUTIVE OFFICER, TOM FARMS LLC; FORMER UNITED STATES AMBASSADOR TO THE UNITED NATIONS AGENCIES FOOD AND AGRICULTURE, LEESBURG, IN

Honorable Chairman Thompson, Ranking Member Scott, and Distinguished Members of the House Committee on Agriculture. As a lifelong farmer and the former Ambassador to the Rome Based UN Food and Agriculture Organizations, I would like to share my perspective with you today on the threat of China to America's Food and Agriculture systems.

Americans need to understand that our national security is dependent upon our food security; Americans cannot take our food systems for granted.

After experiencing multiple famines in the last century, Xi Jinping and the Chinese Communist Party recognize the importance of food in relation to their position of power in the world. To meet their goals, they are strategically growing their agriculture production domestically and globally at the expense of the United States.

There are many threats by the Chinese. I will highlight just a few:

First, cybersecurity threats to U.S. agriculture are diverse and can have significant impacts on the industry. Some of the key concerns include:

Intellectual Property Theft: The Chinese have targeted proprietary farming data, such as crop yield data, seeding or fertility algorithms, breeding information, and biotechnology research which will lead to a loss of competitive advantage for the U.S. I have seen this firsthand in the seed production industry in which we are involved. Several Chinese nationals were stealing proprietary seeds from production fields and shipping them back to China. The Chinese nationals were caught and convicted, but how many were not caught? According to the American Seed Trade

Association, it takes 5–15 years to develop a new seed variety at a cost of over U\$S100 million. It is also estimated that the annual value of agriculture seed production in the U.S. is over \$11 billion annually.

**Data-Driven Attacks:** Precision agriculture relies heavily on data. As an example, farms like ours produce over a terabyte of data annually that is exclusive to our farm and is a major driver to our sustainability and productivity. We are at extreme risk of the theft or attack of this data which could alter or disrupt our systems and lead to incorrect farming decisions and likely harm yields. There have been numerous attempts by the Chinese to steal this data but fortunately they have been caught and convicted. Again, how many were not caught?

**Infrastructure Attacks:** Critical infrastructure from the electrical grid to supply chain logistics and broadband could be targeted disrupting food supply chains.

**Ransomware:** Farming operations could be halted by ransomware attacks, demanding payments to restore access to essential digital systems. We all can remember the ransomware attack on JBS several years ago which disrupted the entire supply chain from livestock production operations to the consumer. The \$11 million Ransome was paid but the cost to JBS and the agriculture supply chains was many multiples greater.

**Espionage:** Spans all the prior mentioned risk and undermines the agriculture sector competitiveness.

Although the U.S. Government is aware of these threats, we need to strengthen protection for America's food supply and economic advantages. This includes identifying vulnerabilities and improving the protective measures of government and private entities against cyber threats.

Next, portions of our supply chain have been offshored, including several critical building blocks for our food systems such as crop protection products and crop nutrients. These are the basic elements that nourish crops and protect them from weeds, insects, and diseases.

A recent USDA Supply Chain Report indicates that 70% of the crop protection products are produced by the Chinese. Imagine if they shut off our supply? The economic impact of not using crop protection products in the U.S. would be significant. Without crop protection products, crop yields would decrease, requiring more land to maintain current production levels. This would lead to higher consumer prices, and food insecurity in the U.S. and around the world. This would be a national security threat to the U.S. and our allies.

Additionally, the cost associated with adjusting production practices and the potential loss of access to export markets will have a direct impact on U.S. agriculture and the broader U.S. economy.

Therefore, the absence of crop protection products would have a complex and far-reaching impact. The answer: We need to allow for reasonable regulations to prevail to allow the U.S. to bring this manufacturing capacity back home while supporting those that are already manufacturing these critical products to feed Americans and the world.

As we look to crop nutrients, nearly 40% of the world's phosphate and 28% of the world's nitrogen is produced by China, and their market continues to grow globally. In the meantime, our U.S. regulators and policy makers impose even greater burdens on our own manufacturers, forcing an offshoring to our [adversaries] such as China. Again, what if China shuts off our access to these critical inputs?

In summary, whether the impact is from cybersecurity threats, or from minimized access to crop nutrients or crop protection products, the Chinese are strategically attempting to build their dominance in the world over food systems. These moves are coming at the expense of American innovation but are amplified by our burdensome regulatory environment.

We need a national agriculture strategy to eliminate these threats by China to our food systems.

It is time for the United States of America to put our long-term security over our short-term prosperity.

The CHAIRMAN. Ambassador, thank you so much for your record of service, leadership, and, quite frankly, your input today in this very important topic.

At this time, Members will be recognized for questions in order of seniority, alternating between Majority and Minority Members in seniority for those who joined us after the hearing convened. I am going to defer my line of questions to the very end. Each of us will be recognized for 5 minutes each in order to allow

us to get as many questions as possible, starting on the Majority side. I now recognize Mr. Lucas from Oklahoma for 5 minutes.

Mr. LUCAS. Thank you, Chairman Thompson, for calling this hearing and to the witnesses for testifying today.

During my time in Congress, I have been engaged in and party to many discussions around the topic of foreign investment in the United States due to my position on the House Financial Services Committee. This is due to the committee's jurisdiction over the Committee on Foreign Investment in the United States, or CFIUS, that is located within the Treasury.

One of the most challenging aspects of this topic is the tension between two widely shared goals of protecting our national security, while fostering a welcoming economic environment. Congress has attempted to strike that balance during various reforms of the CFIUS process, most notably 2007 with FINSA (Pub. L. 110-49, Foreign Investment and National Security Act of 2007) and in 2017 with FIRRMA. Today, I invite you to join me, to our panel friends, in that discussion.

First to Mr. Daly, then to the rest of the panel, from your viewpoint, what is the correct balance between national security, while also allowing the international investment in our economy? Let's just cut straight to the chase.

Mr. DALY. Well, we have to keep our open investment policy that has been sustained since President Carter on through now. One of the greatest strengths we have as a country is the investment we get from abroad. Trade is very important, but foreign investment pales it.

That said, as you know, sir, in your oversight capacity, there are serious national security issues that are drawn from foreign investment, and Chinese actors have been interesting in the way that they have found vulnerabilities not only in our laws and the gaps that proceed from it, but also in their capabilities to nefariously use third-party actors to gain entrance and access to places where we have point-of-the-spear needs in terms of our national security.

So the great balance is to continue with our open investment policy but be incredibly smart in how we apply our national security apparatus, especially the CFIUS process.

Mr. LUCAS. Either of you other gentlemen wish to touch on this. Oh, be brave.

Mr. GACKLE. Thank you, Congressman, maybe I would just add from a farmer's perspective, from a grower on two different areas, as a grower and a landowner and farming land in North Dakota, the concern around foreign investment is real for growers as well. That added investment that outside buyers come—and it is not just China. It is other, out-of-state and foreign owners, that potentially could drive up the cost of land and the cost of producing for a farmer in North Dakota, so there is a concern there.

And then I would say on the input side, there is foreign ownership of research and development facilities when it comes to seed, chemical, and other inputs, research and development facilities that benefit me on the farm when I am able to use new and improved product. So in those two areas, I think there is some work to be done probably. And you are right. It is a tough balance. I don't envy the job that Congress has and the Administration and

finding that right balance, but I think from a grower's perspective, again, two places to look at.

Mr. LUCAS. Any thoughts, Ambassador?

Mr. TOM. Yes, most certainly. So I am going to share my experiences that I have seen globally in my time serving as Ambassador, extensive travel throughout the Middle East, a lot in Africa, and then, over the years, businesses that we had in Latin America. And I can assure you that the Chinese are aggressive in their approach in investing in a lot of these developing nations to make sure they can secure a food source. I look in particular in Africa. They have nearly 1.1 billion hectares of arable farmland. The United States is around 150 million. I can tell you as I travel across Africa, we think that they are the most essential part that China is gaming for is the minerals. It is not. Longer run, it is them as their breadbasket.

I look into Central America. I see the Belt and Road Initiative, how China has invested there. It is same goes, and that is why we see the growth in Brazilian soybeans moving into China. The BRIC nations are really forming up together, and it is through the investment of the Chinese Party.

When it comes back to the United States, I think we have to be extremely careful where they do invest. We need to have eyes on this. I only encourage you to please be careful.

Mr. LUCAS. Mr. Chairman, I can't think of any more important subject than what we are addressing today, and I don't have much time left, but I would say this in closing. I want to thank you, Chairman Thompson, for your support of my legislation, the Agriculture Security Risk Review Act (H.R. 3378), that was signed into law earlier this month. This legislation officially adds the Secretary of Agriculture to the CFIUS Committee. This is the first formal addition of a Cabinet Secretary to CFIUS since 2007 and reflects that what we all on this Committee know to be true, a country that cannot feed itself cannot defend itself.

And with that, I want to thank you, and I yield back the balance of my time.

The CHAIRMAN. The gentleman yields back. I am now pleased to recognize, for 5 minutes, Ranking Member Scott.

Mr. DAVID SCOTT of Georgia. Thank you very much. And, Mr. Chairman, I want to thank you for letting our Democratic witness Mr. Gackle go first. We are proud to hear from a farmer on this issue, and such great remarks, but thank you for letting my Democratic colleague go first.

And, Mr. Tom, I want to just agree with you. You said some profound words. You said the world is watching us today on this very strategic national security issue. And I thank you for that statement, and indeed they are.

I have learned so much from so many of my colleagues, but none more than Congressman McGovern on this whole food issue. He is a national world leader on food security and hunger, and I am telling you, this is a national issue, and I hope that if there is one thing that goes from this hearing, it is that we are putting this issue at the front of the list. People all over the world are watching us. We are the most powerful nation in the world. Yet, as Mr. McGovern has said over and over, we have beds of hunger. Our

children, our veterans, people going hungry, needing food, and then we have these threats.

I am not putting any sugar coating on it. I believe there are foreign interests out there who are looking at our nation and trying to find weaknesses wherever they are going. And the one area we must not and cannot get weak in is providing the American people with food and keeping this as our number one trade issue for agriculture and our farmers. And I so appreciate each of you coming forward with this.

And, Mr. Chairman, once again, I just thank you for putting this hearing together because it is timely.

Now, let me just ask a couple of questions here. President Gackle, in your testimony you discuss that the 2018 trade war led to Brazil—and I mentioned in my remarks—capturing additional market share in China and other parts of the world. Now, there has been some discussion of imposing a 60 percent tariff—Trump, a presidential candidate, has mentioned that—on Chinese products. So I want to ask you, President Gackle, what impact do you think that would have on U.S. soybean production?

Mr. GACKLE. Thank you, Ranking Member Scott. ASA strongly believes that any type of additional tariffs from the U.S. would be bad not just for agriculture in the U.S., but a lot of other businesses as well. It would just lead to—again, knowing that there is a balance and that practices in China that need to be addressed—but that type of step or that level of tariff or any level of tariff—in 2018, the level was 25 percent, I believe, if that number is right. I mean, we saw almost an immediate drop in the market price for soybeans in particular, close to a \$2 drop in just a short time after those tariffs were announced and then the retaliation from China. So if we are learning anything from history and from the experience we had in 2018, you can expect something similar or even more detrimental when it comes to a price loss for U.S. farmers and soybean producers.

Mr. DAVID SCOTT of Georgia. Thank you. And, Ambassador Tom, you note in your testimony that intellectual property theft is one of the primary threats posed by China. Given that China seems unwilling to adhere to WTO rules, what, in your opinion, are some concrete steps that we in Congress can take to protect U.S. agriculture technology?

Mr. TOM. Certainly. Thank you for that question. There have been major steps made throughout the industry. We heard of an example earlier today about potential theft on data systems. Farmers use extensively much more data today, whether it is the constellation of satellites that are operating their tractors, to communicating data algorithms, to the computers in the tractor, to the seeding. These all have been compromised. They have been stolen. And it probably continues yet today.

And then I look at the intellectual property on the seed. It is one of the biggest advantages we have ever had. But I know this. The Chinese who didn't have that intellectual property in the past have it now. So we will see increased competition. Because of U.S. innovation, we will see increases in yields in China, probably ten percent on corn here very soon, displacing more U.S. commodity sales, probably see some of the same in soybeans.

So the concrete steps we need to take are far-reaching, much deeper than what we are doing today. We need to be asking ourselves what aren't we considering? We need to be bringing the best professionals that understand these data and cybersecurity threats because if we don't, they are going to continue to out-game us along the way. But again, we need to make sure we invest in research and development to stay ahead of them and make sure we protect those resources. They spend nearly over \$10.4 billion a year on research. We are only maybe  $\frac{1}{10}$  of that in the public-sector. So we need to make sure we shore up that research and development. If not, we are going to suffer the economic consequences and potential food security around the world.

I can tell you in my time with the World Food Programme, working with them, we were feeding nearly 150 million people a day around the world at a cost upwards of nearly 2 years ago \$14 billion. That can't continue. But we know one thing. When people aren't food-secure, they migrate, they get caught up in human trafficking, and worst-case scenario, they get caught in terrorist activities.

So, as I said, food security is our national security. We need to focus on that.

Mr. DAVID SCOTT of Georgia. Thank you very much. And thank you for that extra minute, Mr. Chairman.

The CHAIRMAN. You bet. I appreciate the gentleman.

I am now pleased to recognize Mr. Kelly for 5 minutes of questioning.

Mr. KELLY. Thank you, Mr. Chairman. And I want to recognize—I have two young and aspiring farmers or ranchers here today, Avery and Aubrey Moore from Laurel, Mississippi, and I offer special congratulations to Avery on her position as Vice President of the West Jones FFA chapter.

It is important that we recognize our young and aspiring farmers, and so I really just want to thank them for being here and being interested enough in agriculture to come sit in this hearing.

I echo what you say, Ambassador Tom. Food security is national security, and the last few years have demonstrated the need for strong domestic supply chains to ensure American farmers have continued access to critical products such as fertilizer and pesticides. In addition to serving on this Committee, I am a Member of the House Armed Services and the Intelligence Committee. I promise you, I value the security on this—food security is national security—as much as I do on the Armed Services and the intelligence community.

As a result, I am very concerned about the national security implications stemming from our increasing dependence on the People's Republic of China for the primary ingredients in some commonly used pesticides. One of the factors driving the dependency on the PRC is public policy that encourages the offshoring of these critical tools for agricultural production.

For any witnesses on the panel today, do you share my concern about American agriculture's reliance upon China for many of our crop protection tools? Are there steps we can take to encourage us to produce these tools here and reduce our dependency on China and other adversarial countries?



Mr. TOM. Certainly, I would be glad to address that. So, research shows and USDA numbers show that nearly 70 percent of our critical crop care products come from global resources, most of that from China. These are products that, as I said, protect our plants from weeds, insects, and diseases. We have offshored them. We have to ask that question first. Why are they offshored? I would say it is because of the excessive regulatory burden we have here in the United States. We need reasonable and durable regulatory systems to function to make sure that we can have these plants functioning either here or with one of our friends and allies around the world.

It takes time to bring this back. These critical components that we use to produce crops and feed our livestock and take care of our livestock, you are not going to do it overnight. It would probably take you 10 years to bring the capital back here and build the facilities and hire the people to get this done. It is going to take time, but we have to start now. And this why I say we need a national agriculture strategy to support food security in the United States and our economy. If we can't bring these resources back, we will be very, very vulnerable in the future.

Mr. KELLY. I want to thank—and I am going to ask another question, but I agree. We are one of the most giving nations in the world, and I think sometimes people don't understand we don't just feed our nation, we feed the world. And we are indiscriminate about not just feeding ourselves, but feeding others. And some of our competitors are only worried about their populations and no other populations.

For any of the witnesses, do you know if there exists a centralized strategy by the Chinese Communist Party to increase U.S. reliance on Chinese-produced fruits and vegetables? And if you do, do you know the extent to which China is subsidizing these ongoing threats to our food supply?

Mr. TOM. I have nothing to add on the fruits and vegetables. What I will say is this, and I should have gone further on a discussion on the pesticides or the crop care products. Right now, it is estimated that because of the declining economy in China, that they are accelerating their production of crop care products and potentially could be dumping those on the market, obviously, subsidizing them. So that is one of the risks that I see.

In terms of fruits and vegetables, I have no knowledge of that.

Mr. DALY. Thank you, Congressman. Those are excellent questions. Unfortunately, I really don't know on the fruits and vegetable side. I do know that China, where it wants to focus resources will subsidize it.

I will say and just add, in terms of inputs to our agricultural dependencies, if you look at some of the vitamins that are necessary for our livestock, whether that be A or B or D or E, I mean, we have dependency on China, 70 percent to 90 percent. And that sourcing has just happened over time. Gradually, U.S. companies and businesses have seen an advantage cost-wise to move there, but we have seen what that causes in terms of our supply chains and dependencies and vulnerabilities.

So as the Ambassador relayed, we need to find ways to make a thorough examination of our supply chain vulnerabilities, deter-

mine where we need to address matters and prioritize them, and then find the resources to do it. Obviously, funding is always difficult, but there are ways to do things without having the funding to make sure you prioritize in the cyber realm, in agriculture, what FBI is doing in terms of focusing on ag *versus* other portions. So I think just creating that real thorough analysis—and I know the U.S. Department of Agriculture and you all are doing that oversight to get them focused on those vulnerabilities, especially where it concerns our food supply.

Mr. KELLY. I thank the witnesses, and my time has expired, Mr. Chairman, and I yield back.

The CHAIRMAN. I thank the gentleman.

I am now pleased to recognize my friend from Massachusetts, Mr. McGovern, for 5 minutes.

Mr. MCGOVERN. Well, thank you very much, Mr. Chairman. I want to thank our witnesses. Thank you for your excellent testimony. And I think it is always important to talk about how important food security is to national security.

There is a lot of attention in this Congress given to China, and legitimately so, I mean, the security threats that have posed this issue, the impact on our food security, and a whole range of things. But sometimes I wonder how serious we are about really addressing those challenges. I mean, last week, we did a bill to ban TikTok because we are concerned about the privacy of our data, but we did nothing to address the security of our data on all these other social media platforms, which China could use a data broker to purchase and get that same information. And, when we talk about—and even on today's topic, I want to make sure that what we are doing is, we are really actually doing something that is meaningful, that will actually protect our land and protect our food supply.

I was the co-chair of the Tom Lantos Human Rights Commission for many years, and for 4 years, I was the chair of the Congressional Executive Commission on China. And I have authored the Uyghur Forced Labor Prevention Act (Pub. L. 117–78) and Tibetan Policy and Support Act (Pub. L. 116–260).<sup>\*</sup> I know what it means to act when we have serious disagreements with the Chinese Government. Both those bills became law.

And I also recognize at the same time that we have a trade relationship with China, and that is important. And we want to make clear that we don't want to seek a wider conflict. So, I feel like I have a little bit of a leg to stand on when I question kind of the seriousness of much of what we do here.

Mr. Daly, I am just kind of venting. I am not going to ask a question, but I want to say I appreciated the thoughtfulness of your testimony and the expertise you bring to this topic. But in your written testimony, you mentioned the 2013 acquisition of Smithfield Foods by what is now called the WH Group, a Chinese company, that, as Chairman Gallagher noted in his testimony, has ties to the PRC Government. And Smithfield now controls about  $\frac{1}{4}$  of all U.S. hog production, and it exports a significant quantity of pork to

<sup>\*</sup>**Editor's note:** H.R. 4331, Tibetan Policy and Support Act of 2019 was incorporated into Pub. L. 116–260, Consolidated Appropriations Act, 2021 at Division FF—Other Matter, Title III—Foreign Relations and Department of State Provisions, Subtitle E—Tibetan Policy and Support Act of 2020.

China, tightening our domestic supply. And I think it is appropriate for this Committee to carefully consider what impact that has on U.S. food security.

Which is why it sounds to me that we have—some of my friends on the other side, led by some on this Committee who talk tough on China, are carrying the water for Smithfield. Many people listening may be familiar with California’s Proposition 12, which is a farm animal welfare law that outlaws the most inhumane confinement of pigs in California. 2022 polling shows that 80 percent of U.S. voters favor a law like Proposition 12 in their state. I am from Massachusetts. In Massachusetts, we have a similar law known as Question 3.

Now, pork producers, led by Smithfield, were unhappy with the new standards and went to the Supreme Court last year. And they lost. And they lost. So now they have come to Congress to overturn the will of California and Massachusetts and dozens of other states that have followed suit. We have this bill called the EATS Act (H.R. 4417/S. 2019, Ending Agricultural Trade Suppression Act), which is the latest attempt to overturn states’ rights to set their own animal cruelty standards. And now, just last week, I heard our Chairman tell a news outlet that he wants a fix to Proposition 12 in the farm bill. We just heard the Governor of South Dakota talk about states’ rights and how in South Dakota she wants a state CFIUS plan. And nobody objected to that, so if nobody is objecting to a state CFIUS process, why would you object to a state putting controls on animal cruelty and, again, really, at the insistence of this Chinese-owned company?

To my colleagues, I think it is kind of hypocritical to talk tough about when it comes to the influence of the Chinese Government and our food system while actively helping some of the entities that they are supposedly concerned about. So you can’t just care about food security when it is politically useful or suits the business interest that you may be beholden to. It has to be all the time.

And I just want to add one other thing based on what Congresswoman Slotkin said. I want to make another point about foreign farmland ownership, which is getting a lot of attention today. I am open and certainly willing to work with my colleagues on limiting investment of foreign governments in U.S. farmland, but we have to be very careful that those prohibitions do not target people in this country based on their national origin or perceived national origin.

And without objection, I would like to submit into the record a May 2023 article in JUST SECURITY by Edgar Chen entitled, *With New “Alien Land Laws” Asian Immigrants Are Once Again Targeted by Real Estate Bans*.

So I will just close by saying, there was a time in our history where we excluded people from land ownership based on prejudice and unfounded suspicions of disloyalty. I hope we don’t go back to that.

And again, I thank you all very much for your very informative testimony. Thank you, Mr. Chairman, for your indulgence.

The CHAIRMAN. Without objection, we will enter that into the record.

[The article referred to is located on p. 131.]

The CHAIRMAN. The gentleman's time has expired.

I will remind you, though, that this is about ties to the Chinese Communist Party. As I said in my opening statement, this not targeting individuals of any ethnic origin.

I am now pleased to recognize actually Mr. Finstad for 5 minutes.

Mr. FINSTAD. Thank you, Chairman Thompson and Ranking Member Scott, for holding this important hearing today, and thank you to our witnesses for joining us.

Mr. Gackle, I want to say thank you. I am a fourth-generation corn and soybean farmer from southern Minnesota raising the fifth, and it makes me very happy to know we have someone like you at the helm of the American Soybean Association leading our efforts, fighting for our commodities, and, quite frankly, fighting for our families and the future of our families. Nothing is going to make my life more complete than watching my fifth generation take over our farm. And that is not for me. That is for grandma and grandpa and great grandma and grandpa, and you are helping that happen, so thank you.

And this issue is so important to that. So I want to talk a little bit about my perspective and hopefully hear from you. So I understand the importance of the threats that we are faced with here with the Chinese Communist Party and what it really does to farm country. And it is time for us to take this seriously. We must work swiftly to move, I guess, differently and more effectively of getting most of our eggs out of the basket of China.

And the best way to describe this, I will just say, I mean, look at what we went through a few years back when we were struggling to find the computer chips that were needed to start our new F-150s in farm country, our new John Deere tractors. And I tell people quite often, I am like, now think if that was eggs, bacon, turkey, if we were that reliant from a food security standpoint in regards to, quite frankly, folks that might not like us tomorrow and how really that shows the importance of the American farmer and how we have to continue to protect and fight for our way of life.

So with that said, there is a lot of ways I think that we can maybe unwind this, but, Mr. Ambassador, as you know, the White House's 2023 National Cybersecurity Strategy and the director of National Intelligence Annual Threat Assessment both emphasized that the People's Republic of China is the most advanced, active, and persistent cyber threat to the United States. Specifically, an increase in cyber attacks targeting the American agriculture and food sector highlights a serious threat to our ag economy.

As a critical infrastructure sector, do you believe that the food and agriculture sector is adequately prepared for, and possesses the ability to respond to, a major cyber attack against our key suppliers in the ag industry?

Mr. TOM. No, we are not. I know we have taken major steps to protect this from a private-sector perspective. I appreciate any involvement that the government can be on this. I know there is an institute at Purdue University called the Krach Institute that works on a lot of this because we need to make sure we can manage RFP and hold it close, but we are not doing enough yet today.

And I add this. If we really think that we are going to see less digital agriculture in the future, we are wrong. It is going to continue to accelerate at a very rapid rate. The velocity will be essential.

Mr. FINSTAD. Yes, thank you for that Ambassador.

And just in my short tenure running the farm, my father retired when the tractor started driving itself. My 15 year old son plants corn till 3:00 in the morning because of that technology. That technology is an amazing advancement in our farm, but it also poses a potential new threat that we haven't dealt with before.

Along these lines, Mr. Daly, in January, I introduced the Farm and Food Cybersecurity Act of 2024 (H.R. 7062) with Congresswoman Slotkin, which would direct the Secretary of Agriculture to conduct a biannual study on cyber threats and vulnerabilities within the ag and food sector and conduct an annual cross-sector crisis simulation exercise. Due to the wide-ranging national and economic security threat that China poses to this sector, coordination between Federal agencies and sharing timely actionable threat information with private industry is more critical now than ever.

From your perspective, how well is the government sharing threat intelligence with the industry? And do you believe USDA can play an elevated role in helping the ag industry prepare for future threats?

Mr. DALY. Thank you, Congressman. Excellent question. I want to commend you on that legislation. I apologize. Thank you, Congressman, for that question. It is an excellent question. I want to commend you on the legislation you proposed. It is critical. Understanding the cybersecurity threats that are part of our agricultural community, our ability to produce is direly needed.

Look, at my time in government, the intelligence-sharing that I saw happened a lot with defense contractors and also within the banking community, so they were industries that sort of had the benefit of that intelligence-sharing. But if you look in terms of that intelligence-sharing, that cyber awareness in terms of the agricultural community and with the Department of Agriculture, it has been lacking, and your bill is extremely necessary to get it on the right track. I know the Department of Agriculture has just stood up an information-sharing division, and they are taking measures to improve that intelligence. But given China's capabilities—and FBI Director Wray relayed this in terms of their ability to shut off our critical infrastructure, water, power that affect our farmers and ranchers and producers, we need a full assessment. So your bill goes exceptionally toward that direction.

Mr. FINSTAD. Thank you, Mr. Chairman. My time is up. I yield back.

The CHAIRMAN. The gentleman yields back.

I am now pleased to recognize the gentleman from New York, Mr. Langworthy, for 5 minutes.

Mr. LANGWORTHY. Thank you very much, Mr. Chairman, and I appreciate all the witnesses for being here today.

I represent western New York in the southern tier counties of New York State along the Pennsylvania line, and I am deeply concerned about the unrealistic plan proposed by our Governor to reduce economy-wide greenhouse gas emissions in New York by 40

percent by 2030 and no less than 85 percent by 2050. This timeline simply isn't feasible for many industries in rural upstate New York. But what is particularly alarming in his plan is our Governor's aggressive push towards electrification in our agriculture sector, an agenda that I believe could have very serious consequences.

As you are all aware, diesel fuel plays a crucial role in powering the tractors, combines, and other equipment that are essential to our farmers. Farming is a round-the-clock endeavor, as my colleagues have said, and requiring our farmers to rely on more heavily electric charging vehicles ignores the operational realities of farming and the inconvenience of having to park equipment for hours and hours on end to charge.

And with all that said, I raise these concerns because it is important to recognize China's significant role in this sector, particularly the mineral and battery supply chains, as these are crucial components for all EV technology. If we start pushing an all-electrification agenda at the state and Federal levels, we are not only hurting our farmers, we are also inadvertently contributing to China's influence and control of our entire economy. I see this as a lose-lose scenario for our farmers, for all of agriculture, and, frankly, for our national security.

And with that, Mr. Gackle, could you discuss the feasibility and potential impacts of implementing an aggressive electrification agenda like the one New York State is contemplating, how that would impact your members? And additionally, could you also address whether pursuing such an agenda in the U.S. ag sector might lead to increased dependency on Chinese supply chains, and what that would mean to our national security?

Mr. GACKLE. Thank you, Congressman, very good questions and points. I will speak from my farmer and producer and grower perspective in rural North Dakota. There is a time and a place for electrification and electric vehicles, and that is going to probably be more widely adopted on the coasts, larger urban areas. But for me as a farmer and as a producer in the middle of North Dakota, from the trucking to the tractors, the combines, rail, what we rely on to move product from our farms to our elevators to our markets, those types of industries will probably be later adopters when it comes to electrification.

So what we have to offer in that space as farmers, as ASA, the significant addition that we provide to the liquid fuels market when it comes to renewable diesel and biofuels. And that just—again, it is another testament of what the U.S. farmer can produce. It is an example of where we are trying to diversify markets and diversify domestic demand, so not so reliant on foreign markets, even while we tried to expand those. But again, just an example there of what the American farmer is doing to transition this time period in that transportation fleet.

And then the risk of relying on China for the infrastructure or the materials for further electric vehicle adoption, like any input, anything we rely on from foreign markets, there is always additional risk there if you are not able to produce it domestically.

Mr. LANGWORTHY. Very good. Thank you.

Mr. Daly, I would like to open this question up to you as well. We often hear that saying food security is national security, and I am deeply concerned that continuing to rely on China for these critical minerals puts us at a significant risk.

Mr. Daly, could you also address whether pursuing an electrification agenda in the U.S. ag sector might lead to increased dependency on Chinese supply chains, thus compromising national security?

Mr. DALY. Thank you, Congressman. That is an excellent question. Currently, we are in a large deficit in this particular technology, especially given battery technology that China effectively dominates right now. So if we don't get our policy right, it creates a serious dependency that creates a real vulnerability in our agricultural production. That is why we need to focus on it. And I know there is a concerted focus on building out America's capabilities in this respect, but we just have to put the resources to it.

Mr. LANGWORTHY. Very good. And I know you may have touched on this already, Mr. Daly, but could you reiterate some of the national security concerns regarding Chinese acquisitions of agricultural and other land holdings near our military bases?

Mr. DALY. Sure, absolutely. Again, thank you, Congressman, for that excellent question. As this Committee is well aware, the Fufeng transaction that happened in North Dakota was a serious indication of what China can do in terms of what it wants to do in terms of its placement. In my experience in CFIUS and in CFIUS transactions, there has been a number of significant Chinese acquisitions where they have gone to acquire land or farmland that is near a military facility, Top Gun facilities.

A number of transactions occurred in Nevada, under the label of a gold mine, that actually was meant to observe our nuclear facilities and capabilities, as well as in Oregon, the Ralls transaction involving a wind farm. Wind farm towers can have devices put in there to see what we are doing. And the facility they were looking at that would have given site to, I mean, that was a critical facility to the United States in terms of what we are doing in defense of Taiwan.

So they are strategic, they are smart, they have studied us, and they will continue to do so, so we need to remain vigilant in terms of where our resources go.

Mr. LANGWORTHY. Thank you very much, and I yield back. Mr. Chairman.

The CHAIRMAN. The gentleman's time has expired. I am pleased to recognize the gentleman from California, Mr. Costa, for 5 minutes.

Mr. COSTA. Thank you very much, Mr. Chairman, for holding this hearing, Chairman Thompson and Ranking Member Scott. I think it is timely for a lot of reasons that I think we are all aware of.

Members of this Committee have gotten used to me saying, as a third-generation farmer from California, that food is a national security issue. I get frustrated, along with many of my colleagues on this Committee that too often the majority of Americans don't look at food being a national security issue because we do it so well, with less than four percent of our nation's population directly

involved, but it is. And I think it is important that this Committee focus on the danger that China poses to America in terms of its impact on American agriculture and therefore put food on America's dinner table every night.

Let me just kind of give you my thoughts, and then I have a couple of questions I want to ask. I really think that the best strategy for this—because China is an adversary, they are a competitor, and they are a vast market, and so regardless of what Administration is in office, they have that challenge. This is an adversary. Let's make no mistake about it.

Number two, we compete against one another, and I would argue they don't compete fairly. They don't play by the same rules under the WTO, and they are engaged in the theft of technology and other types of efforts, but yet, they are a vast market. And so how you balance those three factors for any Administration is a problem.

The Bush Administration and then followed by the Obama Administration tried an effort that I thought had merit. That was the Trans-Pacific Partnership where you engaged other nearby countries to leverage China. I think that is far better than a tariffs war that ultimately the last President got engaged in. And why? Well, everybody has leverage on a tariff war, and they just keep upping the ante, but if you want to really have an opportunity to deal with this market, if you want to have an opportunity to deal with the factors of competition and realizing that this is an adversary, I think the TTP was a far better strategy.

Yes, the Market Access Program is helpful to our American farmers and processors, and it is oversubscribed, and I have legislation that would double the funding for that. Whether or not that can come to pass with our challenges with the farm bill remains to be seen.

So let me just ask you, Mr. Daly, for starters, your testimony focused on China and their engagement on the agricultural supply chain. The pandemic, I think we really understood that our supply chain is in need of assistance at every level and especially in agriculture. With biotechnology and plant breeding tools and other potential to help producers meet challenges by reducing greenhouse gases and emissions and foster resilience to climate change in the agricultural supply chain, what are your thoughts? I mean, because too often I think China is a bad actor. They are opaque. They are politically driven in their regulatory system, and it limits innovative technologies, and their theft of American technology. And I don't even want to start with artificial intelligence and the problems with algorithms. But besides purchasing United States ag land—and we heard testimony in the earlier part of the hearing—how do you create a fair, level playing field in a minute or less?

Mr. DALY. Yes, sir. Thank you, Congressman. I will.

Mr. COSTA. We have a time problem.

Mr. DALY. It is difficult, and it is multifaceted, and you just have to take it sector by sector, issue by issue in terms of making it a level playing field with China in terms of—we have to, A, be smart in terms of what we address in China—

Mr. COSTA. You acknowledge it is not a level playing field?



Mr. DALY. It is not a level playing field, absolutely. The Chinese are a state-driven economy. They subsidize where they want to subsidize, and they will destroy markets and our U.S. production capabilities where they want.

Mr. COSTA. Do you think the supply chain issues—and for the rest of you, we passed the bipartisan \$1.2 trillion investment in infrastructure in the last Congress, and I think when we look at our ports and harbors and we look at our supply chains, California's dairy industry is very dependent upon those feed trains coming in every week to California. But the whole essence of the supply chain and food development production value-added, that we invest some of that infrastructure in our infrastructure?

Mr. DALY. Yes, I think a number of bills that were passed by Congress in terms of bringing up and strengthening our infrastructure, absolutely critical. There is a lot we have to do in terms of our capabilities there.

Mr. COSTA. Mr. Chairman, my time has expired, but I don't know if any of these other witnesses care to comment about how we use—to improve our food supply chain and dealing with the competition of China.

Mr. TOM. Well, I think it is clear in the United States the reason we are a dominant power in food systems is because of our natural resources. We have a large concentration of highly productive soils. We have 14,800 miles of navigable waterways, much more than any other nation, Germany or China, and we need to leverage those resources to be competitive in a world space on selling our commodities and crops and food around the world.

When I look at that infrastructure, then I look at our dams, our locks, our ports. They are aging. And I know the infrastructure bill was supposed to make an impact there, but if you look at the civil society engineers association, they come out with reports that we really get a D rating on our infrastructure.

Mr. COSTA. Well, currently, but, I mean, we just provided the funding. We are now ambitiously trying to do just what you say. We are doing it in California. We are rehabilitating a lot of aging infrastructure and water. I don't know if you care to comment. My time has expired.

Mr. GACKLE. Just quickly if there is time, Mr. Chairman, just to say the ag community and producers and specifically ASA are actively involved in promoting and advocating for investments in infrastructure, whether it is ports or rail or rivers or dams. The Water Resources Development Act that Congress reauthorized is another important tool to help farmers and to make sure we have the necessary infrastructure to move our product and move it efficiently and sustainably.

Mr. COSTA. Thank you, Mr. Chairman.

The CHAIRMAN. The gentleman's time has expired.

I have been notified that we are in the middle of a vote series. Three votes have been called about 10 minutes ago, so we are going to go to one more question, and then we are going to recess. And we will be returning immediately after the third vote.

And so I am pleased to recognize the gentleman from South Dakota, Mr. Johnson, for 5 minutes.

Mr. JOHNSON. Thank you, Mr. Chairman. I will start with Mr. Gackle, and I will note that I am on the Select Committee on the Chinese Communist Party that is led by Mr. Krishnamoorthi and Mr. Gallagher, who we heard from earlier. And I have gotten a little bit of a reputation, Mr. Chairman, on that committee for talking about soybeans all the time because it is really hard to overstate the role of soybeans in this relationship between China and the United States.

And, Mr. Gackle, that is why I was so pleased that you talked about soybeans, as I think you said, the prime casualty of the 2018 trade war. In that environment, we know how important diversifying our markets are. I want to be polite to Ambassador Tai because she is brilliant and hardworking. I think it is fair to charitably say that the trade agenda, at least with regard to new trade deals, has been pretty lukewarm for this Administration.

If you all we are going to look at market access, are there specific markets that you think are ready to pop and that would reduce the amount of leverage that China has over our nation and over soybean growers?

Mr. GACKLE. Thank you Congressman, very good questions, and I am glad you asked them because there is a lot of work that we are doing in that area. It is important to remember we are involved in 112 different countries, 112 different markets. When I say we, it is U.S. soy. It is not just ASA. It is other soy partners that we work with, making those investments, trying to find new and emerging markets. We have a program within American Soybean Association, WISHH, the World Initiative for Soy and Human Health. It is a very important program, and it partners with farmer-invested dollars through the checkoff—

Mr. JOHNSON. But what markets are ready to take that next leap?

Mr. GACKLE. Sure.

I think, South Asia, Indonesia, Japan, Korea, there are places there. I think North Africa and Europe, there is some potential there. There are some regulatory issues with getting more into Europe, but they are a big buyer. Mexico is a big buyer, so there are opportunities in different places, and that is long-term. It takes a long time to build a market, so in the short-term, to replace the scale of China, just very difficult, but, be assured, we are working with as many countries—

Mr. JOHNSON. Well, and let's be honest, 60 percent of South Dakota's soybeans go to Asia.

Mr. GACKLE. Right.

Mr. JOHNSON. China is overwhelmingly the purchaser of those. Of course, replacing the markets, we are all in on the joke. You are not going to replace that market. But I do think if you reduce the concentration, then that does help make sure that we are not at such a power asymmetry.

Mr. GACKLE. Yes.

Mr. JOHNSON. Ambassador Tom, feed in here. What are your thoughts?

Mr. TOM. Certainly. So, in terms of new markets, I agree. The Southeast Asia market is a market we need to look to. We need to look at some of the places in the northern part of South America.

Colombia is a good trading partner. We have some real problems with Mexico right now. I hope we get those resolved sooner than later.

Mr. JOHNSON. Yes.

Mr. TOM. And I will say this as well. There is quite a bit of work going on in Africa. I agree. We have to diversify our customer base. I think we are already on the road to losing more of our market share into China. We have to be aware of that. I don't know if we can get in front of it. We need to do what we can to retain that trade, but we cannot sacrifice our own national security and our food security in our own country, so we have to make sure we stay on top of that.

Mr. JOHNSON. Well, and I would just note, Ambassador, you are exactly right. And we should all be underlining the importance of American soft power. When we talk about the global south, when we talk about Southeast Asia and Africa, we cannot allow unfettered Chinese leadership in those areas. People, they understand the almost a deal with the devil they are making in the Belt and Road Initiative or in other Chinese deals. They are looking for American leadership, and unfortunately, too often, America is receding back into ourselves a little bit. I am sure you have seen the same numbers I have, Mr. Ambassador. In public opinion surveys in Africa, more respondents will say they view China as the leader of the world than America. That is a major problem.

I interrupted, sir. Other thoughts on that topic?

Mr. TOM. Yes, in terms of Africa, yes, we give—actually, we put more money into Africa than China does, and we don't ask anything in return.

Mr. JOHNSON. Yes.

Mr. TOM. China will always go in and do something, whether the World Bank came in and gave a loan to a certain particular nation, they default on that loan, China comes in and creates a death spiral on it. Then they end up getting mineral resources and other resources that the country has in turn and taking on that loan, too, at a very big discount. So we do have a threat of them continuing to ask for something every time they go to a nation. We ask for nothing.

Mr. JOHNSON. Thank you very much. I wish I had another 5 minutes, but my time is running low, Mr. Chairman, and I would yield.

The CHAIRMAN. The gentleman yields back.

The Committee stands in recess until immediately after casting the third vote in this series.

[Recess.]

The CHAIRMAN. All right. The Committee will reconvene. My appreciation, and, quite frankly, I am thankful for your tolerance with the recess that we did for the three-vote series.

And now I am pleased to recognize the gentlelady from Connecticut, Congresswoman Hayes, for 5 minutes.

Mrs. HAYES. Thank you, Mr. Chairman.

Over the past few decades, China has significantly broadened its economic and political influence, especially in the agricultural sector. The Belt and Road Initiative is a massive China-led infrastructure project that aims to stretch around the globe. The project has

expanded to Africa, Oceania, and Latin America in the decades since its inception.

According to the American Enterprise Institute, China global investment tracker, China has invested nearly \$77 billion in foreign agricultural products between 2013 and 2023. Currently, 783 million people across the globe are facing chronic hunger and growing more and more dependent on the agricultural structures developed by China.

Ambassador Tom, during your time with the United Nations agencies, you saw firsthand the importance of global food security. Why is it important for the United States rather than China to lead the world in solving global food security?

Mr. TOM. When I look at participation—first of all, I served the State Department, the United States of America, and the President of the United States. I didn't work for the World Food Programme, but I did have oversight over them.

To answer your question, I understand why the Chinese are doing what they want to do to improve their food security. I mean, I think they have been through the last century a couple famines that have affected. And we have seen where famines can turn governments around. There was the French Revolution, and one happened in Russia, obviously, and many others. But the reality is they are going to continue to invest, and they want to make sure that they capture as much U.S. innovation to accomplish their goals as they can, and they don't want to pay for it.

Mrs. HAYES. So what are some best practices that we can employ to build trusting relationships with other countries?

Mr. TOM. I think what we have to do is, first of all, I believe we need to diversify our trading partners. That is one thing we need to do. Best practices would also include making sure that we have the Foreign Agricultural Service at the USDA representing all of our agricultural commodities and products, travel the world and make sure that we continue to increase exports of our products here.

Mrs. HAYES. Thank you. Our leadership at the international level depends on our relationships with our allies and those who look to us for guidance. I have long been a supporter of programs like Food for Progress to support U.S. commodities and developing democracies who are working to build their agricultural sectors. If these programs and collaborations with developing countries were underfunded, can we expect China to step into that role?

Mr. TOM. No, they will not. If you want look to at funding from China in food security issues, in one hand, they will tell you they are the second largest economy in the world, on the other hand, they will say we are a developing economy; we can't contribute to solving world hunger. The U.S. pays anywhere from 40 to 60 percent of the World Food Programme budget, which, like I said, over a year ago was around \$14 billion. If we can do anything, it is we need to create resilience and capacity in food systems, but it needs to be driven by the private-sector, not the U.N. organizations. The private-sector holds the IP, the knowledge, the capacity financially, and the ability to improve food systems, and that is where we really need to support growth in food systems.

Mrs. HAYES. Thank you. I listened to the last panel and this panel as well, and I think one thing is clear. We have to discuss food policy as part of any national security conversation. Anyone who has watched this Committee for more than 30 seconds know that hunger, food security, feeding programs, those are issues that are near and dear to me, and they are not just about charitable responses. It literally is national security. So I thank you all for being here today.

Mr. Chairman, I yield back.

The CHAIRMAN. The gentlelady yields back.

I am now pleased to recognize the gentlelady from Illinois, Mrs. Miller, for 5 minutes.

Mrs. MILLER of Illinois. Thank you, Mr. Chairman. Thank you all for being here today. I am so glad to see that this topic is getting the attention that it deserves.

So last year at the beginning of Congress, the first bill I introduced was to ban China and our adversaries from purchasing U.S. farmland. I am extremely concerned about the loss of production agriculture in the United States. We are losing fertile farmland to solar panels because of the green bad deal, and our adversaries are buying up our farm ground. As a farmer myself, it is extremely important to me that we are preserving the family farm for the next generation and not letting China buy our farmland or covering it with solar panels.

Ambassador Tom, I know you are concerned with China's growing influence in Africa, especially in their agriculture industry. Can you talk more about how you see this as a threat to the U.S. food security?

Mr. TOM. Yes, I see it as a threat in a number of ways. Obviously, we want to restrict as much Chinese ownership of our land as we can. We need to make sure that—there are many ways that they can have the ownership of this land through different structures that hides the identity of who actually is involved in that process, so we need to do a better job there. I am not sure USDA has the resources today—maybe they do—to accomplish that.

But to your point, we have lost 150 million acres of arable farmland in the United States since the early 1980s, 150 million. Today, we are using losing at the rate of almost 1,800 acres an hour.

Mrs. MILLER of Illinois. Wow.

Mr. TOM. It has accelerated during the stimulus bills that came out.

But I also look at this. I look at how much land the Federal Government has control of as well, so we need to make sure that American farmers still have access to the land that we need to have to produce the food, fiber, and energy not only for the United States, but for the world.

Mrs. MILLER of Illinois. Absolutely. And I want to say that I am here to represent food production and to defend our ability to feed ourselves. Do you think this poses a similar threat to our energy sector as China's actions in Africa also allows them to monopolize critical mineral production?

Mr. TOM. I have seen it all across Africa. A year ago, I was in Sudan, and we saw the Wagner Group. We saw China. I have traveled extensively throughout Africa, and that theme continued ev-

everywhere I went. And the conditions people were working in, the mining of materials, I think they control like 65, 70 percent of those critical minerals, and of course, take them back to China, process them, and then sell them to the United States for solar panels to take away farmland in the United States. We just lost 600 acres this last winter to solar panels. It has got to stop.

Mrs. MILLER of Illinois. Absolutely.

Mr. TOM. The crops we were producing, we are sinking as much carbon as those solar panels are probably going to produce in terms of changing the climate. So we need to pay attention.

Mrs. MILLER of Illinois. I also have a bill to prohibit solar panels from going on Class A and Class B farm ground (H.R. 4257, No Solar Panels on Fertile Farmland Act of 2023). Do you think that the push for, quote, “more green energy” is making us more reliant on China since we need critical minerals to produce solar panels?

Mr. TOM. There is no question that that is all a part of it. The thing is, I think what we need to look at is what are the costs to implement these policies to bring green energy to the United States? It comes at a large cost to obviously construct solar panel fields, the wind turbines, all these different things. And I am all about saving the environment. I am all about doing what we can to protect that world we live in today. But the reality is, not only are we going to pay for this through incentives to put these solar farms in, but at the same time, that energy is going to be much more expensive. So whether it is energy or food, these climate initiatives are going to be inflationary to food costs and energy costs, and it will affect those that can least afford it the most.

Mrs. MILLER of Illinois. Yes, and everything goes back to energy. China’s human rights record is terrible. We don’t need to do things to strengthen them. And we all know that they are opening a coal-fired plant every week, while we are being driven to these policies that make energy unaffordable and unreliable, and then not only that, taking our productive farm ground out of production. This is a critical national security issue, and we cannot let China take control of our farm ground or our energy sector. Thank you so much.

Mr. TOM. Thank you.

The CHAIRMAN. The gentlelady yields back.

I am now pleased to recognize Ms. Adams for 5 minutes.

Ms. ADAMS. Thank you, Chairman Thompson, and also to the Ranking Member. To our witnesses, thank you very much, for both panels actually. We had an earlier panel.

I do want to get clear on one thing because I worry that we are getting our timelines wrong. The tenor of today’s testimonies seem to suggest that China’s entry into the U.S. farmland market was the beginning of agricultural consolidation and small farm exclusion. However, decades of corporate concentration in the food system are missing from the conversation. A brittle, bottlenecked food supply was the norm even before China came into the picture.

For example, Mr. Tom mentioned that the world’s biggest meat packer, JBS, a Brazilian company, and the cyberattack it faced—which was done by Russia, by the way—and it halted slaughterhouse activity here with severe ramifications across the supply chain. A more distributed and diverse supply chain would be much less vulnerable to such attacks.

We have also heard a lot today about Smithfield's takeover by China, as if it wasn't already the world's largest pork producer when it was an American company. This is in addition to what Governor Noem raised earlier about chemical fertilizer and processing companies being bought up. And Mr. Gallagher mentioned China's owning of Syngenta as creating an untenable dependency.

It is interesting to me that it is a burdensome regulatory environment that Mr. Tom identifies as a source of China's attempts to build its dominance when 100 years of poorly enforced antitrust laws or a lack of regulation has concentrated our food system so much that it has now become most vulnerable to foreign threats.

And so, having said that, my first question for the panel, if you could briefly respond, is do you believe that that market concentration or vertical integration is a threat to national security? Each of you.

Mr. TOM. I will start out, I guess. I am a family farmer. I am seventh generation. Our family has been in this country ten generations. We have been farmers ever since. And, yes, we have grown. We have been successful. We have invested. We have taken risk. Sometimes, not always the best risk. We have failed. But at the end of the day, we are a family farm. Are we larger? Yes, but it is because we took those risks, and we were successful. We also worked hard. So yes, consolidation has taken place, but there is plenty of room for all size of farmers in United States. That is what I like. I started with nothing. I came into the family farm, I grew my own acres, I bought my own equipment, I took the risk, I took out bank loans, I took out a Farm Service Agency loan to buy my first farm. But we have grown over time.

Ms. ADAMS. Okay.

Mr. TOM. Farming requires a lot of capital, and it requires a lot of people, but it also requires a lot of investment and education to make sure you are a viable enterprise.

Ms. ADAMS. Thank you. Gentlemen? Yes, sir.

Mr. GACKLE. Thank you for the question. It is very complex and complicated, and I agree with Mr. Tom, that there is going to be all sizes of farms, relatively speaking, when it comes to consolidation. They will probably be winners and losers to that, but rural America—and it is a little bit different than it is in North Dakota than it is in Indiana, of course. But, to the extent that consolidation leads to further loss of certain size farms in different parts of the country, that could be something that would cause some concern. But I think you are right. Our ag system is going to require all sizes and all places more than likely.

Ms. ADAMS. Thank you. Would you like to comment, sir?

Mr. DALY. I agree with the gentlemen here. Both being farmers, they know on the ground the importance of this issue that you raise and how it should be balanced and approached.

Ms. ADAMS. Okay. Let me move on real quickly. There are valid concerns about speculative land ownership driving up farmland prices in a way that it is already forbidding people in this country who want to own land or to farm from doing so, mainly Black, indigenous, and other farmers of color and new and beginning farmers. And so I have a Justice for Black Farmers Act of 2023 (H.R.

1167) that would require the Secretary of Agriculture to conduct annual reporting about corporate land investment and ownership.

So would you say that we have comprehensive tracking of land ownership in the U.S.? Anybody can answer this. We have 2 seconds.

Mr. DALY. Are we tracking land ownership in the United States?

Ms. ADAMS. Yes.

Mr. DALY. Yes. In terms of—I mean, the Department of Agriculture has a process of tracking sort of farmland acquisitions and ownership. And obviously, the GAO, per this Committee's leadership, was instructed to see if they are doing it right, and there is improvements that have to be made.

Ms. ADAMS. Thank you very much. I am out of time. Mr. Chairman, I yield back.

The CHAIRMAN. The gentlelady yields back.

I now recognize the gentleman from Tennessee, Mr. Rose, for 5 minutes.

Mr. ROSE. Thank you, Mr. Chairman, and I thank Ranking Member Scott, and thank you to our witnesses for your time and indulgence with our schedule today.

I will go ahead and dive right in. Ranking Member Krishnamoorthi's written testimony stated that agricultural technology is a prime target of intellectual property theft because American technology and farming are the best and most productive in the world. Ambassador Tom, can you elaborate on specific examples that you are aware of where there have been intellectual property theft attempts or successes by China in the agricultural sector?

Mr. TOM. Well, certainly. I think in the world we live in today, whether it is your banking, whether it is your Amazon account, or whatever it may be, we have constantly got to be altering and modifying and improving our systems to protect our data and our intellectual property. And when I look at—I will give you an example. As I stated in my opening testimony, we have had seed stolen. They will continue to find out new ways to do it. I think we need to get more creative in trying to understand how they are doing this.

But when I look at what we are doing on the farm today, the level of data that we produce on a farm to increase productivity, make sure we lessen our carbon footprint, make sure that we use less fuel, less fertilizer, less seed, everything we need to do, those are proprietary algorithms. And with China's investment now in IP, in the seeds, and our access to fertilizer chemistry, they are going to continue to try. But, they want to get hold of our IP of how we produce it on our farm to improve productivity.

One example—I will give you this. When I first arrived in Rome, I went to a diplomatic event. The Chinese Ambassador came up to me with a piece of paper, and he said, do you recognize these fields? And I said, yes, I sure do. Those are my fields back in Indiana. He goes, I just wanted to ask. That was a shot across the bow. That really woke me up to understand that they have access to more we than we think.

Mr. ROSE. And, Ambassador, looking ahead, what long-term investments can the U.S. foster or policies can we adopt to maintain



our edge in agricultural technology and mitigate the threat of Chinese dominance in this critical sector of the economy?

Mr. TOM. Yes, it is like I said in my one comment earlier, China is spending about \$10.2–\$10.4 billion a year in research and development. Today, we leave most of that up to the private-sector, which is good, but I think we need to see more collaboration between the university system and extension, and we need to invest more in research and development between the private and public and our universities and our land-grants, to make sure we remain competitive. If we don't, we are going to see increased productivity in China that is going to supplant our markets around the world.

Mr. ROSE. Thank you. Shift gears, Mr. Daly, in your written testimony, you mentioned that China restricts nearly all foreign investment into its agricultural sector unless companies incorporate in and share data with China. Can you elaborate on how this lack of reciprocity and market access disadvantages American agricultural companies, and how a policy of reciprocity could help level the playing field?

Mr. DALY. Thank you, Congressman, for that question. It is very important. Yes, I think we have to really consider a policy of reciprocity in terms of what actions China does, in terms of U.S. investments in its country, and what we should do on the counter side on this side of the aisle. And I think it is smart engagement with China to honestly be able to engage them and say, "Look, you have these policies that restrict our investors and our capabilities, so we are just putting those measures in place on this side." So I think it is a smart policy that should pervade the agricultural space as well.

Mr. ROSE. Sure, and finally, Mr. Gackle, in the time remaining, I mean, obviously, you recognize that the target is kind of squarely on soybean producers in this country in terms of being kind of caught between the motions of what we do and what China does. And we talked before that we restarted—as the soybean industry thinks in the U.S.—as you think about the challenges from China, if you had one takeaway for us today about what we need to be thinking about, what would that be?

Mr. GACKLE. To do just one in 15 seconds, I think the important thing to recognize—and I mentioned it in my oral comments and in conversations here today—but we are working hard to diversify and find new markets, we as U.S. soy, and that work will continue on, but it takes time. It takes years. It takes decades to build those new relationships. And the scale of China being what it is and just the demand there for U.S. soy, if they don't get it from us, they will get it somewhere else.

Mr. ROSE. Thank you, and my time has expired. Thank you for your indulgence, Mr. Chairman.

The CHAIRMAN. The gentleman's time has expired. I now recognize the gentlelady from Virginia, Ms. Spanberger, for 5 minutes.

Ms. SPANBERGER. Thank you, Mr. Chairman, and thank you, gentlemen, for joining us today.

I am a former CIA case officer, and as such, I do understand the threats posed by the Chinese Communist Party's aggressive influence campaigns, as well as its attempts to target U.S. national security interests through seemingly innocuous transactions. And as

the only Virginian on the Agriculture Committee, I am committed to protecting our Commonwealth's farms and farm families from our adversaries.

As you all well know, the Chinese Communist Party's attempts to control American farmland go beyond mere investment. They represent a strategic maneuver to gain leverage over critical aspects of our economy and food production, and this control can lead to compromised agricultural practices, exploitation of natural resources, and unfair competition against American farmers.

That is why I was proud to lead the bipartisan Protecting America's Agricultural Land from Foreign Harm Act of 2023 (H.R. 3357). The bill recognizes the threats posed not just by the Chinese Communist Party, but also by Russia, Iran, and North Korea. Buying up American farmland can be a tool for eroding our nation's food security, economic security, and national security, and we need to take steps to push back against these efforts.

If there is time permitting, I have a couple questions about CFIUS, but Mr. Gackle, I would like to begin with you. As a Virginian, I represent many, many soybean farmers. One of Virginia's top agricultural exports is soybeans, and just last week, I was speaking with a producer who mentioned that while he sells the bulk of his soybeans to China, it concerns him, the shifts in the global soy market, and he is like so many other Virginia producers, still impacted by the shifts in the market that occurred because of the trade wars initiated some years ago.

So you have mentioned how maintaining trade relationships with China is important for the success of America's soybean industry, and I would first ask, in response to my colleague's question, you were talking about diversification, diversification of markets. Do you have any suggestions for how Congress could help American soy producers as they seek to gain access to diverse markets?

MR. GACKLE. Yes, thank you for the question. A few examples in Congressional action and things that we have been advocating for, for a long time—and I mentioned it earlier in a couple of the other Q&A's and in my both written and oral testimony—but funding through the farm bill, as Congress continues to consider passing the reauthorization of the farm bill, funding in the trade and market expansion space is very important. I have had several meetings—many of our growers were here last week on the Hill and may have met with you as well—

MS. SPANBERGER. That is right.

MR. GACKLE.—and met with many of you in advocating for increased money in the MAP and FMD programs that, as I mentioned earlier, has been stagnant for several years, the level of funding there, so doubling of Market Access Program funds and Foreign Market Development, increasing in those funds as well, just critical in finding those new markets and providing some long-term certainty for the availability of funds.

MS. SPANBERGER. Yes.

MR. GACKLE. They are oversubscribed which has been mentioned earlier, so there is certainly demand. I think soy and other commodities show pretty consistently that there is a great return on investment with those dollars as well, bringing back to the farm,

so I think that would be one area that Congress could look at ensuring some more certainty.

Ms. SPANBERGER. And for some of my colleagues who might not have met with any of your member producers who were on the Hill last week, and certainly, my conversations were excellent to this topic, could you just talk through a little bit about why that funding matters? Would you say that it is as much as you and your fellow producers endeavor to produce the best product that you can, having the support of the U.S. Government and helping to market, establish new markets, make clear the value of that American product are all things that that you all—you are producing the product, but that boost is something that is of value to you. Is that a fair assessment? And would you add to that?

Mr. GACKLE. I think it is, yes. Yes, for sure. And I think what it demonstrates to our foreign buyers and markets outside of China, but to the new markets we are trying to develop, is we have a unique public-private partnership here in the U.S. to invest farmer dollars through the check-off, with FMD dollars, and again, showing that tremendous return on investment when those programs are combined.

Ms. SPANBERGER. And particularly, when you are looking at the challenges and the risks that soybean farmers have faced over the past couple of years, in the final time, is there anything that you want to make sure that Members of this Committee understand as we head into kind of finalizing this farm bill?

Mr. GACKLE. Say the last part again, the final—

Ms. SPANBERGER. As we head into finalizing this farm bill.

Mr. GACKLE. Okay, yes. Thank you for the question. Farmers, like most businesses, are trying to reduce risk, manage risk, provide some certainty to their operations, their family farms, their businesses. And I think short-term extensions of the existing farm bill provide some certainty but not the level of certainty that is needed over time. So a full reauthorization sooner rather than later in this calendar year in this Congress would be helpful.

Ms. SPANBERGER. I think on that we are all aligned. And I yield back, Mr. Chairman. Thank you. Thank you, sir.

The CHAIRMAN. I thank the gentlelady.

I am now pleased to recognize Mr. Baird from Indiana for 5 minutes.

Mr. BAIRD. Thank you, Mr. Chairman. And I really appreciate all you witnesses being here. We always learn something that is very useful for decision-making purposes as we talk about the farm bill. So I am going to start with another Hoosier that has quite a presence in the State of Indiana. And so, Mr. Ambassador, you referenced how we need to expand our markets into other markets. And you certainly have a tremendous knowledge in that area. So can you expand on that, what other countries and so on that we might be interested in?

Mr. TOM. Yes, I mean, I think USDA is now starting to get out. I have heard of a number of trade missions that have taken place over the past 6 months into Africa to discover if there are some opportunities. It all comes down to funding. Do they have the money to buy the basic raw ingredients, whether it is a commodity of soybean, corn, wheat, flour, rice, whatever it may be? Do they have

the money to buy it? And I think that is the biggest thing that has to be developed there.

But I come back home and I say, what can we do here in the United States of America to find more value-add opportunities for the crops we produce? Because we are going to continue to grow yields, hopefully, and as we do that—and if we lose some markets or we have some diminishing markets because of other places like Brazil and Argentina coming on and supplying China, we better find a way to use up this crop. I mean, I think biofuels have been very good for the industry, have been good for the environment and good for our economy, but we need to continue to look further. I know sustainable aviation fuel seems to be slowed down a little bit, but at the end of the day, we need these products. We need these opportunities to make sure that we have a vibrant economy. But again, value-add is what we need to be doing.

I really don't want to export a kernel of corn or a bean. I want to add some value to that before it leaves the shore of the United States because it creates jobs and creates employment.

Mr. BAIRD. Absolutely. I couldn't agree with you more. I have said quite often because agriculture is my background, but this country does such a wonderful job in quality of product, and then we have the logistics to be able to get it to anywhere in the world, and I think that is a real asset and a marketing tool for us, too, as well as what you just said. And what you said was extremely important.

But I want to switch over now to Mr. Gackle. Technology, science, and research is kind of my background, and I am a strong advocate of that. And now China is trying to take over the world. And I go back to the time when I was at Purdue, and I know we went down to Brazil to show those folks how to raise soybeans for what was called humanitarian reasons. And so then I remember a professor coming back, and I asked him how that was going, and he said, extremely well—he called me Jimmy—but he says extremely well because he said, the only problem is those soybean fields have armed guards around them, so we really didn't do much to help the humanitarian efforts in that area. What we did do, though, is we taught them how to raise the soybeans, and then they went on the world market.

So I guess I am just really asking what your thoughts are on how much we should invest in research, how important technology is going to be to improving our productivity.

Mr. GACKLE. Thank you, Congressman, for the question. It fits in well here. And I will just start off by saying technology and adoption of new technologies on our farms, and on the farm I come from in North Dakota, but farms across the country just more and more important and being efficient and reliable producers and financially sustainable in the long run to have those technologies and those tools. The information that we are able to gather as growers to help us make better decisions each year as we are planting a new crop and harvesting a different crop. The information we get back from that technology is just essential in making those decisions. And then when it comes to just operating our operations efficiently and reducing the reliance on inputs, we talk about, well, if we are too reliant on foreign production of chemicals

and fertilizers and seeds and anything else, farmers, we are pretty good—not pretty, very strong consideration in what it is costing—the cost of production for our crops. And so these types of things—and there is certainly concerns around data privacy and use of that data and who does it belong to. Just it is farmer, so we really want to make sure that we protect that as well.

Mr. BAIRD. I got one last question for you. We talk about precision agriculture. Do you have one of those planters that you can plant 10 or 11 miles an hour and still get—

Mr. GACKLE. Well, sir, that is a great question. You would be interested to come to my part in North Dakota and know that even if I did, I probably couldn't use it because we have some other obstacles in the way.

Mr. BAIRD. I hear you. Thank you very much. I yield back.

The CHAIRMAN. The gentleman yields back.

I am now pleased to recognize the gentlelady from Ohio, Congresswoman Brown, for 5 minutes.

Ms. BROWN. Thank you, Mr. Chairman.

One thing we know to be true on this Committee is that food security is national security. As a Member of the Select Committee on Strategic Competition with the Chinese Communist Party, I know there is bipartisan concern and consensus on addressing the CCP's entanglement in our agriculture industry. The Select Committee heard firsthand testimony on the CCP's efforts to unfairly steal agriculture technology and products, including genetically modified seeds. American innovative technology and intellectual property is not up for grabs, and the CCP needs to engage honestly with the world's global food and farm economy.

At the same time, the CCP is attempting to monopolize the global agriculture supply chain, putting the U.S. and our allies at a disadvantage. The food agriculture sector is one of 16 designated critical infrastructure sectors in the U.S. That is partly why I introduced the bipartisan Critical Supply Chains Commission Act (H.R. 4279) to examine and identify gaps in our supply chain and reduce our reliance on any outside nation to provide the critical materials we need, including agricultural products.

So, Mr. Daly, the United States has been losing its ability to manufacture agricultural inputs, including vitamins, animal feed, and pesticides. Can you talk a little bit about why we are seeing this, and what are some of the things that we can do to address this?

Mr. DALY. Yes, I think in terms of why we are seeing it, I just think the evolution of where the industry went in terms of pricing is why things moved to China as it did in terms of vitamins and whatnot, but it has created an incredible dependence, as you well know, Congresswoman. And so in the vitamin space, 80 to 90 percent of production happens in China.

So we need to move that back, and I think your bill is exceptional in what it wants to do, take a look at these supply chains, see where our vulnerabilities are, and then figure out solutions to them. And the solutions are a focus on resources, moving government resources in the right direction, and then ensuring that we are either putting it here in the United States or putting it in a friend-shoring situation where we can depend on the supply.

Ms. BROWN. Thank you so much. And I would like to continue with you or Ambassador Tom with the next question, which is what recommendations do you have to protect American intellectual property, specifically in the agriculture space?

Mr. DALY. I can start with and then go to the Ambassador. I think the resources need to be put there. As I said earlier today, there was a lot of intelligence sharing that has happened for a long period of time with the Defense Department, industries that work with the Defense Department, and also our banking industry had a lot of intelligence-sharing with the U.S. Government, and I saw that in the Treasury. I think that intelligence-sharing resource has to go to the Agriculture Department now. I know they have stood up a new entity that is going to be doing more sharing of intelligence. There are obviously logistical issues with sharing it in terms of sources and whatnot.

But I think as the Department of Agriculture gets more familiar with that back-and-forth with industry and trust, we will be able to build a system where we can have more responsive engagement with industry and address the national security matters.

Ms. BROWN. Ambassador?

Mr. TOM. My response to that would be that I have never seen any service or activity that can't be done better by the private-sector than the government, and so I believe it is up to the private-sector to work to make sure that we can protect this intellectual property. I certainly welcome any support we can get from the Federal Government or state governments, but the reality is, it is up to us to work hard to make sure that we are protecting this IP, whether it is data, whether it is genetics, whether it is chemistries. I want the private-sector to work on this because I think they are best positioned and best able to meet that need.

Ms. BROWN. Thank you both. It is abundantly clear that our national security is dependent upon a safe, resilient food system. I look forward to continuing to work on these important issues with my colleagues, and with that, Mr. Chairman, I yield my remaining time.

The CHAIRMAN. The gentlelady yields back. I now recognize Mr. Feenstra for 5 minutes.

Mr. FEENSTRA. Thank you, Chairman Thompson, and thank you to the witnesses for being here day. This is a topic that we really need to address, and I am so grateful that you are here.

I want to play off Mr. Baird and what he said when it comes to intellectual property and what is going on. And I am from Iowa, probably the district that has the most corn and soybeans growing anywhere in the nation. Our land sells for about 30,000 an acre, at least it did several miles from my house a couple months ago.

One shocking story from my state—and Representative Gallagher noted this—that a person was spotted in a field in Iowa digging up hybrid corn seeds and eventually found out that they were sending these corn seeds back to China. This PRC national was later arrested and admitted that he was involved in a long conspiracy to steal trade secrets from our two major U.S. seed companies. And you think about it, it can cost nearly \$100 million to have these new hybrids come about. I mean, it takes time and years, and here, they are trying to steal them.

Mr. Gackle, can you talk about—obviously, we know the dangers, right? We know China poses this risk, but how can we—and it is so difficult. How can we prevent some of this IP theft?

Mr. GACKLE. Well, as the group has been discussing today and those of us amongst the table, I think there is quite a bit unanimity here on some of those steps that can be taken. The American Soybean Association and I personally as a farmer recognize how complex and difficult these issues are. But you are correct; the solutions are hard to find. I gave an example of public-private partnership when it came to investing in new markets. I think it could be similar on this side of issues as well when it comes to data protection and IP and other actions that are viewed negatively from China. How can the public-sector and the private-sector, whether it is seed companies, universities, government, find ways to address those complex issues and bring some solutions forward? I mean, for me as a farmer, it does me no good either for those situations to be possible or occur, so looking for solutions from our side as growers as well.

Mr. FEENSTRA. I agree, Mr. Gackle. I mean, it is a partnership, private-public from our universities to our companies, you name it. But it is very worrisome to see what is happening. And could you expound on that, Mr. Daly, just a little bit? I mean, what are trends that you are seeing in this area?

Mr. DALY. So expounding on it a little bit, I think what is informative is some of the service I had. I remember when I was at the National Security Council and dealing with trade matters, and we would get intelligence that would come from our intelligence agencies on trade issues that were going on with our counterparts, and it was really lacking. They just didn't have the experience. The intelligence agencies didn't have the experience to be able to go in and focus on that kind of intelligence. Obviously, it was mixed in with defense and other matters.

So I think, over time, they got good at it. So I think it is a matter of applying, as you have done here, with a focus on it—

Mr. FEENSTRA. That is right.

Mr. DALY.—for our intelligence folks, whether that is at Justice, FBI, or NSA, focusing that resource on what is needed here to address these IP thefts and guard against the taking that has happened.

Mr. FEENSTRA. Yes. I agree. I want to pivot just a little bit to you, Ambassador Tom. In my district we grow a lot of corn, and we have a lot of pork. And when China has six percent of the pork and beef markets and then a tremendous amount of our soybeans and corn go to China, this becomes a bit of a problem.

You mentioned Africa a while ago, that we have to diversify. We all understand we have to diversify. Our biggest problem with going into Africa is the supply chain infrastructure. Can you elaborate on that a little bit? I mean, I think of our dairy. I think of our pork industry, our cattle industry. You need refrigeration if we are going to go into Africa and other countries. And as you noted that it is really their next step on the food chain of what they want to buy. Can you talk just a little bit about that, Ambassador, of what are the obstacles of us getting into some of these countries?

Mr. TOM. Yes, first, I will start out by saying that your point about the livestock and the amount of exports that we have, whether it is beef, pork, or poultry, mainly pork and beef, though, that is going into China, we have seen exponential growth in those two areas. And, I mean, the U.S. producers benefited from that and continue to benefit from that. But again, they are trying to replace us on the pork side at least.

Mr. FEENSTRA. That is right.

Mr. TOM. When I look at Africa, I look at infrastructure. Yes, there is no cold supply chain.

Mr. FEENSTRA. No.

Mr. TOM. We have seen very little investment in many, many countries across Africa. I was just in Sudan, as I said, about a year ago. They are building some toll roads, private companies are and everything else, but the reality is once you get into the interior of the country, whether it is there, Tanzania, Niger, Burkina Faso, there is no infrastructure.

Mr. FEENSTRA. No, exactly right.

Mr. TOM. There is no infrastructure, and this where, what we were supposed to be doing at the Food and Agriculture Organization is creating resilience and capacity in food systems, but it hasn't happened.

Mr. FEENSTRA. No, no, no. And I just want to quick note this. I have the FRIDGE Act of 2023 (H.R. 4612, Fortifying Refrigeration Infrastructure and Developing Global Exports Act of 2023) that sort of goes down this path that we can use some of these dollars from different export things that we have, FMD and so forth.

But with that, I yield back.

The CHAIRMAN. The gentleman's time has expired.

I am now pleased to recognize the gentlelady from Oregon, Ms. Salinas, for 5 minutes.

Ms. SALINAS. Thank you, Mr. Chairman, and thank you to the panelists for being here today.

As we think about the impact of China on the competitiveness of U.S. farmers, I think it is also important that we remember that our nation's agricultural economy doesn't really stop just in our fields. In fact, our nation's food and beverage industry is among America's largest domestic manufacturing sectors, and that includes food processing and canned food staples that millions of Americans rely on every day.

I am proud that my home State of Oregon plays an important role in this industry, being a critical supplier of canned fruits in particular. This industry definitely sees the impact of China as well. The China Canned Food Industry Association proudly touts record-breaking growth for Chinese exports to the United States, threatening thousands of U.S. food manufacturing jobs and economic activity in states all across the country, obviously, including Oregon.

Further, consumers may not even be aware the canned goods they are purchasing are produced in China. In some instances, American-grown canned goods are mixed in with Chinese-grown products and sold under the same label, making it difficult for consumers to know what and the sources of their purchases.



And this question is for the whole panel. What policy steps would you suggest to bolster U.S. farmers, reward manufacturers who rely on American-grown and processed ingredients, and ensure consumers know where the food they eat is actually grown?

Mr. TOM. Well, we know there has always been a lot of country-of-origin labeling that has taken place to really understand, but we are not going to say that the Chinese play by fair rules.

Ms. SALINAS. Right.

Mr. TOM. Let's face it, it doesn't happen. In terms of some of the food processing, yes, I understand your concerns. I was recently in Alaska, spoke at a conference up there, and the amount of fish that is being shipped out of Alaska for further processing in China and then back to the United States is substantial. And you ask yourself, why can't we do it here at home? What is the headwind that is stopping us from doing that?

So whether it is fish, whether it is soybeans, whether it is some other protein product, we need to figure out how we can create the value-add opportunities here at home, creating the jobs for the U.S. citizens.

Ms. SALINAS. Thank you. Mr. Daly?

Mr. DALY. Yes, I absolutely concur with what the Ambassador had to say here, obviously, labeling issues, tracking exports, tracking imports of what China is doing, and putting a focus on that. Obviously, there are resources at the Department of Commerce and USTR to be able to identify these issues and work with the Department of Agriculture to make sure we are ensuring that China is not cheating on this matter and that we can build resources to produce it here.

Ms. SALINAS. Thank you. Mr. Gackle, did you have anything to add?

Mr. GACKLE. Yes, thank you. Just briefly, and very good question. I will maybe give a specific example of back home in North Dakota and talk about value-added and soybean, U.S. soy, American Soybean Association is working very hard on finding new domestic uses for what we grow. Knowing that, as was mentioned earlier, we are not going to stop growing soybeans, and we are getting more efficient and better at growing a big crop. So finding those new uses and new demand in North Dakota, we have one new soybean crush plant that has come online, so there is opportunity there for the oil and the renewable diesel.

But a side product of that and not a small side product, a big byproduct of that is the new meal opportunities that we are going to have. And when Ambassador Tom talks about value-added and those types of opportunities, with the new meal that may be available through additional crush plants throughout the country, I think just a great opportunity there to add value to our domestic ag value chain.

Ms. SALINAS. Thank you. So obviously, China is notorious for its violations of international labor standards, including in the ag sector. For instance, in 2021, the U.S. banned imports of cotton and tomatoes produced in the Xinjiang Province due to strong evidence of forced labor practices.

Beyond their labor practices, China, as we have heard today, also engages in IP theft, cyber attacks in order to steal data, and have

increased their ownership of foreign agricultural land, including here in the U.S. However, as a Member of the Congressional Executive Committee on China, I am focused on both calling out and combating China's bad behavior, while also acknowledging that our trade relationship is critical to the American economy, particularly the ag sector. In 2022, for instance, Oregon exported over \$300 million of agricultural products to China. I also consistently hear from constituents about the importance of the Market Access and Foreign Market Development Programs, and the importance of exports to our overall ag economy cannot be understated.

So again, for the whole panel, we, as Members of Congress, think about our trade relationship with China. How can we balance the hard economic realities that our constituents face while also combating the Chinese Government's egregious behavior?

Mr. GACKLE. I see time is running short, but quickly, if there are targeted ways to address those situations to try and diminish the negative ramifications that come back on U.S. producers, I don't have any exact recommendations on what those would be, but maybe just a bit more strategic when it comes to the policies trying to approach those, certainly important, and real concerns about the situation in certain places in China, but targeted and more strategic, but I am sure others have better detail on that.

Ms. SALINAS. Thank you.

Mr. DALY. Yes, quickly, strategic surgical actions in trade relations. Obviously, sometimes when you go with big actions, you have big responses, but if you do them surgically, according to U.S. laws or building out on the right laws, it is understandable by the counterpart, and usually you don't have a big splash.

Mr. TOM. The only thing I will add is it has just been a few years ago that we had a trade imbalance with China. They had over \$500 billion worth of sales in the United States, and we only had \$350 billion to China. We have to find a way to figure that out, how we can increase our sales to China or find other sources for some of the products we are buying from China today. We have to balance it.

Ms. SALINAS. That is right. Thank you all. I yield back.

The CHAIRMAN. The gentlelady's time has expired.

I now recognize the gentleman from Missouri, Mr. Alford, for 5 minutes.

Mr. ALFORD. Thank you, Mr. Chairman, and thank you to our witnesses for being here today, really appreciate that.

I don't have to tell you that China has its tentacles in everything we do. They are poisoning the minds of our young people with TikTok. They are poisoning their bodies, wiping out almost an entire generation of young people, killing 100,000 of our fellow citizens each year through Fentanyl.

I also sit on the House Armed Services Committee, and I represent two very distinguished bases, including Fort Leonard Wood, but also Whiteman Air Force Base, home of the B-2 Stealth Bomber and soon to be home of the B-21. We are concentrating on being an effective deterrent against the CCP and the PLA.

There are some generals who are openly saying that we could be at war with China by 2027. That is 3 years. We are trying to get ready for any potential conflict. I believe that we have to do every-

thing we can keep our country safe from China's influence and espionage, and agriculture is a critical, critical part of the conversation. Our food security is national security. We have to be prepared for what could be coming.

In 2022, the last report showed China owned 395,000 acres in the United States of America, and yet you cannot go there and buy land. Recently, we introduced the American Land and Property Protection Act (H.R. 7246) to protect Americans and our land from ownership by foreign adversary nations including China, Iran, Russia, Venezuela, North Korea, and Cuba. They shouldn't even be able to buy an outhouse in the United States of America as far as I am concerned.

So Mr. Daly, why is it important that we protect our property here in America from the Chinese Communist Party that wants to replace us as a world power?

Mr. DALY. Thank you, Mr. Congressman, an excellent question. It is a point-of-the-spear question in terms of what we are dealing and having to address in terms of the Chinese Communist Party and how they have effectuated recent laws over the last couple years that have effectively weaponized private Chinese companies and put their private citizens under obligations to report and do what the state wants. So that becomes the issue before this Committee and you as leaders of this country. What should we allow, given that China has pretty much put in place a system and laws that make and weaponize their companies and put their individual citizens in a position they have to do what the state asks them to do?

Mr. ALFORD. Well, I think it is time to circle the wagons. Look, we can halfway do this. Our Governor had an Executive Order last year prohibiting any land sales within 10 miles of a military base. I mean, that is a good start, but I am of the firm belief Chinese Communists should not be able to buy property in America, case closed. And it may hurt us on trade. I know, sir, Ambassador, you just mentioned that we need to increase our trade with China. This may hurt our trade, but we have to protect America.

Mr. Gackle, what contingency plans—say we are at war with China over Taiwan in the next 4 to 5 years. What contingency plan do soybean producers have to protect the investments and our producers here in America?

Mr. GACKLE. Thank you for the question, Congressman. And I provided some highlights earlier in oral and written testimony. We learned from the 2018 tariffs and retaliatory actions from China just how much that type of situation can affect our bottom line on the farm. And, as I mentioned before, looking to diversify and grow new markets, understanding that there are risks there when you rely so heavily on one particular market or country. The scale of China being so large makes that risk even greater, and so I think that is why you are seeing more farmer dollars invested in finding these new markets, finding new exports.

And as I talked about as another contingency is just more domestic demand and more domestic uses for what we are growing here. But again, we may continue to outproduce that demand even if we find new on-takers for renewable diesel or the meal that I talked about, so we are going to have to do both.

Mr. ALFORD. Well, I just want to close. I appreciate you being here. This is a very serious matter, and I think most Americans are asleep when it comes to the threat from Communist China, and I am here to tell you now, the big bad wolf is at the door, and we better make sure that our house is made of brick and not straw or it is going to get blown in, and it is not going to be a pretty picture.

Thank you so much for being here, and I yield back.

The CHAIRMAN. The gentleman yields back.

I am now pleased to recognize the gentleman from North Carolina, Mr. Davis, for 5 minutes.

Mr. DAVIS of North Carolina. Thank you so much, Mr. Chairman, and to the witnesses who are here today. Thank you so much for being with us today.

As other Members have highlighted today, agriculture is a very trade-dependent industry, and China is a top trading partner. How would you prioritize the most practical safeguards that can be put into place that will allow the U.S. agriculture community to export to China and not have markets and prices manipulated by their government or trade wars causing farmers to be the ones bearing the brunt of decisions? I am just trying to prioritize.

Mr. TOM. Yes, when I think about, you are from the State of North Carolina, a major, major pork producer.

Mr. DAVIS of North Carolina. That is right.

Mr. TOM. I think whether it is pork, or whether it is beef, or whether it is the grains we produce on our farms back in the Midwest, there is no doubt we know our government conducts wargames to understand what happens when China inevitably takes back Taiwan. We need to do the same as producers, as an industry, to make sure how do we react? How do we prepare before this actually happens? Because it is going to happen. He has made comments that it is going to happen. So let's prepare now. Let's not wait for it.

In terms of prioritization, again, we have to continue to grow our sales around the world, diversify, continue to sell to China, but again, I think it is time we balanced that trade-out.

Mr. DALY. Yes, I agree with the Ambassador. There are already a number of companies, major U.S. companies that are consulting with experts and technicians to understand what the ramifications are if we have a hot war issue with China in terms of their processes of sales globally, in terms of how their supply chains deal with it as well. So I think companies are going that way, and I think the government needs itself in the ag space to really focus in on this. And I think Members here today and yourself have made this a big focus in terms of what should be the priorities, and I think this is an exercise where the Agriculture Department has to work with industry and you all to make sure those priorities are in line with U.S. national and economic security and food security.

Mr. GACKLE. Maybe to touch on something just a little separate, but in line with those things, so looking at profitability for farmers and what we are trying to manage as risk, I think a priority area—is something we haven't talked about much—is getting the policy right in D.C., whether it is here in Congress or through the Administration, on incentives for further domestic growth, incentives for sustainable aviation fuel. That is one idea we haven't talked much

about but getting that policy right as it is getting developed and trying to get off the ground could be a potentially huge market there for U.S. producers. And then maybe in the regulatory as well, trying to find ways to ease the regulatory burden on producers and streamlining, whether it is EPA issues or other Federal agencies when it comes to regulatory types of issues. But getting that policy right as well provides a little more predictability and certainty for U.S. producers.

Mr. DAVIS of North Carolina. Okay. Thank you. U.S. agriculture is the cream of the crop when it comes to productivity, innovation, and producing agriculture further ahead into the 21st century using new technology. China is not only interested in these innovations, but in the past, operatives have been caught trying to smuggle them out of the country. My question here, is there any way to evaluate or ensure that our investments in emerging agriculture technology are not being exploited by China for their own advantage?

Mr. DALY. Thank you, Congressman. That is a great question, and it is right on the forefront. We have to be vigilant in terms of having our intelligence agencies work with the Department of Agriculture to give and provide that intelligence information that is going to be able to spot, identify where the threat is going to emanate and be able to capture it before it occurs, so that is a big part of this equation.

The second part of this equation is I think making sure we get our cybersecurity systems in line with the agricultural producers. That means making sure we get a wrap on the technologies that are out there. Internet-of-Things technologies that China is controlling the market on, we need to make sure we friend-shore that or produce it here in the United States.

Mr. TOM. A nation's power is usually predicated upon four key pillars. One is diplomatic presence around the world to get involved in any other country that we need to be involved with before a crisis happens, two is economic, three is military, but fourth is informational. And I think we need to make sure that we are tapping in and collaborating across agencies, USDA, CIA, FBI, everybody, that we are having the best information to make sure we understand what is going on and what China is doing behind the scenes that we are not monitoring today.

It is one thing as an agriculture industry, we tend to trust everybody. Farmers are the best at helping somebody when their barn blows down. They go together, and they don't worry about getting any financial support to do that. They go together and work. We trust people. We do things together. But I think we have let our guard down in guarding our intellectual property. Now it has got to come up, and we need any support we can get from you. Thank you.

Mr. DAVIS of North Carolina. Well, thank you so much. It sounds easy. We have a lot of work ahead of us. Thank you so much, Mr. Chairman. I yield back.

Mr. LAMALFA [presiding.] Thank you, gentlemen. Now, I am going to recognize myself for 5 minutes. I just happened to jump in the right spot at the right time. Isn't that slick? But it is correct according to the roster. Don't get mad, guys.

So thank you. Thank you to our panelists. I apologize for being in and out of the room. There are three committees at the same time today.

So let me jump to Ambassador Tom. And, again, forgive me if this is redundant from previous questioning here, but one I have is that we saw over 10 years ago one of the largest Chinese acquisitions of an American company was Smithfield. It really brought the focus of China and what it means as really a danger to American agriculture and to the American food supply as more and more of this proliferates. And really little has been done to put the brakes on that.

So with the Chinese Government's plan to buy up more and more farmland, not just for the sake of farmland, but we see a lot with the adjacent lands to many of our military bases and other important installations. So bring that into focus on what that means for our U.S. producers if facilities such as processing plants are more and more owned by Chinese or other outside influences like that? What is that going to do to perhaps harm the ability for them to have a place to take their product and have it processed and marketed for them through the chains that we are kind of used to these days? So, Ambassador?

Mr. TOM. Yes, the comment I would make there as an example, Smithfield. Granted, producers across the United States are benefiting from that relationship. They have a place to go with their pork to be processed, to be moved around the United States, and be exported. The reality is we have to understand why the Chinese bought Smithfield Foods. It wasn't necessarily for the production capacity as it was for the intellectual property.

We know that every pork producer in China was—every family had two pigs out back, and they fed them their swill and the leftovers and excess, but that is when they got African swine fever that occurred across the nation, and so they knew that they need to consolidate, be more structured in a manner, make sure they brought in the latest science to protect their pork herd, but, more importantly, their own food security. So again, the only way they could get this was to acquire a company like Smithfield to acquire their intellectual property.

Mr. LAMALFA. Thank you. I appreciate that.

I want to shift to Mr. Daly in my remaining time here. With the Chinese cartel work going on so much in the drug culture and have so much of it going on in northern California, almost uncontrolled, the locals seem almost powerless and short on resources to battle against the vast proliferation of Chinese cartel marijuana growth. And you should see it, the vast numbers of greenhouses that have been put up on, in a lot of cases right now it is private property, which makes it a different enforcement. In different areas, it has been on Federal lands, which Federal lands have been slow to be enforced on with Forest Service or whatever not making the moves. But when it is owned property, it provides its own challenges on that.

So we have much organized crime tied to China and dominating much of the illicit marijuana trade. And it is horrific for the environment, horrific for local law enforcement and just a sense of security for the neighbors there, even so much as the amount of

water being carted by these 4,000 gallon trucks to these growers, without permits, without county ordinances in their favor, environmental damage.

So these Chinese gangs have been distributing the end product, but also very dangerous chemicals that are not available at all to American farmers in the process. So, Mr. Daly, can you emphasize a little bit what would you tell us about the international crime effects and overall effect on our national security, as well as the local quality of life in communities like this? I am talking about Siskiyou County in northern California, but there have been other ones in neighboring Trinity County. Again, that has been more on Federal lands. Please touch on that, would you?

Mr. DALY. Thank you, Congressman. That is an excellent point and an obviously a very serious issue that, thankfully, with your leadership, the U.S. focus gets placed upon it. I think the resources we have just need to be borne on it. Obviously, the customs, CBP, in terms of its seeing what is happening on the borders to be able to address that, and then obviously, getting our Justice Department to make sure that they prioritize this issue in terms of going after these cartels are two possible ways you can draw focus on that in your role as Congressman. Thank you.

Mr. LAMALFA. Yes, there has been either inaction, disinterest, or reluctance by Federal and state agencies to really come in and enforce hard on this when it is violating local laws, local ordinances.

Well, I need to yield. So with that, I would like to now recognize the Hawaiian from Hawaii for 5 minutes.

Ms. TOKUDA. Thank you, Mr. Chairman. As the only Asian American Member of the House Agriculture Committee and as a Member of the Congressional Asian Pacific American Caucus, I want to remind my colleagues on this Committee that words matter. And even as we deliberate, we must consider the unintended consequences and impacts of our words and policy decisions on our Asian American community.

I also serve on the House Armed Services Committee, and my district is on the frontlines of defense in the Indo-Pacific, so I deeply understand the risks with the CCP and the threat it has to global security, national security. That being said, irresponsible and inflammatory rhetoric will encourage and invite xenophobic and discrimination against Chinese Americans and those to be perceived to be Chinese.

Governor Noem said that we have become a country addicted to being offended by each other, but there are too many examples in the recent past of rhetoric leading to violence against Asian Americans. One has only to remember Vincent Chin, a Chinese American from Michigan who was murdered at the height of the anti-Japanese sentiment in this country because of his perceived race. Congress passed the COVID-19 Hate Crimes Act (Pub. L. 117-13) in 2021 because of the dramatic increases in anti-Asian hate crimes and violence during the COVID-19 pandemic. The way we discuss this policy will and has consequences.

It is also important to remember that alien land laws are rooted in racism. The enactment of the Chinese Exclusion Act (Pub. L. 47-126, An act to execute certain treaty stipulations relating to Chinese.) and official state policies were designed to prevent Chinese

individuals from owning land and property. During World War II, Japanese immigrants and Japanese Americans, including my great grandfather, were incarcerated en masse because of their race. They were also subjected to exclusionary alien land laws in different states and were forced to sell their properties during incarceration.

I am glad that Ranking Member Krishnamoorthi highlighted the importance of the cure not being worse than the disease. We must not stand for laws that discriminate based on ethnicity and nationality.

Before proposing broad bans that could have significant impacts on Asian Americans, on our immigrants, there is a lot more we can do to invest in data collection and reporting on foreign ownership of land, including agricultural land. And I appreciate your indulgence and patience. I know you have gone through various rounds of these types of questions. I am not saying that we should not have this discussion, but let's make sure that the policies passed by this Committee are grounded in fact, not fear.

I welcome my colleagues to work with me and my colleagues on CAPAC to come together on policies that will combat the CCP, while protecting our Chinese American and immigrant communities. The recently passed appropriations bill will give the United States Secretary of Agriculture a seat on CFIUS. How will this impact USDA's ability to monitor Chinese investment in the United States? And are there any changes to CFIUS that would help us better address the issue of foreign agriculture land purchases? To whomever might want to answer that question?

Mr. DALY. Thank you, Congresswoman. Those are excellent points and should be taken to heart and seriously with everyone in governance and everyone in a leadership position to make sure we say and do the right thing. The issue is the state of China, period.

So in terms of your question and the reporting, having agriculture there at the table with CFIUS will definitely give it a focus. Obviously, they are going to build capacity. The Department of Agriculture, as members of CFIUS, they are going to build it internally to be able to be more responsive to how CFIUS thinks, and that is going to give them expertise to be able to know what they need to do in terms of finding the information to provide it to CFIUS to be able to address the investment issues that carry national security problems.

Ms. TOKUDA. Anyone else want to answer that?

Okay. All right, if not, the USDA I know has requested funding to develop a real-time data system that can be accessed by other U.S. Government agencies and the public. Are there any particular privacy concerns for such a system that we need to be thinking about preparing for as well?

Mr. TOM. Could you repeat the question?

Ms. TOKUDA. The USDA has requested funding to develop a real-time data system that can be accessed by other U.S. Government agencies and the public. Are there any privacy concerns for such a system? Do we need to build in any kind of safeguards? Are there issues?



Mr. TOM. Most of that is public anyway, so I don't see any problem there.

Ms. TOKUDA. Okay. All right. I know my time is drawing to a close, and I did want to get to some research questions. I may have further questions to enter into the record, Mr. Chairman. But according to estimates from USDA Economic Research Service, China's annual public investments in agriculture research surpassed U.S. investment in this area as of 2008, and China has continued to move past us in the years that have followed. What investments in research should we be making in the farm bill to remain competitive globally? Again, I am on the Armed Services Committee. If China truly is our pacing threat, not just on the defense scale, but also on a food production scale, then what more do we need to be doing since clearly they are investing and we are not to that level?

Mr. GACKLE. Thank you for the question, Congresswoman. From, again, the producer standpoint and speaking with American Soybean Association, we are strong advocates for any type of increased research money, whether it is at the Federal level or at the state level with our universities and extension offices. That research, there is a strong history of that research leading to improved products for me as a grower, increased confidence that I will be able to produce a crop under challenging circumstances, whether it is weather or other type of pests, any type of risk that we are seeing on the farm when it comes to actually growing a crop. So those dollars, again, whether Federal or at the state level, very important.

Ms. TOKUDA. Thank you. I know my time is up, Mr. Chairman, but clearly, if they are our pacing threat, then we need to invest as like to be able to keep up. Thank you.

Mr. LAMALFA. The Hawaiian from Hawaii yields back?

Ms. TOKUDA. Yes.

Mr. LAMALFA. Okay. The Kane from Kansas has got 5 minutes.

Mr. MANN. Thank you, Mr. Chairman, and I want to thank Chairman Thompson for having today's hearing. I appreciate Governor Noem and our Members of the Chinese Select Committee being here this morning and thank the three of you for all your time this afternoon as well.

I represent the big 1st District of Kansas, which is now in eastern, mostly in central-western Kansas. We are the number one producer of beef in the country, number one, wheat, number one, sorghum, a host of other ag products as well. And we see every side of the supply chain in the big 1st District of Kansas.

We also know in Kansas that food security is national security. And I tell people all the time, and to remind the Committee we are the free country we are for a host of reasons, one of which is the fact that we have never had to rely on another country for our food supply, which is why the work of this Committee is so incredibly important.

This hearing has highlighted the negative impact that foreign adversaries like China can have on that food and agriculture chain, and I share those concerns, including ownership of large tracts of farmland near our military installations. Any threat to our country has to be taken very seriously.

I am Chairman of the Subcommittee on Livestock, Dairy, and Poultry, and I would like to draw a special attention to China's questionable ambitions with our country's livestock assets. China has made it clear that it desires America's protein products and is making substantial investments in both securing our protein and in emulating America's livestock genetics overseas.

A question for you, Mr. Daly. Given China's track record of intellectual property theft, could China also be conducting espionage operations to acquire the very livestock genetics that American ranchers have spent decades developing, rather than researching it and developing it themselves? And if so, what should we think about in Congress to do about that?

Mr. DALY. That is an excellent question, Congressman, and thank you for it. I absolutely do think this is something that China would do. There is a reason why the Committee on Foreign Investment, one of the national security priorities was U.S. biological information, U.S. person biological information. And if that is something China is gathering for its intelligence, it certainly—because food security for China is imperative to their survival, it is certainly something they are going to do.

In terms of how we guard against it, I think just being vigilant on seeing where they are putting their resources and where they are trying to steal that information.

Mr. MANN. Yes, I agree. And I appreciate what you said, Ambassador Tom. Agriculture is very trusting. Our family farms, I can't imagine taking a piece of baling wire from my neighbor, much less stealing somebody's intellectual property, right? That is just how we operate. But we cannot forget that that is not what we see from other actors in the global markets that we participate in.

Trade is key, and we have to continue to foster non-Chinese markets to add resiliency, I believe, to the global export markets for our ag producers. MAP and FMD, Market Access Program and Foreign Market Development, critical components to that. I have been an advocate of seeing us work towards doubling dollars we are spending on MAP and FMD.

A question for you, Mr. Gackle. How can programs like MAP and FMD, in your view, help develop trade relationships with American allies and grow ag exports, particularly at a time when China remains such a large threat and when the Biden Administration has not been pursuing new free trade agreements?

Mr. GACKLE. Thank you, Congressman. Thank you for the question. I will start by saying that there is a strong track record and history of how those programs have worked in the past and the relationships that we have been able to build, 112 markets around the world is what I mentioned earlier in my both written and oral testimony. And the return on investment, I have said this before, too, but just to make the point again, these are not just MAP and FMD Federal Government dollars, taxpayer dollars. These are also farmer-invested dollars through our check-off programs, whether it is soybeans or other commodity groups. So farmers are demonstrating their willingness to participate in these programs by investing their own dollars, and we are seeing a tremendous return on those check-off dollars when it comes back to the farm and return on investment there.

So, again, we have a history of showing how those relationships are built, and that takes time to build those relationships and establish them, and we just want to continue to be a reliable partner with those markets that we are working in.

Mr. MANN. Yes, incredibly important as we think about how we counteract China.

And last, for you, Ambassador Tom, I know we don't have much time here, but, we have seen China's domestic ag production grow certainly 530 percent since the year 2000. How does China's increase in ag production impact our ag and food security in our country?

Mr. TOM. Well, obviously, it displaces our market, right? I mean, I think we have seen nearly a 500+ percent increase in productivity across China over the past decade. There is no doubt that comes from a lot of U.S. innovation that has been stolen from us, so we have lost that competitive edge. And I have no reason to believe that they won't continue to grow at a very rapid rate now since they have a lot of our technology already. Whether it is the digital side, or whether it is intellectual property on the genetic side or on the chemistry side, they are going to continue to grow that. So, again, Xi Jinping wants to be a food-secure nation to feed his 1.4 billion people, and we need to be prepared to do what we can to grow our trade around the world.

I want to say one final thing, the BRICs, when Xi Jinping and Vladimir Putin walked out of the Kremlin a year ago in January, they said, who would have thought we would have had control of the world so quickly going our direction? I think we need to take notice because the BRICs are trying to supplant the United States, and we are not aware of everything that is going on there.

Mr. MANN. I wholeheartedly agree. Thank you, Mr. Chairman. I yield back.

The CHAIRMAN [presiding.] The gentleman yields back. I now recognize the gentleman from California, Mr. Duarte, for 5 minutes.

Mr. DUARTE. Thank you, Mr. Chairman, and thank you to the panel.

So I want to echo so much of what we have heard today in our concerns with China and their competitiveness and their buying of our natural resources, but at this point, it might be echo, echo, echo, so I want to touch on a few other related matters that threaten American working families' food access and our national food security.

Currently, we are seeing produce crops. There were \$4 billion in imports from Mexico in 2000. Today, they are about 20 million tons of produce crops coming in from Mexico. We know that the avocado industry and other fresh produce industries are being capitalized by the drug cartels. We know the drug cartels are enjoying our open border policy, partnering with China for Fentanyl and other sources. We also know that Mexico is aligning itself politically, as is a great deal of Central and South America, with China.

Our produce industry is being recapitalized in Mexico, currently providing significant imports to American consumers. I am very concerned that those exports aren't always going to flow to American consumers, and once our produce industry is replaced, we will

have little to say about it. Am I valid in that concern? Ambassador, why don't you jump in?

Mr. TOM. Repeat the last part of the question again.

Mr. DUARTE. Is America subject to seeing its produce supply from Mexico diverted to China at any moment China decides they need that supply?

Mr. TOM. As I witnessed in my time at mission, we see these BRIC nations line up oftentimes together, and they will do anything to cut the U.S. out of a supply chain and move in another direction. Anything they can affect us economically, they will do it. But it could be a threat. It just depends on supply chains and getting our cold supply chains.

My biggest risk is what I see in your home State of California of how you are moving agriculture out, oftentimes, especially in the vegetable, the permanent crops. It is moving other places around the world. But my concern about products coming out of Mexico is are they produced with the chemicals or the products that are approved in the United States? I am not sure we track it all as well as we should.

Mr. DUARTE. Yes. And the other issue we have is here in the United States—I mean, we talk about intellectual property theft and how that hurts American companies in China, but we are losing intellectual property value here in America. We have addressed it in this Committee several times with the USDA. They are just not approving our advanced farm chemistries. We have companies spending enormous amounts of money developing new tools for us, and we can't get our own USDA to approve them. Meanwhile, the patents tick away, and these crop protection companies lose their incentives to invest in American farm tools in the future. Am I on track there?

Mr. TOM. If you look on the crop care side, it has been almost 40 years since we have had new mode of action come into the marketplace. That just shows how slow it is. It takes 18 years to bring a new chemistry to the market and hundreds of millions of dollars to get it there. I don't know if it is a funding issue or a personnel issue—

Mr. DUARTE. No, I think it just incompetence and disinterest in approving farm chemical tools.

Another question, I just came from a Natural Resources hearing I stepped out to about offshore oil drilling. We are not exploring oil in America. We are not building our electric grid. We are focusing trillions towards green energy boondoggles in my opinion. If you were advising an ag chem company to put in a major ag chemical or fertilizer plant or a pharmaceutical for that matter or any kind of chemical precursors, would you in good conscience advise them to build that plant in America today, given our energy policies?

Mr. TOM. Well, as a producer, I want them here, but when I know our energy policy that is under this current Administration, no.

Mr. DUARTE. And this is a 20 year plant, so a friendly Administration may or may not sway a 20 year investment, maybe a 50 year investment.

Mr. TOM. Yes, I can't tell you what their investment thesis is, but I know this. It is very capital-intensive to bring these plants back

to the United States. But again, whether it is here or to our allies, we need to work together to do this.

Mr. DUARTE. So as China is growing its carbon economy—we hear about the coal plants, we know about the oil, we know about the rest of the world drilling oil—and America is choosing not to have a carbon economy. Our working families are struggling. We have cereal companies advertising breakfast cereal for dinner now. Is our biggest problem China, or our own policies the biggest problem for American consumers today?

Mr. TOM. Sir, it is our own policies, and whether it is energy or whether it is food—and what we are doing in the regulatory environment, what we are trying to do, whether it is trying to solve climate, as some people say we are doing, or what we are trying to do in nutrition, this going to affect those that can least afford it the most. I know we have people that are coming out trying to sell climate programs to us, they say, “Well, they are going to absorb it.” It gets handed down to the consumer. Same goes with this energy policy. It is going to get handed down to the consumer.

Mr. DUARTE. So while China’s upper middle class is growing, their disposable income is growing, their purchase power parity is already bigger than the American working families, they are not eating our lunch because they are buying our land. They are eating our lunch because we are feeding it to them.

Thank you very much. I yield back.

The CHAIRMAN. The gentleman’s time has expired.

I now recognize Mr. Nunn for 5 minutes.

Mr. NUNN. Thank you very much, Mr. Chairman, and I appreciate this panel hanging with us throughout the day. This is a very important conversation for all of us.

Look, as a former counterintelligence officer, someone who has served on the SC as well, I want to say the threat is real, and it is often overlooked in the ag community. I appreciate the Chairman putting this together and having a discussion on the direct impact. I just got off the China Commission, where we talked about harvesting organs that China is trying to sell around the world. Harvesting our own agriculture and the threat that that poses is direct, it is real, and it is now.

Mr. Gackle, thank you, first and foremost, for what you do with the Soybean Association. You are part of a team of tireless workers who are in the field, producing and providing for not just America, but the entire country. Iowa, Illinois, others, we all are part of this team together, and so I am proud of what we have been able to export with the U.S. agriculture being soybeans number one in the field for our ag exports.

The challenge is 60 percent of that is going to China today. Talk to us a little bit about what we should be doing here in Congress to help diversify that and ensure that we are not dependent on a sole customer that could use this in a trade war against us.

Mr. GACKLE. Well, I talked about—thank you for the question, first of all, appreciate you highlighting that important part of it as well and what we are doing as U.S. farmers to supply the world.

But you are right. With that reliance, so much of that reliance on China, finding these new markets is critical. We have talked about MAP and FMD. Something I haven’t mentioned yet is the

new program from USDA under the Regional Agriculture Promotion Program, which is looking at markets in new and developing places, places that aren't traditionally reliant on MAP and FMD. So soy has applied for grants in that area as well. I think Congress continuing to value and realize the return on investment that we get from the MAP and FMD dollars.

Mr. NUNN. Right.

Mr. GACKLE. It sounds like a lot of money when we asked for doubling of Market Access Program and an increase to Foreign Market Development, but the need is there. The program has proven throughout the years that there is not enough funds there to meet the demand. We could always use more in building those new markets.

So when we look at possible challenges to the China market depending on policy decisions here in the U.S., it is just important to keep those resources there and to increase them and bring that return back to farmers.

Mr. NUNN. And it is not just our markets that we are able to sell to overseas. We have real competition on the horizon right now. I mean, when we look at Brazil, which has been enabled with Chinese investment, they are now the lead producer of soybeans. This is a threat that we are going to be competing with others who are subsidizing their market to go after these same markets. Is that correct?

Mr. GACKLE. That is correct, and some may have been to Brazil. If you have ever had a chance to visit there, you can just see the tremendous opportunity that they have to continue to increase their production both through just putting more acres or hectares into production and adding new land to that, but also they are increasing their yield. They are spending money on research as well, which is something we spoke about earlier. So they are getting better at what they are doing. There are improvements to their infrastructure, whether it is highways or ports or rails. So they are making all the improvements that are going to put them in a better position around the world, so competing with that is crucial.

Mr. NUNN. I would like to turn to you on the national security side. Look, we have looked at a number of things in this Committee today about what we are doing in the State of Iowa, one, to stop China from buying farmland in the United States, which was highlighted with my friend Mr. Feenstra here. We are literally seeing people take the genetic material and replicate it in China by taking it from a farm field. This is happening in small businesses across the country.

The Chinese Government, as we learned today, has worked diligently to start mapping the DNA of humans within their country. It is fair to say they are coming after agriculture, whether it is grown in a field or grown in a barn. Would you agree?

Mr. DALY. I absolutely agree. China is—in the world of biologics, that is where they know the next round of technology goes, and especially big data and having artificial intelligence to pull it together and then innovate or try to innovate or steal innovation from us and leapfrog us, whether that is human biology or in the agricultural space.

Mr. NUNN. I am proud that we have been able to work together on the Protect Small Business and Prevent Illicit Financing Act (H.R. 5119), which I led, to be able to pass, as well as what we are doing in the Cybersecurity in Agriculture Act of 2023 (H.R. 4387). I want to highlight, with your work in CFIUS, is their advantage from being able to really look at creating regional agricultural cybersecurity realms in our land-grant and region schools like Iowa State on areas that can be really helpful? Because we now know that the top three sectors under attack—financial services, energy, and ag—the threat is real.

Mr. DALY. Absolutely. I think the expansion of our cybersecurity capabilities and knowledge is like imperative, just—I mean, China has built up in its military and divisions a cybersecurity warfare division that is constantly going at U.S. businesses. And given the prioritization of the three industries you have mentioned, I mean, ag is where they are going. And they are going to do it, and they are going to put all the resources into it, and so we have to counter it. And that partnership that you have talked about, sort of building out that expertise is imperative.

Mr. NUNN. I really appreciate that. I yield back the remainder my time. Thank you, gentlemen.

The CHAIRMAN. The gentleman's time has expired.

I now recognize the gentleman from Wisconsin, Mr. Van Orden.

Mr. VAN ORDEN. Thank you, Mr. Chairman.

This is incredibly painful for me to compliment my friend from California due to his unreasonable advocacy for almond milk, but I feel that I must at this point. I want to reiterate his question and Mr. Tom's answer. Due to the Biden Administration's war on energy, it would not be prudent for companies to start working on plants to provide nutrients and pest control agents in the United States right now. I don't think people quite understand what that means. Mr. Tom, thank you for pointing that out. We have to stay ahead of China, and the Biden Administration can't get out of their own way, so that is incredibly important. I just want to make sure we didn't skip over that.

So I also want to compliment the Biden Administration for doing something that is absolutely amazing. They have pulled off a foreign policy miracle in that they have driven China and Russia closer together since the death of Stalin. It sounds like a joke, but I am not being trite. That is exactly what the Biden Administration has done by their horrible foreign policy decision-making stuff.

So I just want to ask you a couple of things about beans if that is okay because they are very important. So we produce a lot in the 3rd Congressional District of the State of Wisconsin, and also corn. And I read all you guys' testimony in detail. Thank you so much for it. And I just have a question because, in fact, Brazil is eating our lunch because we are feeding it to them, another good line from Duarte. Today is a good day for you, Duarte. So we had this huge problem when the previous Administration did trade sanctions. It was like 27 percent or whatever the heck it was, but we have recovered since that, right? So now you are selling roughly the same amount of beans to China that you did before even though Brazil has increased their capacity.

There are a couple of questions. If we had stuck with it, would that still be the case, meaning would China finally have come around and started to work with the United States because we stood firm for longer than one Administration in your opinion, sir?

Mr. GACKLE. Yes, thank you for the question. And, yes, not being a foreign policy expert, I might not have all the right answers here, but I think—so part of the recovery with that market was the Phase One agreement that the U.S. and China entered into to get back some of that market.

Mr. VAN ORDEN. Right.

Mr. GACKLE. What we are seeing, though, is there is really no enforcement mechanism to that, unfortunately. So I would say we haven't seen a full recovery in the China market since 2018.

Mr. VAN ORDEN. Yes.

Mr. GACKLE. Appreciate that a lot of it has come back under that agreement, but some of this what I call long-term damage to the U.S. reliability, I mean, we have historically been viewed as reliable suppliers around the world, and part of the negative part of the 2018 tariff deal that we might not get back is that full confidence that foreign markets across the world had in the U.S. as a reliable provider.

Mr. VAN ORDEN. And you know what, you can see that as a negative or a net positive. I see it as net positive because the United States needs to be viewed as someone that is going to stand with democracy and freedom. And Xi Jinping, they have had multiple famines, as you pointed out, in the last century and, quite frankly, they don't care. The Soviet Union, they murdered essentially millions of people by starving them to death when they did collectivization, so I get it, and the Great Leap Forward during the Cultural Revolution is what you are referring to.

So let me ask you this question. Do we, as American farmers, have more resiliency built into our systems because we are getting back to where we were? Do we have more resiliency built into our systems than Brazil has the potential to expand their capacity? And can we wait China out? China has to feed their people every day. So do we have the resiliency built into our systems that if we actually stuck to our guns like President Trump did and not fold the cards like President Biden did, if we stood strong, are we going to be able to maintain our industry?

Mr. GACKLE. That is tough to predict, sir. I will start by saying that farmers across the country absolutely understand the critical issues that you are talking about here when it comes to China and China competitiveness and threats posed to American agriculture.

Mr. VAN ORDEN. Yes.

Mr. GACKLE. So that is appreciated by growers. I believe that is the case, speaking for myself, at least, and I am sure others. To say that we have the entire resiliency, that—I mean, one thing I will mention we haven't really talked about, the outlook for farm income over the next 2 to 5 years is not great.

Mr. VAN ORDEN. It isn't.

Mr. GACKLE. Prices are dropping. The cost of inputs may not be increasing as fast as ever, but our cost of production is generally going up, and our profitability is coming down.



Mr. VAN ORDEN. Mr. Gackle, I am sorry, I only have 20 seconds left.

Mr. GACKLE. Yes, sorry.

Mr. VAN ORDEN. I appreciate it. And we are not going to get inputs down until fuel cost goes down because everything is predicated on diesel fuel. You know that. It has got to get in the ground, it has got to get out.

One question for you, Mr. Tom. If you could go back in time, do you think the United States of America should be feeding Nazi Germany in 1938 before their invasion of Poland in 1939? Should we be providing them with food and aid?

Mr. TOM. Well, bring it up to—you want to talk about China today on that or—

Mr. VAN ORDEN. Well—

Mr. TOM. You want to talk about Nazi Germany—

Mr. VAN ORDEN. I want to highlight the fact that, right now, we are essentially feeding Nazi Germany in 1938. And do you think that is an appropriate use of American resources? Would it have been then, and is it now with China? Because that is where we are at with China. We are in 1938.

Mr. TOM. I want to sell as much as—

Mr. VAN ORDEN. They haven't invaded Poland yet, but it is on the horizon.

Mr. TOM. I want to sell as much as we can. We know the demand for protein around the world is continuing to grow at a rapid rate, whether it is India, China, or throughout the developing world in Africa and the Middle East. The reality is, we are the best suited to meet that demand, but again, it is trade for the United States. It is something we can sell, and we need to bring it back home. But again, we are not going to maintain that competitive edge unless we start protecting our own intellectual property.

Mr. VAN ORDEN. Mr. Tom, I understand. My time has expired. I just want to tell you that if I had the choice to sell food and give aid to Hitler 1938, I would not have done so.

With that, I yield back.

The CHAIRMAN. The gentleman's time has expired.

I am going to take the liberty here as we close out to recognize myself for 5 minutes. Votes have been called probably about 8, 9 minutes ago, so we have a fair amount of time left on the clock and even after that clock winds up.

So one quick question. Mr. Daly, your testimony highlights the recent GAO report and the issues USDA faces with AFIDA. You also mentioned that foreign agriculture land holdings within the United States have increased 30 percent since 2019. Outside of the recommendations within the report, can you expand on other changes Congress should look to, to address the gaps?

Mr. DALY. Thank you, Mr. Chairman. That is a very good question. I think, in terms of the reporting that is being done, I think what is interesting to me and what I have seen in government and in the private-sector in terms of the way China is doing some of its investments, it is doing it in very complex ways, either through private equity entities where there are limited partners *versus* being general partners. So I think capturing that complexity of that reporting in terms of ownership would be very useful and also in

terms of land use. But I think the recommendations of the GAO are useful as a starting place, but looking at how the Chinese are structuring that investment and where they are doing it in directions that can't be caught is important, and where they are declaring their ownership in the other land categories should be examined.

The CHAIRMAN. Well, before I yield back my time, I would like to address the gentleman from Massachusetts' comments. We are all aware of California's oppressive Proposition 12 mandate, as well as similar mandates from states like Massachusetts. And I am sure you all have also heard me say that I want a fix for these mandates. While my colleague may think this is a done deal, the Supreme Court made it abundantly clear that Congress can and—quite frankly, my reading of the opinions—should address this. We do have a farm bill that is coming up here hopefully in the very near future. And because of the communications that the Supreme Court did in their opinions, they made it abundantly clear that Congress has the ability to address the interstate commerce chaos that we have seen arise since their ruling.

Now, I am a strong supporter of states' rights, and I acknowledge that sometimes state laws can have limited extraterritorial effects, but any state or local laws that control production outside of their jurisdictions are inherently harmful to interstate commerce. The EATS Act and similar proposed fixes would not restrict states from creating laws for their residents. It would just ensure that American farmers outside of those jurisdictions would continue to be allowed to produce according to the standards of the state that they produce in. Any other characterization of what these proposals would do is false and misleading and is, quite frankly, a stain on this Committee's work.

And to specifically address the comments related to China, no one has made any sort of coherent argument explaining how one state dictating to another how to farm helps out China. China didn't ask for the help. Farmers have asked for the help. And while my colleague from Massachusetts was ranting about China's influence on my decision-making, my staff at that point were meeting with over 30 American pork producers who all ask for a Prop 12 fix in order to continue running their family-owned operations.

I am trying to have serious policy conversations while some of my colleagues are standing behind a convenient strawman instead of coming to the table and finding solutions. I have committed to finding effects and benefits for American producers and no one else, and I tend to find one.

That concludes my questions and closing statements. Just thank you so much to our witnesses, just a wealth of information that you have shared with us. I think it is insightful. It is helpful, very specific thoughts and recommendations that we need to be pursuing.

As always, thank you to our staff that really—our personal office staffs, our Committee staffs that do such great work to help make sure that we do these types of hearings successfully.

Food security is national security, and food production acreage and food processing that is influenced through the purchase or theft of intellectual property, influenced by the Chinese Communist Government, is a significant risk. There must be legal con-

sequences that serve as a deterrent and a preventative measure. And we have heard many really solid recommendations today that we need to continue to build on.

Safeguards are warranted. Even outside of this Committee, I am very proud to—within the Education and the Workforce space, we have proposed a bill, introduced a bill that would create a pilot for incorporating cybersecurity into career and technical education. We need people with those skills to be on the frontline. We talked about the massive data of agriculture, and those systems need people that are working in the development and maintenance of those who have great cybersecurity skills. So there is a broad breadth of solutions here. And certainly having people with the right skills to do our best to be able to prevent the stealing of intellectual property, that is just one small example.

So we need to encourage USDA to aggressively work on—I believe as well in this space we need to encourage USDA to aggressively work on new trade agreements in new markets for our agriculture commodities to manage future risk. We must strengthen our investment in both agricultural research and, quite frankly, their trade programs, Foreign Market Development and our Market Access Program.

We need to encourage, I believe, trade language for USTR to be able to be equipped with that would do our best to prevent retaliatory—in the in-trade agreements retaliatory tariffs on American agriculture commodities because anytime there is a trade war, the low-hanging fruit so to speak is American agriculture. I remember first coming here under the Obama Administration. There was a problem with—I believe it was Chinese manufactured tires that were creating some type of accident risk. I don't remember what it was specifically. So we imposed a tariff on these tires, or the Obama Administration did, and in response, China put a tariff on our chickens, ducks, and turkeys.

I think it is immoral that any country, including the United States, would do retaliatory tariffs on such an essential thing as food. And we ought to look at language that somehow we can at least promote within the trade discussions when—and I will say when—the tariff disputes are completely only related to agriculture.

So once again to our witnesses here today, thank you so much for your service, for your expertise, and for joining us here.

And under the Rules of the Committee, the record of today's hearing will remain open for 10 calendar days to receive additional material and supplementary written responses from the witnesses to any questions posed by a Member.

This hearing of the Committee on Agriculture is adjourned.

[Whereupon, at 4:18 p.m., the Committee was adjourned.]

[Material submitted for inclusion in the record follows:]



SUBMITTED REPORT BY HON. GLENN THOMPSON, A REPRESENTATIVE IN CONGRESS  
FROM PENNSYLVANIA

***Foreign Investments in U.S. Agricultural Land: Enhancing Efforts to Collect, Track, and Share Key Information Could Better Identify National Security Risks***

January 2024

GAO-24-106337

**GAO Highlights**

Highlights of *GAO-24-106337*,<sup>[1]</sup> a report to Congressional requesters

**Why GAO Did This Study**

USDA estimated that foreign investment in U.S. agricultural land grew to approximately 40 million acres in 2021. These investments may have consequences for U.S. national security. For example, there may be foreign ownership of U.S. agricultural land close to sensitive military installations.

CFIUS is an interagency committee that reviews certain foreign transactions to determine potential effects on U.S. national security. These include foreign investments in U.S. agricultural land. In addition, USDA's AFIDA statute, enacted in 1978, requires foreign persons acquiring or transferring agricultural land to file a disclosure form with USDA.

GAO was asked to review foreign investments in U.S. agricultural land. This report examines the extent to which (1) USDA shares information related to foreign investments in U.S. agricultural land with CFIUS for its national security reviews, and (2) USDA's processes enable it to collect, track, and report reliable data on foreign investments in U.S. agricultural land. GAO reviewed laws, regulations, and agency guidance; analyzed USDA data; and interviewed agency officials.

**What GAO Recommends**

GAO is making six recommendations, including that USDA share detailed and timely AFIDA data with CFIUS agencies, improve the reliability of AFIDA data, and assess its ability to adopt an online submission system and public database. USDA generally agreed with our recommendations.

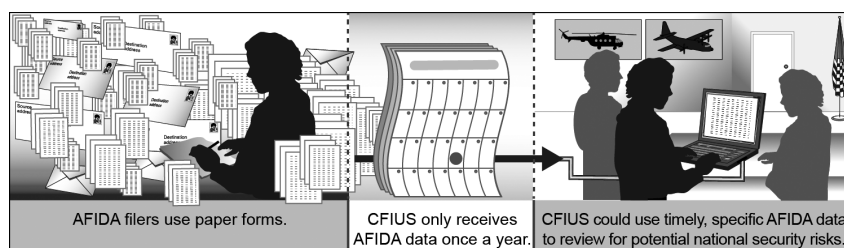
View *GAO-24-106337*.<sup>[1]</sup> For more information, contact Kimberly Gianopoulos at (202) 512-8612 or [GianopoulosK@gao.gov](mailto:GianopoulosK@gao.gov) or Steve D. Morris at (202) 512-3841 or [MorrisS@gao.gov](mailto:MorrisS@gao.gov).

**What GAO Found**

The United States Department of Agriculture (USDA) does not share timely data on foreign investments in agricultural land collected under the Agricultural Foreign Investment Disclosure Act of 1978, as amended (AFIDA). Committee on Foreign Investment in the United States (CFIUS) agencies, including the Department of Defense (DOD) and the Department of the Treasury, identify and review transactions that may pose national security risks, such as the proximity of agricultural land to a sensitive military base. USDA annually publishes selected AFIDA information online that CFIUS agencies may use when considering potential national security risks associated with agricultural land. In addition, USDA officials said they respond promptly when they receive requests for information. However, DOD officials noted they need AFIDA information that is more up-to-date and more specific, and they need to receive this information more than once a year. USDA has requested funding to develop a real-time data system that can be accessed by other U.S. Government agencies and the public. Meanwhile, sharing current data could help increase visibility into potential national security risks related to foreign investments in U.S. agricultural land.

<sup>[1]</sup> <https://www.gao.gov/products/GAO-24-106337>.

### AFIDA Data Are Not Regularly Part of CFIUS Reviews



Legend: Agricultural Foreign Investment Disclosure Act of 1978, as amended = AFIDA, the Committee on Foreign Investment in the United States = CFIUS.

Source: U.S. Department of Agriculture regulations and documents and Department of Defense officials; GAO (images). (GAO-24-106337).

USDA implements AFIDA across field offices and headquarters, but its processes to collect, track, and report key information are flawed. USDA collects the required data on paper forms with county or Federal offices and reviews them for accuracy, according to USDA officials. However, its processes to do so are unclear and challenging to implement. For example, USDA's AFIDA handbook provides limited instructions on how to collect reliable AFIDA information. In addition, although Congress required USDA to create an online submission process and public database for AFIDA data by the end of 2025, USDA does not have plans and timelines to do so, in part because USDA has not received funding. USDA also does not sufficiently verify and conduct quality reviews to track the accuracy and completeness of its collected AFIDA data. GAO's review of AFIDA data current through calendar year 2021 found errors, such as the largest land holding associated with the People's Republic of China being counted twice. USDA has begun efforts to identify AFIDA non-compliance through data mining, according to officials, and has opportunities to expand this practice. But without improving its internal processes, USDA cannot report reliable information to Congress or the public about where and how much U.S. agricultural land is held by foreign persons.

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#### Abbreviations

AFIDA	Agricultural Foreign Investment Disclosure Act of 1978, as amended
CFIUS	Committee on Foreign Investment in the United States
DOD	Department of Defense
FINSA	Foreign Investment and National Security Act of 2007
FIRRMA	Foreign Investment Risk Review Modernization Act of 2018
FPAC-BC	Farm Production and Conservation Business Center
FSA	Farm Service Agency
Treasury	Department of the Treasury
USDA	U.S. Department of Agriculture

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#### [Letter]

January 18, 2024

Congressional Requesters

Foreign ownership and investment in U.S. agricultural land—which includes farmland, pastures, and forest land—grew to approximately 40 million acres in 2021, a 40 percent increase since 2016, according to the U.S. Department of Agriculture (USDA).<sup>1</sup> Members of Congress have expressed concern that some foreign investment in U.S. agricultural land, such as land purchased near U.S. military bases or land purchases that could lead to foreign control of U.S. food supply chains, may have national security implications. Specifically, in 2022, Members expressed concern about a U.S. subsidiary of a business from the People's Republic of China purchasing cropland near Grand Forks Air Force Base in North Dakota, given the use of sensitive drone technology at the base.<sup>2</sup>

The Committee on Foreign Investment in the United States (CFIUS) is an inter-agency committee that reviews certain foreign business transactions in the United States, including specific foreign acquisitions of U.S. agricultural land, to determine how transactions may affect national security. CFIUS is chaired by the Department of the Treasury and includes eight other departments and offices as voting members and two agencies as nonvoting, *ex officio* members. USDA is not a member, but participates fully as a voting member agency when Treasury determines that a transaction involves agricultural issues, according to officials.<sup>3</sup>

The information collected through the Agricultural Foreign Investment Disclosure Act of 1978, as amended (AFIDA) is the nation's most comprehensive source on foreign investments in U.S. agricultural land, according to USDA officials. AFIDA requires foreign persons acquiring or transferring agricultural land to report information about the transaction to USDA.<sup>4</sup> USDA publishes an annual report of AFIDA data, including the number of acres owned, by state and county, and the country of the foreign investor. Government agencies, media, and academic researchers,

<sup>1</sup>USDA implementing regulations of the Agricultural Foreign Investment Disclosure Act of 1978, as amended (AFIDA) define agricultural land as land in the United States used for forestry production or land used for farming, ranching, or timber production within the past 5 years that is (1) more than 10 acres in size in the aggregate, or (2) 10 acres or less in the aggregate producing gross annual receipts of more than \$1,000 from the sale of farm, ranch, or timber products in total. 7 CFR § 781.2(b).

<sup>2</sup>In September 2022, 51 Members of Congress sent a letter to the Secretaries of the Departments of Defense, the Treasury, and Agriculture expressing concerns about this purchase.

<sup>3</sup>See 50 U.S.C. § 4565(k)(2). Additional voting members include the Departments of Commerce, Defense, Energy, Homeland Security, Justice, and State; the Office of the U.S. Trade Representative; and the Office of Science and Technology Policy. Various other offices also observe and, as appropriate, participate in CFIUS activities.

<sup>4</sup>Pub. L. No. 95–460, § 2(a), 92 Stat.1263, 1263 (codified at 7 U.S.C. § 3501(a)).

among others, use published AFIDA data to track foreign agricultural investment in the United States. In addition, some state laws incorporate AFIDA data into measures to monitor and enforce restrictions on foreign investment in U.S. agricultural land.<sup>5</sup> However, during a March 2023 Congressional hearing, the Secretary of Agriculture explained that USDA is reliant on foreign persons to self-report AFIDA information. The Secretary noted self-reporting is challenging to enforce because deeds are filed in over 3,000 county recorder offices. In September 2023, another USDA official noted that USDA cannot locate AFIDA filings beyond the county level, such as specific localities, and there is currently no system which tracks deeds or leases of agricultural land.

You asked us to review foreign investment in U.S. agricultural land. This report examines the extent to which (1) USDA shares information related to foreign investments in U.S. agricultural land with CFIUS for its national security reviews, and (2) USDA's processes enable it to collect, track and report reliable data on foreign investment in U.S. agricultural land. This report adds to a series of reports that we have published related to CFIUS processes for reviewing foreign investments.<sup>6</sup>

To address these objectives, we reviewed relevant laws, executive orders, and regulations. To examine the extent to which USDA shares information related to foreign investments in U.S. agricultural land with CFIUS for its national security reviews, we reviewed documents from the Department of the Treasury (Treasury), USDA, and DOD to understand (1) CFIUS's process and (2) Treasury's, DOD's, and USDA's individual processes for reviewing potential national security risks related to foreign investments and identifying transactions for potential CFIUS review. We also evaluated information on Treasury's, DOD's, and USDA's efforts to share information in addition to potential challenges these agencies have faced in doing so.

To examine USDA's processes to collect, track and report foreign investments in U.S. agricultural land, we reviewed the Farm Service Agency's (FSA) AFIDA handbook to learn about AFIDA responsibilities and guidance for county, state, and headquarters offices.<sup>7</sup> FSA works in collaboration with the Farm Production and Conservation Business Center (FPAC-BC), which was created in 2018, to implement AFIDA. In addition, we conducted interviews with a non-generalizable sample of three state offices and three county offices to better understand how FSA state and county offices were fulfilling their AFIDA responsibilities. Further, we conducted interviews with USDA officials responsible for managing AFIDA to get their perspectives on implementing AFIDA and the associated challenges. Moreover, we assessed the reliability of AFIDA data by reviewing reported active holdings by foreign persons since AFIDA started being implemented to the end of 2021—the latest year of data available from the AFIDA spreadsheet at the time of our review. We also evaluated AFIDA data against reported summary data in USDA's 2021 AFIDA Annual Report and the presentation of these data in the report. Appendix I provides more information on our scope and methodology.

We conducted this performance audit from October 2022 to January 2024 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

<sup>5</sup>For example, both Pennsylvania and South Dakota have laws that restrict foreign investment in their states' agricultural land. These laws require their state agricultural departments to review AFIDA filings and to refer filings suspected of noncompliance to their state attorney general for investigation. *E.g.*, 68 Pa. Stat. Ann. § 45, S.D. Codified Laws § 43-2A-7.

<sup>6</sup>Among others, we published four related reviews of, respectively, (1) CFIUS processes related to selected real estate transactions; (2) DOD's ability, as a member of CFIUS, to address defense issues; (3) CFIUS processes for reviewing covered transactions and workload challenges; and (4) DOD's ability to identify whether foreign encroachment threatens certain defense facilities. See *Committee on Foreign Investment in the United States: Selected Transactions Involving Real Estate May Share Certain National Security Risks, but Dispositions Can Vary Due to Case-Specific Factors*, GAO-19-417C (<https://www.gao.gov/products/GAO-19-417C>) (Washington, D.C.: June 14, 2019); *Committee on Foreign Investment in the United States: Action Needed to Address Evolving National Security Concerns Facing the Department of Defense*, GAO-18-494 (<https://www.gao.gov/products/GAO-18-494>) (Washington, D.C.: July 10, 2018); *Committee on Foreign Investment in the United States: Treasury Should Coordinate Assessments of Resources Needed to Address Increased Workload*, GAO-18-249 (<https://www.gao.gov/products/GAO-18-249>) (Washington, D.C.: Feb. 14, 2018); *Defense Infrastructure: Risk Assessment Needed to Identify If Foreign Encroachment Threatens Test and Training Ranges*, GAO-15-149 (<https://www.gao.gov/products/GAO-15-149>) (Washington, D.C.: Dec. 16, 2014).

<sup>7</sup>USDA, *FSA Handbook: Foreign Investment Disclosure*, 1-AFIDA (Washington, D.C., revised Jan. 27, 2006).

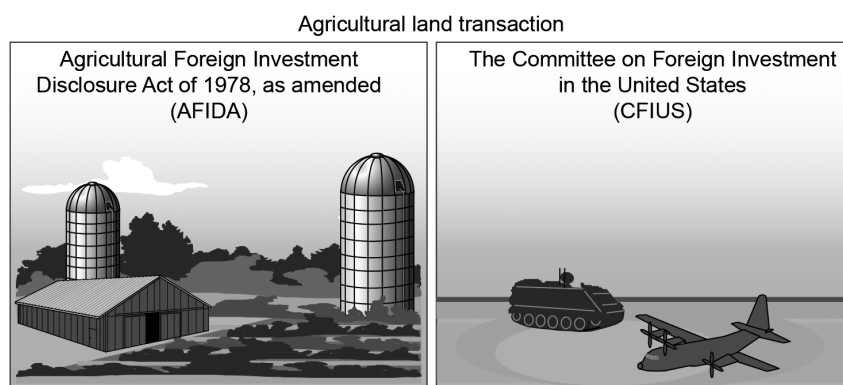


## Background

### *U.S. Government Oversight of Foreign Investment in U.S. Agricultural Land*

Foreign persons may be subject to U.S. Government oversight from USDA and CFIUS when they acquire an interest in U.S. agricultural land.<sup>8</sup> See *figure 1* for an overview of U.S. Government oversight of foreign investment in U.S. agricultural land.

**Figure 1: Examples of U.S. Government Oversight of Foreign Investment in U.S. Agricultural Land**



AFIDA requires foreign persons<sup>a</sup> to self-report their interest to the U.S. Department of Agriculture.

Sources: GAO analysis of 7 CFR Part 781 and 31 CFR Part 802; GAO (images). (GAO–24–106337.

<sup>a</sup>According to AFIDA regulations, a foreign person can be a foreign individual, legal entity, or government. 7 CFR § 781.2(g). A foreign interest of 10 percent or more in U.S. agricultural land requires an AFIDA disclosure. 7 CFR § 781.2(g)(4), (k).

CFIUS can review transactions for potential national security risks if land is in proximity to a sensitive location.

## CFIUS

### CFIUS Legal Authorities

CFIUS is an interagency committee authorized by law to review and address national security risks arising from certain transactions involving foreign investment in the United States.<sup>9</sup> CFIUS reviews foreign investment transactions in the United States across industries and sectors, including certain agricultural land transactions, to determine whether they present a risk to national security. Transactions within CFIUS's authority to review are generally referred to as “covered” transactions. The Foreign Investment and National Security Act of 2007 (FINSA) defined these transactions to include certain mergers, acquisitions, or takeovers by or with any foreign person that could result in foreign control of any person engaged in interstate commerce in the United States. FINSA, as amended and codified, provides several factors to consider when determining whether a covered transaction posed a national security risk, including whether the transaction could result in the control of a U.S. business by a foreign government.<sup>10</sup> FINSA also enabled the President or CFIUS to consider other factors as appropriate. These factors could encompass elements of the agriculture industrial base that have implications for food security (for a full list of potential factors, see *app. II*).<sup>11</sup>

<sup>8</sup>According to AFIDA regulations, a foreign person can be a foreign individual, legal entity, or government. 7 CFR § 781.2(g). In addition, a domestic legal entity in which at least ten percent is held directly or indirectly by a foreign individual, legal entity, or government, is also considered a foreign person. 7 CFR § 781.2(k).

<sup>9</sup>See 50 U.S.C. § 4565.

<sup>10</sup>See Pub. L. No.110–49, §§ 2, 4 (as amended and codified, in part, at 50 U.S.C. §§ 4565(a)(7), (b)(1)(B)).

<sup>11</sup>See Pub. L. No.110–49, § 4. See also 50 U.S.C. § 4565(f)(11). On September 15, 2022, the President issued an executive order that highlights certain national security factors that CFIUS

Continued

CFIUS legal authorities have evolved over time.<sup>12</sup> The most recent significant statutory update to CFIUS authority occurred in 2018 with the enactment of the Foreign Investment Risk Review Modernization Act of 2018 (FIRRMA).<sup>13</sup> FIRRMA expanded CFIUS's authority to review potential national security risks related to U.S. businesses and real estate transactions.<sup>14</sup> CFIUS may review voluntary filings by businesses, including those in the agricultural industry, and purchases, leases, or concessions of real estate (including agricultural land) in close proximity to military or other sensitive U.S. Government facilities.<sup>15</sup>

Informed by the committee's review, the President of the United States has the authority to suspend or prohibit a transaction that threatens to impair the national security of the United States.<sup>16</sup> According to the 2022 CFIUS annual report, five presidential decisions have been issued since 2013, most recently in 2020.<sup>17</sup>

#### CFIUS Member and Non-member Roles and Responsibilities

CFIUS's responsibilities include: (1) reviewing transactions, most of which are voluntarily submitted by businesses, and taking action as necessary to address any national security risks; (2) monitoring and enforcing compliance with mitigation measures; and (3) identifying transactions of concern that have not been submitted to CFIUS for review, according to officials. The Secretary of the Treasury has certain operational responsibilities as the chair of CFIUS. According to Treasury officials, these responsibilities include coordinating committee operations, helping collect information from parties involved in a transaction (such as a foreign acquirer and U.S. business involved in a transaction), and distributing filed information to all member agencies. Treasury also communicates on the committee's behalf with the parties, Members of Congress, and the general public. According to DOD officials that we interviewed, when transactions of concern involve agricultural land, Treasury, DOD, and USDA are the agencies most actively involved in identifying and reviewing the transactions for CFIUS.

#### CFIUS Submission Requirements

CFIUS is the main authority that reviews national security risks relating to certain foreign investments, including those in agricultural land, according to Treasury and DOD officials.<sup>18</sup> CFIUS reviews formal written notices ("notices") that have

is required to consider in reviewing investment transactions, including elements of the agriculture industrial base that have implications for food security, but does not otherwise change CFIUS's authorities or jurisdiction. See Exec. Order No. 14,083, 87 *Fed. Reg.* 57369 (Sept. 15, 2022).

<sup>12</sup> CFIUS was established by Executive Order in 1975 to monitor the effect of and to coordinate U.S. policy on foreign investment in the United States. Exec. Order No. 11,858, 40 *Fed. Reg.* 20263 (May 7, 1975). In 1988, Congress enacted the Exon-Florio amendment adding section 721 to the Defense Production Act of 1950, which authorized the President or the President's designee to investigate the effect of certain foreign acquisitions of U.S. companies on national security and to suspend or prohibit acquisitions that might threaten to impair national security. Omnibus Trade and Competitiveness Act of 1988, Pub. L. No. 100-418, § 5021, 102 Stat. 1425 (Aug. 23, 1988). The President delegated this investigative authority to CFIUS. Exec. Order No. 12,661, 54 *Fed. Reg.* 779 (Dec. 27, 1988). The Foreign Investment and National Security Act of 2007 further amended section 721 and formally established CFIUS in statute. Pub. L. No. 110-49, § 3, 121 Stat. 246, 252 (July 26, 2007) (codified as amended at 50 U.S.C. § 4565).

<sup>13</sup> John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, §§ 1701-1728, 132 Stat. 1636, 2173-2208 (Aug. 13, 2018) (codified as amended at 50 U.S.C. § 4565).

<sup>14</sup> "Covered transactions" are further defined through regulations found at 31 CFR part 800 for investments (including "covered control transactions"), and "covered real estate transactions" are determined through regulations found at 31 CFR part 802. See 31 CFR § 800.101 (describing the scope of parts 800 and 802). 31 CFR part 802 may cover agricultural land if a transaction meets the "covered real estate transaction" criteria. See 31 CFR § 802.212. The law also provides an exception for certain real estate transactions involving real estate in "urbanized areas" or if it constitutes a single "housing unit," as defined by the Census Bureau in each case. See 50 U.S.C. § 565(a)(4)(C)(i).

<sup>15</sup> "Close proximity" is defined as the area that extends outward 1 mile from the boundary of a relevant U.S. Government site. 31 CFR § 802.203. Regulation defines "extended range" as the area that extends 99 miles outward from the outer boundary of close proximity of certain military installations. 31 CFR § 802.217. See 31 CFR pt. 802, app. A (listing relevant military installations and other U.S. Government sites).

<sup>16</sup> See 50 U.S.C. § 4565(d)(1).

<sup>17</sup> U.S. Department of the Treasury, Committee on Foreign Investment in the United States, *Annual Report to Congress: Report Period CY 2022* (2022). Accessible at <https://home.treasury.gov/policy-issues/international/the-committee-on-foreign-investment-in-the-united-states-cfius/cfius-reports-and-tables> (accessed on July 30, 2023). Data do not specify whether these decisions related to agricultural land.

<sup>18</sup> In addition to CFIUS, DOD's Military Aviation and Installation Assurance Siting Clearinghouse aims to protect DOD's mission capabilities from incompatible energy development by col-

been submitted (or “notified”) to the committee by parties to transactions. Notices to CFIUS should contain information about the nature of the transaction and the parties involved. They include voluntary filings by U.S. businesses, including those in the agricultural industry, and voluntary filings by foreign investors of real estate (including agricultural land) in proximity to military or other sensitive locations.<sup>19</sup>

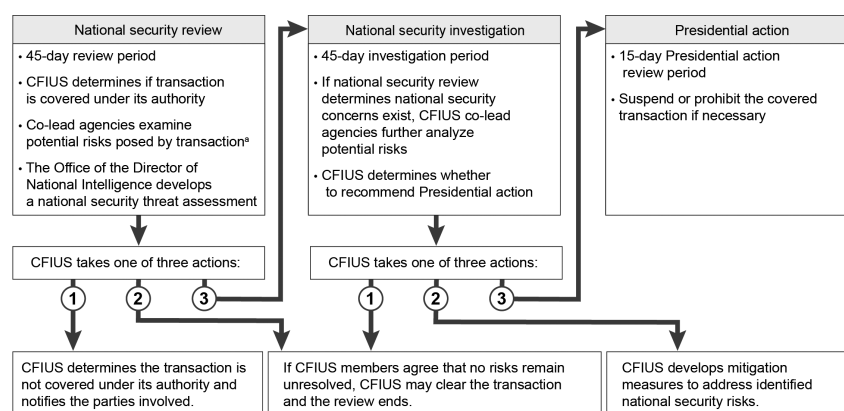
Mandatory filing requirements do not necessarily extend to CFIUS transactions involving agricultural land.<sup>20</sup> Only certain transactions related to U.S. businesses involved with critical technology, critical infrastructure, and sensitive personal data require a mandatory CFIUS filing.<sup>21</sup>

According to CFIUS’s 2022 report, apart from certain transactions that are subject to the mandatory filing requirement authorized under FIRRMA, parties voluntarily submit declarations or notices of transactions to CFIUS. However, in general, any CFIUS member agency can initiate a review of any covered transaction for which no notice was filed if it determines that the transaction is within the Committee’s jurisdiction and that it may raise national security risks. CFIUS refers to these as “non-notified transactions.” By contrast, notified transactions include those voluntarily filed in accordance with CFIUS’s formal notice procedures, as well as transactions submitted for review in abbreviated notifications (“declarations”).<sup>22</sup> All CFIUS reviews are confidential and protected by statute from public disclosure.<sup>23</sup>

#### *CFIUS Process for Reviewing Transactions*

CFIUS reviews each transaction individually, focusing on the aspects of the transaction that could pose a potential national security risk. See *figure 2* for an overview of the steps that comprise the CFIUS process for reviewing notified transactions.

**Figure 2: Overview of Process for Reviewing Transactions Notified to the Committee on Foreign Investment in the United States (CFIUS)**



Source: GAO analysis of Treasury documents and 50 U.S.C. § 4565; GAO (images). (GAO–24–106337.

Note: This process is described in greater detail in 50 U.S.C. §§ 4565(b), (d).

<sup>a</sup> For each transaction reviewed, the committee identifies agencies with relevant expertise to act as co-lead with Treasury to guide the transaction through the CFIUS process. According to Treasury officials, co-lead agencies may include agencies that are not members of the committee, but which can act as members for specific transactions.

laborating with external stakeholders to prevent, minimize, or mitigate adverse impacts on military training, testing, and readiness. According to DOD officials, this development could involve domestic or foreign entities.

<sup>19</sup> See 31 CFR § 800.211 (defining “covered real estate” to include locations within close proximity to identified military facilities, locations within the extended range of certain military facilities, and any county or other geographic area identified in connection with identified installations).

<sup>20</sup> See Pub. L. No. 115–232, § 1706.

<sup>21</sup> See 31 CFR § 800.401.

<sup>22</sup> See 31 CFR §§ 800.403, 800.501, 802.401, and 802.501.

<sup>23</sup> 50 U.S.C. § 4565(c).

**Notified transactions.** During its initial review—known as a national security review—CFIUS determines whether the transaction is covered by its legal authorities and therefore within its jurisdiction. If the transaction is within its jurisdiction to review, CFIUS assesses whether it poses risks to national security. The committee generally also identifies at least one other agency with relevant expertise to work with Treasury to guide the transaction through the CFIUS process.<sup>24</sup> In addition, the Office of the Director of National Intelligence develops a national security threat assessment.

If CFIUS finds that the covered transaction does not present national security risks or that other provisions of law provide adequate and appropriate authority to address the risks, CFIUS may end its review. However, if the potential risks remain unresolved at the end of the review period or the committee requires additional time, CFIUS may initiate a national security investigation.

If CFIUS identifies an unresolved national security risk, CFIUS may work with the transaction parties as appropriate to mitigate the potential risk. Mitigation may include ensuring that only authorized persons have access to certain information or facilities. It may also involve the parties providing the U.S. Government the right to review certain business decisions and to object if the decisions raise national security concerns.

CFIUS clears a transaction if it determines during its review or investigation period that, as appropriate, (1) the transaction does not pose any unresolved national security risks, (2) any national security risks are adequately addressed by other laws, or (3) mitigation measures that CFIUS agreed to or imposed resolve any national security risks. However, if any national security risks remain unresolved after the investigation, CFIUS may refer the transaction to the President for action unless the transaction parties decide to withdraw the filing and abandon the transaction. The President has the authority to suspend or prohibit a transaction, including by requiring that the foreign party divest itself from the U.S. entity.<sup>25</sup>

According to the CFIUS 2022 annual report, CFIUS conducted national security reviews for 286 notified transactions in 2022. Of those, 285 were filed as investment-related transactions and one was filed as a real estate-related transaction. CFIUS conducted subsequent national security investigations on 162 of the 286 notices and concluded action after adopting mitigation agreements to resolve national security concerns with respect to 41 notices. In 2022 there were no presidential decisions issued and CFIUS rejected one notice.

**Non-notified transactions.** CFIUS used various methods to identify non-notified transactions in 2022. These included interagency referrals, tips from the public, media reports, commercial databases, and Congressional notifications, according to CFIUS's 2022 report. The report stated that CFIUS identified and formally considered 84 non-notified transactions, 11 of which resulted in a request to the parties to file the transaction with CFIUS in 2022.<sup>26</sup>

If CFIUS believes that a non-notified transaction may be covered and raise national security considerations, CFIUS may request that the parties submit relevant information about the transaction and then, if applicable, file a notice.<sup>27</sup> However, should the parties decline to file a notice after CFIUS requests they do so, any CFIUS member agency may file an agency notice to initiate a review of the transaction.<sup>28</sup>

#### *Agricultural Foreign Investment Disclosure Act of 1978, As Amended (AFIDA)*

##### **AFIDA Statute**

AFIDA, enacted in 1978, requires foreign persons and legal entities acquiring or transferring an interest in U.S. agricultural land to submit a report to USDA containing information on the transaction, the land, and the parties involved. Under

<sup>24</sup> According to Treasury officials, co-lead agencies may include agencies, such as USDA, that are not standing members of the committee, but which can act as members for specific transactions because of their relevant expertise.

<sup>25</sup> Congress directed that this authority can be invoked only when, in the President's judgment, no law other than section 721 of the Defense Production Act of 1950, as amended, and the International Emergency Economic Powers Act provides adequate and appropriate authority to protect national security, and when there is credible evidence that the foreign person acquiring an interest might take action that threatens to impair the national security. See 50 U.S.C. § 4565(d)(4). According to CFIUS, a foreign acquirer may agree to divest itself of all or part of a U.S. company in lieu of a referral to the President. Divestment typically occurs through the parties' withdrawing the notice and abandoning the transaction.

<sup>26</sup> Committee on Foreign Investment in the United States, *Annual Report to Congress: CY 2022*.

<sup>27</sup> See 31 CFR §§ 800.501, 802.501.

<sup>28</sup> 50 U.S.C. § 4565(b)(1)(D).

AFIDA as originally enacted, USDA was charged with determining the effects of these transactions, particularly on family farms and rural communities. AFIDA also grants USDA authority to take actions to monitor compliance and to assess financial penalties for non-filers.

Four months prior to the enactment of AFIDA, we reported that there was unanimous agreement from government and the private-sector that there was no reliable data on the amount of foreign-owned U.S. farmland.<sup>29</sup> At that time, some surveyed states were concerned that foreign investment in farmland might drive up farm prices beyond the reach of residents, result in foreign control over food production and possibly food prices, or adversely affect small family farms. We determined the most feasible and simplest approach for collecting these data was a Federal effort to require foreign landowners to self-report their investments. However, we reported that the usefulness of such a system would depend on the completeness of the information collected.

#### Foreign Persons under AFIDA

According to AFIDA regulations, a foreign person is defined as a foreign individual, legal entity, or government. In addition, a domestic entity in which at least ten percent is held directly or indirectly by a foreign individual, legal entity, or government is also considered a foreign person. Foreign persons are required to file a disclosure form with USDA if they acquire, transfer, or hold an interest in U.S. agricultural land, including leases that are for at least 10 years.<sup>30</sup> Foreign persons are not required to file a report for short-term leases that are for less than 10 years.

#### AFIDA Forms

Foreign persons that invest in U.S. agricultural land are required to file a paper FSA-153 form (also known as the AFIDA form) disclosing details of the transaction. Specifically, filers are required to provide information about investors and the land, such as its acreage, land use, and value. These forms are required for acquisitions, dispositions, and land use changes.

#### USDA Roles and Responsibilities

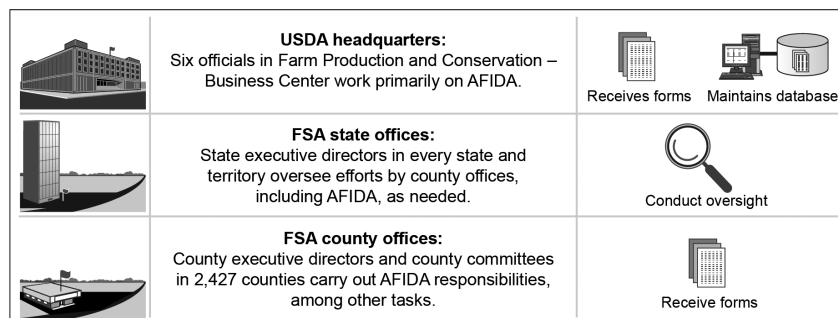
USDA roles and responsibilities related to AFIDA filing are distributed across USDA's county, state, and Federal offices. AFIDA forms can be filed with the FSA county office where the agricultural land is located or USDA headquarters for complex filings. At USDA headquarters, the Farm Production and Conservation Business Center (FPAC-BC) is responsible for managing AFIDA, including maintaining the AFIDA spreadsheet and overseeing USDA's AFIDA policy, according to USDA officials.<sup>31</sup> For example, FPAC-BC is responsible for updating the FSA-153 form and AFIDA guidance. FSA state offices oversee the efforts of their county offices and provide technical assistance, as needed. *Figure 3* shows the different USDA offices with AFIDA responsibilities.

<sup>29</sup> GAO, *Foreign Ownership of U.S. Farmland: Much Concern, Little Data*, CED-78-132 (Washington, D.C.: June 12, 1978).

<sup>30</sup> AFIDA regulations also require filings when foreign held land use changes from agriculture to non-agriculture. Exemptions from AFIDA filings include security interests, contingent future interests, easements for purposes unrelated to agricultural production, and interests solely in mineral rights. 7 CFR § 781.2(c).

<sup>31</sup> According to USDA officials, the AFIDA Excel spreadsheets posted online are developed from an AFIDA Microsoft Access database.

**Figure 3: U.S. Department of Agriculture (USDA) Offices with Agricultural Foreign Investment Disclosure Act of 1978, As Amended (AFIDA) Responsibilities**



Legend: Agricultural Foreign Investment Act of 1978, as amended = AFIDA; Farm Service Agency = FSA.

Source: U.S. Department of Agriculture documents and officials; GAO (images). |GAO-24-106337.

#### AFIDA Reporting

AFIDA originally directed the Secretary of Agriculture to analyze AFIDA data and issue annual reports until Congress repealed that requirement in 1998.<sup>32</sup> However, USDA has continued to issue public annual reports summarizing AFIDA data. Specifically, the summary data includes the number of acres owned—by state, county, type of agricultural land, and country of foreign investor. According to the 2021 report, the most recent report available at the time of our review, the countries with the largest foreign holdings of U.S. agricultural land are Canada (approximately 13 million acres or 31.5 percent), the Netherlands (approximately 5 million acres or 11.9 percent), and Italy (approximately 3 million acres or 6.6 percent). In addition, forest land accounts for nearly half of all reported foreign holdings, according to the report. Our analysis of AFIDA data found that 54 percent of foreign holdings are for types of interest other than direct ownership, such as long-term leases.

When analyzing AFIDA data for its annual reports, USDA focuses on economic outcomes, such as the effect of foreign investments on local land values. The reports do not include analysis related to national security risks. AFIDA also requires USDA to transmit copies of the filings submitted by foreign persons and legal entities to each state department of agriculture (*i.e.*, state government, not USDA's FSA state offices) that includes transactions that occurred in their state.

#### CFIUS Review Does Not Regularly Include AFIDA Information Related to Foreign Investments in Agricultural Land

##### *CFIUS and Agency Reviews of Agricultural Land Transactions Focus on Potential National Security Risks*

#### CFIUS

When identifying non-notified transactions for CFIUS's review, CFIUS and its member agencies focus on transactions that may pose potential national security risks, such as the proximity to a sensitive military base, according to Treasury and DOD officials.<sup>33</sup> In some cases, CFIUS may also rely on non-members, such as USDA, for relevant knowledge and expertise. CFIUS reviews each transaction individually, focusing on the aspects of the transaction that could pose a potential national security risk. If, during the national security investigation, CFIUS identifies an unresolved national security risk, it may work with the parties involved as appropriate to mitigate the potential risk.

CFIUS may choose to initiate a review of a non-notified transaction that a CFIUS member agency has reason to believe is a covered transaction and may raise na-

<sup>32</sup> The Federal Reports Elimination Act of 1998, Pub. L. No. 105-362, § 101(f), 112 Stat. 3280, 3281, repealed section 5 of AFIDA, which had required USDA to annually report to the President and Congress its findings and the conclusions of its analysis on the effects of AFIDA transactions, as well as the effectiveness and efficiency of AFIDA reporting requirements, Pub. L. No. 95-460, § 5, 92 Stat. 1263, 1265-1266 (1978).

<sup>33</sup> See, *e.g.*, 50 U.S.C. § 4565(a)(4)(B)(i)(II)(bb)(AA). As discussed above, non-notified means that a transaction has not been notified to CFIUS for review.

tional security concerns. CFIUS used various methods to identify these non-notified transactions, including interagency referrals, tips from the public, media reports, commercial databases, and Congressional notifications, according to the 2022 CFIUS annual report.<sup>34</sup> The report states that non-notified transactions remain among the most complicated that CFIUS considers, and these cases often require mitigation measures to address national security risks.

#### DOD

The national security risks around foreign investments in agricultural land relate to proximity to certain military installations, according to DOD officials with CFIUS responsibilities. CFIUS may review voluntary filings by parties to transactions of purchases, leases, or concessions of real estate (including agricultural land) in proximity to military or other sensitive U.S. Government facilities.<sup>35</sup>

DOD has a specific team to identify non-notified transactions that may warrant a CFIUS review.<sup>36</sup> This team scans proprietary databases and publicly reported transactions and determines whether a selected transaction may be covered under CFIUS authorities and if it may raise national security risks. According to Treasury and DOD officials, if both conditions are met, DOD recommends to the committee that CFIUS request additional information about the transaction and, if warranted, a filing.

In addition, DOD has drafted guidance for foreign investments in agricultural land in proximity to military installations that may pose national security risks, according to DOD officials. The Department of the Air Force has developed the Playbook for Foreign Investment Assessments Proximate to Military Equities, which was tentatively scheduled for release in October 2023, to identify and review national security risks related to foreign investments in agricultural land near Air Force installations. According to Air Force officials, the playbook is intended to educate military and civilian stakeholders about the CFIUS process and help mitigate any potential national security risks before the CFIUS process begins. It will include guidance for the Department of Air Force, local municipalities, and buyers and sellers of land to consider when reviewing potential risks to Air Force installations from foreign investments in land or businesses near Air Force installations. In addition, it will include questions about who is involved in the sale and acquisition of the land; the type and location of the land; whether the target property location provides a unique or direct line of sight to a military installation; and specific sensitivities, vulnerabilities, and potential consequences for the installation if a foreign adversary were to collect information.

DOD works with stakeholders to help identify sensitive facilities and installations which may be affected by foreign transactions of agricultural land. Agricultural land transactions within 100 miles of certain listed sites are generally considered covered for CFIUS's review. Since March 2023, DOD's Office of the Secretary of Defense has coordinated a working group of military services and other stakeholders. If necessary, this group meets quarterly to discuss additions to the list of sensitive installations and broader updates to the regulations addressing CFIUS coverage for real estate transactions. Effective in September 2023, Treasury, in coordination with DOD, updated the CFIUS list of military installations to include 242 sites (from 234 initial sites).<sup>37</sup> As a result of the working group, DOD officials have also discussed ways to update and improve CFIUS's understanding of risks associated with real estate coverage, including agricultural land. DOD officials said they plan to submit a new list of covered military installations to Treasury and the other CFIUS members by the end of 2023. The approval and recognition of these new installations require a regulatory update. Any changes to the list of installations should be issued for public comment.

DOD also has teams to determine national security risks for notified transactions undergoing CFIUS review. If DOD determines a risk exists, DOD officials conduct an analysis of those risks and consider whether mitigation measures are needed. In addition, officials request a national security investigation through the CFIUS chair. If DOD determines a risk does not exist, DOD informs the CFIUS chair of its determination.

<sup>34</sup> Committee on Foreign Investment in the United States, *Annual Report to Congress: CY 2022*.

<sup>35</sup> See 50 U.S.C. §§ 4565(a)(4)(C), (b)(1)(C).

<sup>36</sup> In response to our prior work, DOD revised its CFIUS policy to include additional guidance and responsibilities for identifying non-notified transactions. See *GAO-18-494* (<https://www.gao.gov/products/GAO-18-494>).

<sup>37</sup> *Provisions Pertaining to Certain Transactions by Foreign Persons Involving Real Estate in the United States*, 88 Fed. REG. 57348 (Sept. 22, 2023) (to be codified at 31 CFR pt. 802, app. A).

## USDA

USDA is not a member of CFIUS, but participates fully as a voting member agency when Treasury determines that a transaction involves agricultural issues, according to officials. While USDA reviews CFIUS notified transactions, there is no requirement in CFIUS law or policy for USDA to identify CFIUS non-notified transactions independently. However, USDA's Office of Homeland Security—its office responsible for coordinating with CFIUS agencies on national security issues—reviews media and other open source information to identify non-notified cases. These cases include foreign acquisition of agricultural land, according to the official that coordinates CFIUS efforts. In addition, according to officials, USDA reviewed summary information of all CFIUS cases between October 2022 and May 2023 to identify potential national security risks related to agricultural land and other agricultural sectors.<sup>38</sup> Based on the office's review of these cases, it identified certain cases for which it requested to be co-lead or otherwise actively involved in the reviews. USDA has been actively involved in reviewing all transactions involving agricultural land, according to Treasury officials.

## Treasury

Treasury officials noted that since Treasury does not have any agency-specific involvement related to agricultural land, its approach to identifying these non-notified transactions are generally limited to representing CFIUS's interests. The officials said all member agencies are responsible for protecting national security, and agencies generally identify transactions related to their agency areas of interest and expertise. Acting as a voting member, Treasury reviews transactions for potential national security risks, according to officials. In addition, as chair, Treasury manages the administrative process, helps collect information from parties involved in a transaction, and reviews information submitted by other agencies, according to officials. Accordingly, Treasury relies on DOD and other CFIUS members to collect and relay relevant information, including about non-notified transactions related to foreign investments in agricultural land. In addition, Treasury relies on non-members like USDA for any relevant knowledge, if applicable.

Although DOD, USDA, and Treasury officials may pursue and submit cases to CFIUS regarding foreign investments in agricultural land, all three agencies track their CFIUS submissions in aggregate, rather than by type of business or real estate acquired. CFIUS and relevant agencies are not required by CFIUS law or policy to specifically track or label transactions related to agricultural land, according to DOD, USDA, and Treasury officials. About 2,600 covered transactions were notified to CFIUS in calendar years 2013 through 2022, according to the CFIUS 2022 annual report.<sup>39</sup> Officials could not identify how many of the transactions definitively related to agricultural land. Nevertheless, DOD officials noted that cases involving foreign investments in agricultural land represent a small percentage of total CFIUS transactions.

Although officials identified a subset of cases related to agricultural land and provided us with relevant information on selected CFIUS-reviewed transactions for calendar years 2013 through 2023, they told us that these case files may exclude certain relevant transactions. These case files may also include transactions outside the scope of this review, such as transactions that deal with foreign investments in agricultural supply chains or other foreign investments in agriculture that do not specifically involve the transfer of land, according to officials.

CFIUS annual reports have provided cumulative and trend information on the business sectors and subsectors involved in certain covered transactions, using North American Industry Classification System (NAICS) codes. Some sectors are potentially relevant to agricultural land, including the agriculture, forestry, fishing and hunting sector and the crop production subsector.<sup>40</sup> However, NAICS codes do

<sup>38</sup> According to USDA officials, they began receiving this information because the Secretary of Agriculture expressed concern to the Secretary of the Treasury that USDA was not reviewing all cases that may consider agricultural interests. In response, Treasury officials agreed to have a trial period in which USDA reviews all CFIUS cases. USDA officials were not certain whether USDA would continue this trial in Fiscal Year 2024. Treasury officials confirmed that USDA received CFIUS summaries of all cases during this timeframe and said they value USDA's expertise and view them as an important contributor to the committee.

<sup>39</sup> Committee on Foreign Investment in the United States, *Annual Report to Congress—Calendar Year 2022*.

<sup>40</sup> In this report, industry sectors and subsectors are defined using 2012 and 2017 NAICS codes of the U.S. target company. Whenever possible, the NAICS code assigned to each U.S. target company is based upon information provided by the parties. If no NAICS code was provided, CFIUS determined the most appropriate NAICS code using publicly available information.



not comprehensively encompass real estate transactions—which may include covered agricultural land—and the codes are provided by parties to the transactions.

*AFIDA Information Is Not Regularly Shared on a Timely Basis with CFIUS*

We found that USDA does not regularly share AFIDA data with CFIUS agencies on a timely basis to be useful for CFIUS reviews. USDA releases its annual report online. However, according to DOD officials, they need to receive AFIDA information more than once a year, and they need information that is more up-to-date and more specific to help them identify relevant non-notified transactions and consider potential national security risks.

DOD officials told us that the information AFIDA requires USDA to collect, such as names of foreign owners and when the land was transferred or acquired, could help DOD identify relevant non-notified transactions for CFIUS to review and would enable the committee to conduct timely and thorough reviews of such transactions. DOD officials stated that it is very difficult to identify relevant non-notified transactions for CFIUS because DOD does not have a single database of real estate transactions that may potentially involve DOD interests. As a result, they must search the website of each municipality, rather than look for this information in one place, according to DOD officials. Air Force officials also told us that information from AFIDA disclosures, such as whether a party has filed a disclosure, who filed it, and when it was filed, could improve CFIUS's ability to identify cases and investigate the ownership structure of foreign investments. Treasury officials noted that it would be helpful to have data such as the identity of the foreign owner, their country of origin, and status of their U.S. residency or citizenship, as well as more details about the nature of the transaction.

FPAC-BC, the USDA office responsible for AFIDA data, shares some AFIDA information with other Federal agencies and the public. For example, in March 2023, according to USDA officials, FPAC-BC shared a presentation about AFIDA with DOD officials interested in holdings by the People's Republic of China. USDA also provided supplemental data regarding AFIDA holdings in a specific U.S. location and a listing of all company holdings across the United States. According to USDA officials, they respond promptly when they receive requests.

USDA provides selected AFIDA information on an annual basis in a report online, but the information is not specific and is not timely to be useful for CFIUS reviews. Each year, FPAC-BC publishes a *Foreign Holdings of U.S. Agricultural Land* report on its website, based on selected data collected from FSA-153 forms submitted pursuant to the AFIDA reporting requirement. The report includes aggregated information for U.S. states and counties. However, it does not include other information collected by USDA, such as detailed ownership information, country affiliations of all foreign investors, and locations of individual agricultural land transactions. In addition, USDA officials told us that for calendar year 2023, they have been keeping a real-time log of AFIDA filing activity for investors from the People's Republic of China, Russia, Iran, and North Korea. USDA plans to include this information in its 2023 AFIDA Annual Report.<sup>41</sup>

Further, in June 2023, FPAC-BC posted AFIDA transaction data for calendar years 2010 through 2021 on its website.<sup>42</sup> In contrast to the annual *Foreign Holdings of U.S. Agricultural Land* report, these data include transaction-level data. For example, they include some information collected on the FSA-153 forms, such as the primary investor in the transaction (the person or legal entity that holds the deed or lease).<sup>43</sup> However, the primary investor may be one of multiple ownership tiers. That is, the primary investor may be owned by one or more other entities, each of which may also be owned by multiple entities. AFIDA data only include the first ownership tier; they do not include ownership information for the second and third

<sup>41</sup> In a joint explanatory statement outlining committee priorities for the Consolidated Appropriations Act, 2022, Pub. L. No. 117-103, 136 Stat. 49, Congress directed USDA to submit a report regarding data on foreign-owned agricultural land trends including land owned, or partially owned, by the Governments of China, Russia, Iran, or North Korea over the past decade and projections for the next decade based on previous trends, and the potential impacts on the American agricultural sector, food security, and rural economies. H. Comm. Print 47-047, 117th Cong.

<sup>42</sup> Accessible at <https://www.fsa.usda.gov/programs-and-services/economic-and-policy-analysis/afida/agricultural-foreign-investment-disclosure-act-afida/index> (accessed on January 4, 2024). USDA's most recent AFIDA annual report was published in December 2023, as of January 2024.

<sup>43</sup> Accessible at <https://www.fsa.usda.gov/programs-and-services/economic-and-policy-analysis/afida/agricultural-foreign-investment-disclosure-act-afida/index> (accessed on October 11, 2023).

ownership tiers beyond the primary investor, which USDA requires foreign persons to submit.

In addition, as of November 2023, the USDA office responsible for AFIDA had not posted AFIDA transaction data for calendar year 2022 online, nor had it shared this information with relevant CFIUS member agencies. While USDA has posted selected AFIDA data online through calendar year 2021, USDA officials told us in September 2023 that they could share these data more regularly through a web-based collaborative platform, such as SharePoint. USDA has requested funding to develop a real-time data system that can be accessed by other U.S. Government agencies and the public.

In January 2024, in reviewing a draft of this product, USDA officials stated that when their headquarters office receives AFIDA filings from investors from the People's Republic of China, Russia, Iran, or North Korea, they share the complete files with DOD and the Federal Bureau of Investigation. However, they noted that USDA cannot effectively share data early in the process except through a manual process of scanning and e-mailing AFIDA forms. Officials emphasized the need for sufficient funding for an online filing portal to share timely data with DOD and other agencies.

DOD officials were not aware that USDA had posted the AFIDA transaction data online. DOD officials that identify non-notified cases said they have a good working relationship with USDA, and the two agencies often share referrals of agriculture-related transactions. In addition, they noted that the online data could provide useful information for identifying CFIUS cases related to agricultural land because DOD may not be able to identify these cases otherwise. But other DOD officials that review notified cases involving agricultural land told us that CFIUS could not legally review most of the transactions listed in the online AFIDA data, because CFIUS only has authority to review applicable real estate cases with proximity to sensitive military installations after 2019. More up-to-date information could help CFIUS and DOD more quickly mitigate potential national security risks associated with agricultural land.

Federal internal control standards state that management should communicate quality information (1) internally down and across reporting lines to enable personnel to perform key roles in achieving objectives, addressing risks, and supporting the internal control system, and (2) externally through reporting lines so that external parties can help the entity achieve its objectives and address related risks.<sup>44</sup>

As we have previously reported, if parties to a covered transaction do not voluntarily notify CFIUS, and CFIUS does not independently discover the transaction and initiate a review, potential risks to national security could go undetected.<sup>45</sup> By sharing timely and more detailed AFIDA data, such as when or whether a party has filed a disclosure or the tiers of ownership beyond the primary investor, USDA could help CFIUS member agencies reduce the likelihood of missing potential risks to national security.

### **USDA Implements AFIDA Nationally, but Its Processes to Collect, Track, and Report Key Information are Flawed**

#### *USDA Implements AFIDA Across Field Offices and Headquarters*

USDA's AFIDA data is the most comprehensive source on foreign investment in U.S. agricultural land, according to USDA officials. As required by law, foreign persons must report information for transactions of U.S. agricultural land, including acquisitions, dispositions (e.g., sales), land use changes, or ownership changes.<sup>46</sup> Under USDA's current system, this information is submitted via paper AFIDA forms. The forms may be submitted to Farm Service Agency (FSA) county offices, or to USDA headquarters for more complex transactions, such as transactions that span multiple counties. There are over two thousand FSA county offices in the United States, according to officials.

The county and state offices then review the AFIDA forms for accuracy and completeness, according to USDA officials. If the forms were submitted to county offices, these offices are directed to review the forms and send them to USDA headquarters within a day of receiving them. Once a year, USDA headquarters officials enter selected information from forms into the AFIDA spreadsheet for its annual reports. This information includes the number of acres owned, by state and county, land

<sup>44</sup> Principles 14 and 15. *Standards for Internal Control in the Federal Government*, GAO-14-704G (<https://www.gao.gov/products/GAO-14-704G>) (Washington, D.C.: Sept. 10, 2014).

<sup>45</sup> GAO-18-494 (<https://www.gao.gov/products/GAO-18-494>).

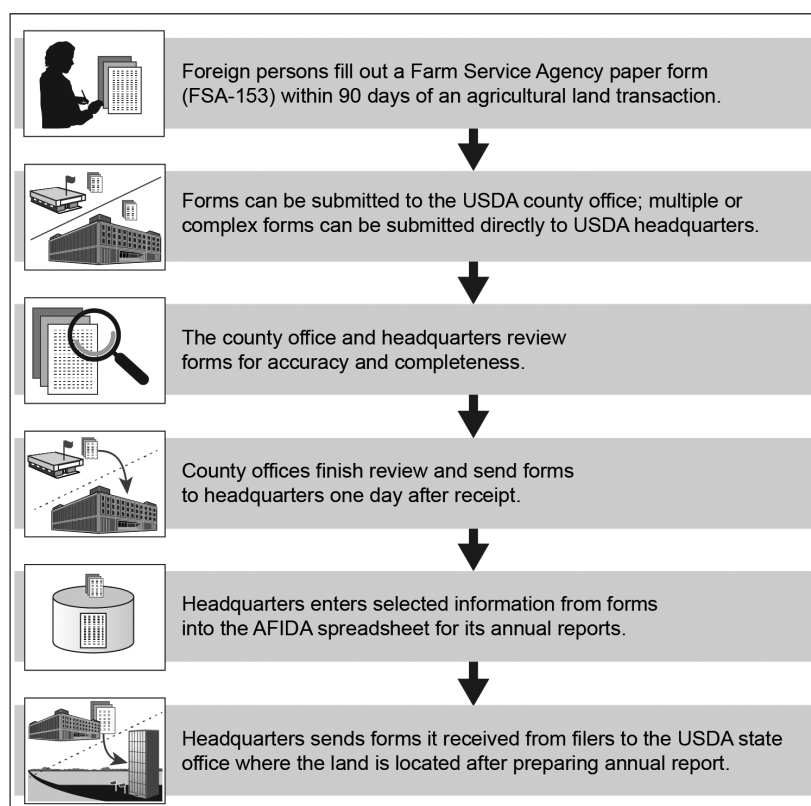
<sup>46</sup> AFIDA reporting is subject to certain exceptions, including (1) leaseholds less than 10 years; (2) contingent future interests, and (3) easements unrelated to agricultural production. See 7 CFR § 781.2(c).

value, and the country of the foreign investor. In addition, headquarters sends AFIDA forms to the USDA state office where the land is located.

According to officials, FSA county and state offices make efforts to publicize AFIDA requirements. For example, county offices are directed to display AFIDA information where deeds are registered in their counties and periodically send letters to local real estate agencies, real estate attorneys, and mortgage lenders in their counties to remind them of AFIDA requirements, according to FSA guidance.

In line with USDA policy, FSA state offices oversee county offices, and, according to officials, provide technical assistance to county offices as needed, such as answering questions about the AFIDA process. State offices also are directed to conduct annual compliance checks with county offices regarding their AFIDA responsibilities. According to officials, these checks include visits from state district directors to document whether they are implementing various AFIDA responsibilities. *Figure 4* summarizes USDA's AFIDA data collection.

**Figure 4: U.S. Department of Agriculture (USDA) Data Collection for the Agricultural Foreign Investment Disclosure Act of 1978, As Amended (AFIDA)**



Legend: Agricultural Foreign Investment Disclosure Act of 1978 = AFIDA.

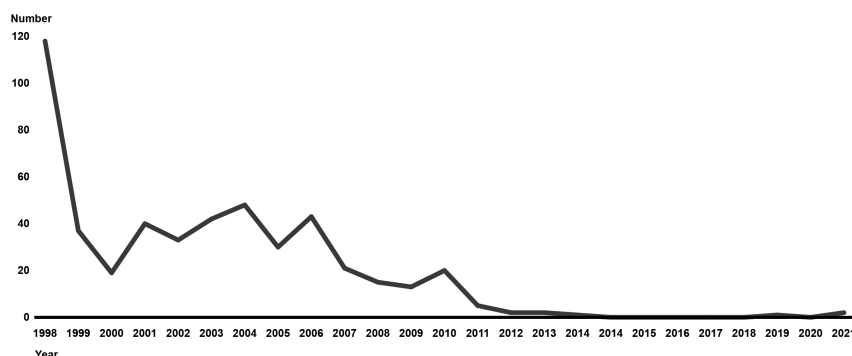
Source: U.S. Department of Agriculture documents and officials; GAO (images). |GAO-24-106337.

#### *USDA Assesses Few Penalties for AFIDA Non-Compliance*

USDA headquarters may assess penalties for foreign persons that do not comply with AFIDA filing requirements, although fewer penalties have been assessed in recent years due to lack of staff, according to USDA. USDA assessed eight penalties for AFIDA late filing or non-filing between 2012 and 2021, according to the 2021 AFIDA report. Specifically, USDA assessed five of these penalties between 2012 and

2014, one in 2019, and two in 2021. USDA did not assess any penalties between 2015 and 2018 or in 2020. See *figure 5* for USDA reporting on penalties assessed since 1998.

**Figure 5: U.S. Department of Agriculture Reported Penalties Assessed from 1998–2021 for Non-Compliance with the Agricultural Foreign Investment Disclosure Act of 1978, As Amended (AFIDA)**



Source: GAO analysis of U.S. Department of Agriculture data; GAO (images). (GAO–24–106337).

Note: According to officials, 1998 is the first year that penalty information was electronically stored. Penalty information from years prior to 1998 were entered into a handwritten log.

The penalty calculation for late AFIDA forms is  $\frac{1}{10}$  of 1 percent of the value of the land times the number of weeks that the form is late, up to a statutory maximum of 25 percent of the land's fair market value. According to USDA, most penalties equal less than one percent of the value of the land, because the main goals of its AFIDA efforts are to maximize compliance and not to discourage potential filers from filing due to fears of large penalties.

#### *USDA's Processes to Collect AFIDA Data Are Unclear and Challenging to Implement*

USDA's AFIDA processes create challenges to collecting AFIDA data. For example, the AFIDA handbook is the main source of AFIDA guidance for state and county officials, according to officials. However, the handbook provides limited instructions on how FSA state and county offices should collect reliable AFIDA information, and lacks guidance on how to verify information on AFIDA forms. In addition, USDA's current paper-based submission process hinders its ability to track investments.

#### *FSA's AFIDA Handbook Provides Limited Instruction on Collecting Reliable Information*

FSA's AFIDA handbook assigns responsibilities to various FSA offices on collecting AFIDA information, but provides limited instructions for how to fulfill these responsibilities. According to FSA officials, the handbook is the main source of AFIDA guidance for state and county officials. In 2007, FSA found deficiencies with its county offices' efforts to collect AFIDA data. Specifically, FSA said it had reviewed AFIDA forms and reported deficiencies both in accuracy of reported information and reviews of agricultural land ownership changes. In the corresponding notice sent to FSA state and county offices that year, FSA reiterated the handbook responsibilities for reviewing forms and land ownership changes.

FPAC–BC officials, now responsible for AFIDA, said they plan to update the AFIDA handbook, form, and regulations. The handbook was last updated in 2006; the regulations were last updated in 1995.<sup>47</sup> According to officials, as of August 2023, a working group has finished the revised form, which will be posted in the *Federal Register* along with an explanation after receiving internal clearance. Officials told us they are updating the types of AFIDA information the forms collect to better reflect different kinds of foreign investment and uses of agricultural land. For example, officials said they were planning to capture more information about lease

<sup>47</sup> FSA was originally responsible for managing AFIDA and overseeing USDA's AFIDA policy, but FPAC–BC became responsible for AFIDA in 2018 due to an administrative policy decision, according to officials.

agreements by having these filers indicate if they will use the land for wind or solar energy production.<sup>48</sup> USDA's 2021 annual report attributed recent increases in foreign holdings of pastureland and farmland mostly to long-term leases by foreign-owned wind companies. In addition, our analysis of AFIDA data from AFIDA's implementation through 2021 found that approximately ⅔ of the filings are legal entities with "wind," "solar," or "energy" in their names.

While the handbook lists common errors that may occur when filling out an AFIDA form, it does not address how officials should review forms for misleading, inaccurate, or false information. For example, the handbook says the name on the AFIDA form should be the titleholder's, not the shareholder's, but it does not provide guidance for verifying that information, such as reviewing the deed. In addition, the handbook explains what type of information from additional foreign persons with an interest in the land must be reported, but not how to determine if the submitted information is accurate or missing foreign persons.

### Training

The U.S. Department of Agriculture (USDA) provides training to state and county officials on Agricultural Foreign Investment Disclosure Act of 1978, as amended (AFIDA) filing requirements and the handbook only upon request, according to officials. In 2023, headquarters officials said they shared a presentation about AFIDA with Farm Service Agency (FSA) state executive directors and provided training to FSA staff in Hawaii, New Jersey, and Tennessee. According to officials, USDA will prepare a training program for state and county officials after the form and handbook are updated.

Source: USDA. | GAO-24-106337.

The handbook directs headquarters and county offices to review submitted AFIDA forms and obtain any needed data to correct missing or erroneous information. However, FSA does not provide specific instructions in the handbook or elsewhere on how to review forms for substantive errors.

Under Federal internal control standards, management should design control activities to achieve objectives and respond to risks, such as clearly documenting internal controls in management directives, administrative policies, or operating manuals.<sup>49</sup> USDA is in the process of updating the AFIDA handbook. However, without specific guidance in the handbook about reviewing the accuracy of forms and identifying missing information, USDA may not be properly equipping its thousands of county officials to identify misleading, inaccurate, or false information associated with AFIDA filers.

### USDA's Efforts to Develop an Online AFIDA Data Submission System Face Key Challenges

USDA has been directed to update its paper-based submission process, which currently hinders its ability to track foreign investments in agricultural land. The Consolidated Appropriations Act, 2023 requires USDA to adopt an online submission process and public database by the end of 2025.<sup>50</sup> USDA has taken some steps to update its process for online submission. However, it has not developed timelines for creating an online submission process, despite having plans to create this process. In addition, USDA has not developed timelines or plans for creating a public database because, according to officials, they have not received sufficient funding to do so.

At USDA headquarters, FPAC-BC is responsible for AFIDA and maintains a standalone AFIDA spreadsheet using Microsoft Access. The spreadsheet includes the name of the primary investor associated with the AFIDA filing, the county and state where the land is located, the acreage and value of the land, and the country

<sup>48</sup> In addition, officials noted that they hope to use the new information captured on the forms to better understand the impacts of foreign investment on farmers and rural communities.

<sup>49</sup> Principle 10, *GAO-14-704G* (<https://www.gao.gov/products/GAO-14-704G>). USDA implements the Green Book in USDA Departmental Regulation 1110-002, *Management's Responsibility for Internal Control* (Washington D.C., March 5, 2021): "Under and assistant secretaries, agency and staff office heads will establish and maintain a system of internal control based on GAO's *Green Book* ensuring adequate controls for program and administrative operations, reporting, and compliance are in place."

<sup>50</sup> Pub. L. No. 117-328, div. A, tit. VII, § 773, 136 Stat. 4459, 4509 (2022). As of November 2023, the proposed Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2024, being considered by the House of Representatives, contains the same provision. H.R. 4368, § 747, 118th Cong. (reported in the House (June 27, 2023)).

associated with the largest percentage of the land's foreign investors, among other information. Headquarters officials said they only input information that they need to populate their AFIDA annual reports, which includes summary information about current holdings of agricultural land by the primary foreign investors. They do not input certain information collected with the forms. For example, they do not include legal descriptions because these descriptions may be pages long and difficult to interpret. In addition, they do not include additional foreign persons beyond the primary investor (*i.e.*, other ownership tiers or complex legal entities).

The Consolidated Appropriations Act, 2023 requires USDA to create (1) an AFIDA online submission process to allow foreign persons to file online and (2) a public database that includes information from all prior year disclosures by the end of 2025. FPAC-BC officials are planning to work jointly with FSA to develop the online submission process. Officials said the agency requested \$10 million over a 5 year period to create an online submission process that would allow a public database to be created that would include disclosures submitted after the process is in place. Ultimately, USDA put forward a request for \$1 million for AFIDA, which was included in the agency's final budget for Fiscal Year 2024. According to officials, USDA is deliberating how to use this funding. For example, officials told us that before developing the online submission process, they must first consider the types of data they want to capture from the updated form and how the data could help USDA gather additional information. USDA officials told us that as of September 2023, they are still in the initial stages of the clearance process, and the form has not yet been approved internally.

USDA officials estimate the agency would need approximately \$25 million to create a public database that includes all historical disclosures. First, officials said the agency would need a tool that could scan and digitize all files from 1978—when AFIDA was first enacted—until the launch of the tool. Staff would then need to determine the relevant information for scanning, account for differences between files over the years, scan the physical files, and ensure the data were being captured appropriately. Officials said they do not currently have plans to fulfill the public database requirement to include all past disclosures but that their plans will be determined based on the amount of funding received.

To meet the Appropriations Act's public database requirement in the interim, in June 2023, headquarters posted selected transaction data from the AFIDA spreadsheet to USDA's website. These transaction data include reported holdings that were active as of the end of each calendar year for 2010 to 2021. These data do not include holdings that were sold prior to 2010 and are inactive. Records of reported sales and land use changes are not included for any year in these data. Moving forward, officials plan to store information collected through the online submission process in a searchable and retrievable format.

However, USDA has not yet determined how it will transition and update AFIDA from a paper-based to an online submission process. Officials said it is difficult to modernize AFIDA information technology without additional funding and that there is no timeline for the creation of the new AFIDA online submission process. In September 2023, USDA officials told Congress they have not done more because the effort was not funded. In response, Members of Congress requested that USDA report their specific funding needs to meet these requirements.

Under Federal standards for internal control, an entity should formulate plans to achieve its objectives.<sup>51</sup> Without timelines and plans for the development and completion of its online submission process and public database, USDA's ability to fulfill these requirements will be impaired. In addition, details about USDA's plans to meet the requirements of the Consolidated Appropriations Act, 2023 timelines and plans, or its inability to do so, would help Congress understand if USDA is on track to meet the requirements or if additional legislative action is needed.

*USDA's AFIDA Tracking Processes Lack Data Verification and Key Information, Resulting in Errors and Omissions*

USDA does not sufficiently verify and conduct quality reviews to track the accuracy and completeness of its collected AFIDA data in the AFIDA spreadsheet and AFIDA forms. USDA has begun efforts to identify AFIDA non-filers, but USDA does not know the overall extent of AFIDA non-filing, according to officials. The flaws in these processes hinder USDA's ability to accurately track and represent where and how much agricultural land is foreign-held.

<sup>51</sup> Principle 2, GAO-14-704G (<https://www.gao.gov/products/GAO-14-704G>).

### USDA's AFIDA Spreadsheet Contains Errors and Lacks Quality Reviews

Prior to publishing its AFIDA annual report, headquarters officials said they perform data checks. Specifically, officials said they check for certain errors, such as duplicate, missing, or invalid data entries. However, we identified data entry errors in the AFIDA spreadsheet and issues with form completeness in a review of a selected non-generalizable sample of 19 AFIDA forms, including:

- AFIDA forms were not correctly or completely filled out. For example, some of the AFIDA forms we reviewed did not identify any foreign persons, and the AFIDA spreadsheet does not identify the affiliated country of the foreign person for 918 of 43,000 holdings. According to officials, USDA reaches out to filers with no foreign persons listed but sometimes does not get a response. Officials said they may need to assess penalties for some of these filers. In addition, some owners' records had different foreign countries associated with them across records.
- Duplicate entries of land holdings. For example, the largest land holding associated with the People's Republic of China, at over 27,000 acres, is duplicated in both the AFIDA spreadsheet and the most recent FSA annual report. The duplicate occurred when the ownership changed and the old record was not removed.
- Missing or invalid values, such as the number "13" used for the month of the acquisition and a negative number used for an acreage amount.

We shared examples of these errors with USDA officials, who confirmed the errors and, as of July 2023, said they were making efforts to correct them. For example, officials said they are following up with AFIDA filers if the agricultural land has a current value that is missing, zero, or less than \$100 in the AFIDA spreadsheet, or for transactions in which the amount filers paid to acquire the land is less than the current value.

According to officials, most of the errors we identified occurred during data entry. AFIDA data entry errors often occur because headquarters staff manually enters information from AFIDA forms into a spreadsheet without sufficient internal controls to prevent or identify these errors. USDA officials said they cannot prevent multiple users from accessing the AFIDA spreadsheet at the same time, so they coordinate access internally to prevent duplicate entries. According to officials, one official created the current spreadsheet in 2016 without specifically obligated funding, and it is an improvement over the previous system.

Officials said they are aware of obsolete records in the AFIDA spreadsheet because foreign persons may not have self-reported when they ceased to have an interest in the land, as required. In addition, according to officials, as of September 2023, new additional data checks have been added, such as ensuring the range of the month of acquisition is between "1" and "12." However, according to officials, the current spreadsheet does not have other internal controls to prevent improper values from being entered. A key principle of Federal internal control is to design activities for the information system.<sup>52</sup> Agencies should have controls in their information systems to ensure validity, completeness, and accuracy of data entered. In addition, Federal internal controls state management should ensure it has manual control activities, such as that officials reviewing paper AFIDA forms collect all required information from filers.<sup>53</sup> Without improving its verification and monitoring of collected AFIDA data, such as reviewing and validating information throughout the AFIDA data collection process, USDA cannot verify it is accurately capturing information, nor can it ensure the effectiveness of its data controls.

### Data Mining Has Identified Some Non-Filers, and Additional Efforts Could Produce More Results

USDA has made some efforts to identify non-filers, but expanding these efforts could identify even more suspected non-filers. During our review we discussed with USDA officials performing a data matching exercise between FSA program data and AFIDA data to identify foreign persons that should have filed an AFIDA disclosure. As a result, USDA began a data mining pilot using FSA program data to identify potential AFIDA non-filers that own land in Washington State, and who have previously submitted information to FSA. The pilot identified 135 foreign landowners that, according to officials, are likely non-filers and need to complete an AFIDA filing. Prior to the pilot, USDA data accounted for 1,243 foreign holdings of agricultural land in Washington State. Headquarters officials said they sent the 135 newly identified landowners letters about AFIDA requirements. According to headquarters

<sup>52</sup> Principle 11, GAO-14-704G (<https://www.gao.gov/products/GAO-14-704G>).

<sup>53</sup> Principle 10, GAO-14-704G (<https://www.gao.gov/products/GAO-14-704G>).

officials, as of September 2023, they have expanded the data mining effort nationally. Officials said they plan to conduct this data-mining effort periodically.

#### Farm Numbers

Certain Farm Service Agency (FSA) data sources, such as farm ownership records and program data, use FSA farm numbers and not legal descriptions to identify land. Officials said that requiring Agricultural Foreign Investment Disclosure Act of 1978, as amended (AFIDA) filers to obtain a unique identifier, such as an FSA farm number, would help the U.S. Department of Agriculture (USDA) connect AFIDA data with its other data and more easily identify the location of the land. In addition, an FSA official said requiring farm numbers could also incorporate annual reporting and verification requirements into AFIDA that FSA uses for farm programs. USDA does not have the authority to require AFIDA filers to obtain farm numbers from USDA, according to officials.

Source: USDA. | GAO-24-106337.

According to USDA officials, conducting the data mining project helped identify potential non-filers they would not have otherwise identified. However, these efforts only identify individuals already present in its databases for farm programs.<sup>54</sup> The analysis will not identify foreign persons that have not done business with FSA and do not have a customer record, according to officials. Therefore, the complete universe of foreign investors in U.S. agricultural land will remain unknown. For example, since USDA captures and stores select AFIDA data in a standalone spreadsheet, officials cannot automatically connect the AFIDA spreadsheet with FSA data, according to officials. Therefore, after headquarters identified foreign persons in the pilot, they directed county officials to investigate whether the foreign persons in their county needed to file.

According to officials, AFIDA data does not provide simple locations of agricultural land. AFIDA data includes legal descriptions rather than geographic coordinates, which can make it difficult to locate the land in question. These legal descriptions may be pages long and difficult to interpret, and are not entered into the AFIDA spreadsheet, complicating efforts to identify non-filers and the locations of their property. According to USDA officials, local FSA staff are aware of the location of the agricultural land using legal descriptions, but they acknowledge that it would be difficult for those who are not local to have that geospatial context.

According to USDA guidelines to implement the Information Quality Act, USDA should validate its data against other information where practicable.<sup>55</sup> Without periodic validation of AFIDA data, such as every 5 years, USDA will be unable to identify certain non-filers and its AFIDA data will be less complete. This could include comparing AFIDA data to FSA program data.

#### USDA's AFIDA Reporting Processes Omit Key Information About Ownership Tiers

As discussed above, USDA reporting does not incorporate the country of additional foreign persons beyond the primary investor, which may skew the reporting of holdings by country. Pursuant to the AFIDA statute and regulations, USDA requires filers to provide the names, addresses, and countries of origin for up to three ownership tiers, if applicable.<sup>56</sup> However, the AFIDA spreadsheet includes only the

<sup>54</sup> The AFIDA statute grants USDA authority to “take such actions as the Secretary considers necessary to monitor compliance . . . and to determine whether the information contained in any report . . . accurately and fully reveals the ownership interest of all foreign persons.” Pub. L. No. 95-460, § 4, 92 Stat. 1263, 1265 (codified at 7 U.S.C. § 3503).

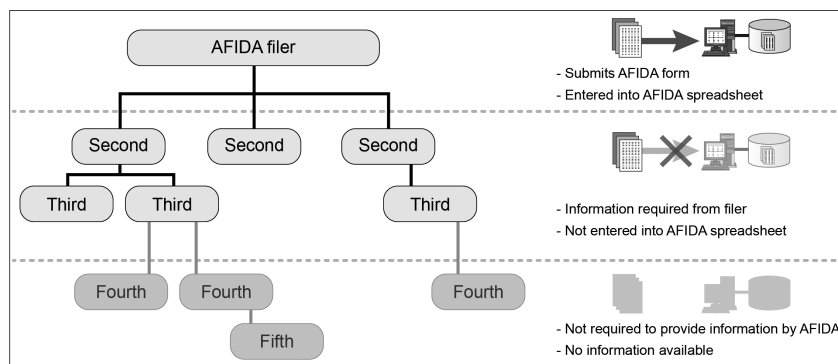
<sup>55</sup> The Information Quality Act, also known as the Data Quality Act, directed the Office of Management and Budget (OMB) to issue guidelines that provide policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information, including statistical information disseminated to the public. Consolidated Appropriations Act, 2001, Pub. L. No. 106-554, app. C, tit. V, § 515, 114 Stat. 2763, 2763A-153, 2763A-154 (2000). OMB published the required guidelines in 2002. OMB, *Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies, Final Guidelines*, 67 Fed. Reg. 8452 (Feb. 22, 2002). In 2019, OMB published a memorandum to reinforce, clarify, and interpret agency responsibilities with regard to responsibilities under the Information Quality Act. OMB, *Improving Implementation of the Information Quality Act*, OMB M-19-15 (Apr. 24, 2019). USDA's guidelines implement OMB guidelines in accordance with the Information Quality Act.

<sup>56</sup> According to officials, AFIDA filings have become increasingly complex, as filings by large corporations now exceed filings by individuals. As a result, the ultimate beneficiaries may exist beyond the third ownership tier and may not be captured in AFIDA disclosures, unless the filer voluntarily provides that information.



name of the filer or the entity the filer represents. This name may be the primary investor in the transaction (the person or legal entity that holds the deed or lease). However, because primary investors may be only one of several ownership tiers, the name listed in AFIDA data may not be the ultimate beneficiary of the investment. In addition, as noted above, the primary investor is a “foreign person” if a foreign individual or legal entity has at least ten percent interest in the investment, even if the primary investor is based in the United States. *Figure 6* illustrates reporting requirements for entities with multiple ownership tiers.

**Figure 6: Agricultural Foreign Investment Disclosure Act of 1978, As Amended (AFIDA) Data Collection for Entities with Multiple Ownership Tiers**



Legend: Agricultural Foreign Investment Disclosure Act of 1978 = AFIDA.

Source: AFIDA and U.S. Department of Agriculture regulations, documents, and officials; GAO (images). |GAO-24-106337.

In the AFIDA spreadsheet and annual reports, USDA assigns a country to land holdings based on the foreign country associated with the highest percentage of foreign interest in the land. The spreadsheet and annual reports do not include secondary countries associated with foreign persons who hold smaller stakes. For example, a holding in which the primary investor is from the Cayman Islands with 51 percent stake and a second-tier owner from Russia with 49 percent stake would be recorded in the AFIDA spreadsheet as a foreign investment by Cayman Islands and not reflect the Russian interest. According to headquarters officials, ownership information from additional foreign persons with interest in the land is not recorded because it is not currently used in USDA’s AFIDA annual reports. However, without incorporating ownership information from additional foreign persons, reporting will not provide users with a comprehensive accounting of submitted information on foreign investments in agricultural land.

### Conclusions

Foreign ownership and investment in U.S. agricultural land—which includes farmland, pastures, and forest land—has grown since 2016, according to the U.S. Department of Agriculture (USDA). Recent national security risks related to foreign investments in U.S. agricultural land have highlighted the importance of CFIUS’s reviews. CFIUS is the main authority to address the national security ramifications of foreign investment in the United States, according to Treasury and DOD officials. However, we found that CFIUS does not currently have regular and timely access to detailed AFIDA information, the nation’s most comprehensive data on foreign investments in U.S. agricultural land, according to USDA officials.

Additional targeted information on foreign investments in U.S. agricultural land could improve DOD’s ability to identify potential investments of concern earlier in the process. As we have previously reported, if parties to a covered transaction do not voluntarily notify CFIUS, and CFIUS does not independently discover the transaction and initiate a review, potential risks to national security may go undetected. Access to timely AFIDA data, such as whether a party has filed a disclosure, when it was filed, and ownership information for the second and third ownership tiers could reduce that risk.

In addition, USDA’s current processes to verify and monitor data have deficiencies. These processes could be improved to ensure more foreign investors report

their holdings and make the data more reliable and useful. Although AFIDA data are the primary means by which the United States tracks and monitors foreign investment in its agricultural land, according to USDA officials, USDA collects AFIDA data on paper forms, which currently hinders its ability to track these investments. In addition, USDA has taken some steps to update its process for online submission but does not have timelines for its completion. USDA has also made little progress in creating a public database, which could help the agency address some of these issues. Congress has passed and the President enacted a requirement for USDA to adopt an online submission process and public database by 2025.<sup>57</sup>

USDA does not regularly review and validate its data to improve its accuracy and completeness, and it could derive more results with additional efforts to determine how many foreign persons fail to file (non-filers). In addition, USDA does not report on key information related to the ultimate beneficiary of foreign-held agricultural land, even when that information is collected. Despite the limitations of AFIDA data, sharing these data could assist CFIUS in its efforts to identify foreign investments in agricultural land that may pose national security risks. But without accurate data and transparent reporting, USDA cannot provide reliable information to CFIUS, Congress, or the public about where and how much U.S. agricultural land is held by foreign persons.

### **Recommendations for Executive Action**

We are making a total of six recommendations to USDA:

The Secretary of Agriculture should ensure that the Chief Operating Officer of FPAC-BC, in coordination with relevant CFIUS member agencies, establish a process to provide detailed and timely AFIDA transaction data relevant to foreign investments in agricultural land to CFIUS member agencies, including DOD and Treasury. Such information could include whether a party has filed a disclosure, who filed it, and when it was filed. **(Recommendation 1)**

The Secretary of Agriculture should direct the Administrator of FSA, as FPAC-BC updates the AFIDA handbook, to clarify and provide specific instructions to headquarters and county employees for completing AFIDA responsibilities, including reviewing the accuracy of forms and identifying missing information. **(Recommendation 2)**

The Secretary of Agriculture should direct the Chief Operating Officer of FPAC-BC and the Administrator of FSA to jointly complete an analysis to determine the extent to which the agency can satisfy the requirements of the Consolidated Appropriations Act, 2023 to create an AFIDA online submission system and public database within its expected budget. If the analysis shows that the agency would be unable to meet the requirements of the Consolidated Appropriations Act, 2023, USDA should report the results to Congress and recommend appropriate legislative changes. **(Recommendation 3)**

The Secretary of Agriculture should direct the Chief Operating Officer of FPAC-BC to improve its verification and monitoring of collected AFIDA data, such as reviewing and validating information throughout the AFIDA data collection process. **(Recommendation 4)**

The Secretary of Agriculture should direct the Chief Operating Officer of FPAC-BC, in coordination with the Administrator of FSA, to continue data mining activities that compare AFIDA data to FSA program data to identify suspected non-filers. **(Recommendation 5)**

The Secretary of Agriculture should direct the Chief Operating Officer of FPAC-BC to ensure its AFIDA reporting is complete, such as incorporating country information from additional foreign persons beyond the primary investor when available. **(Recommendation 6)**

### **Agencies' Comments and Our Evaluation**

We provided a draft of this report to DOD, Treasury, and USDA for review and comment. USDA provided written comments that are reprinted in *appendix III*, and summarized below. In its written comments, USDA agreed with the first five recommendations and partially agreed with the sixth recommendation. Treasury and DOD communicated by email that they agree to support USDA in implementing our first recommendation that USDA should establish a process to provide detailed and timely AFIDA data to CFIUS member agencies, including Treasury and DOD.

<sup>57</sup> Pub. L. No. 117-328, div. A, tit. VII, § 773, 136 Stat. 4459, 4509 (2022). As of November 2023, the proposed Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2024, being considered by the House of Representatives, contains the same provision. H.R. 4368, § 747, 118th Cong. (reported in the House (June 27, 2023)).

USDA and Treasury provided technical comments, which we incorporated as appropriate.

In response to our recommendations, USDA outlined actions it plans to take. USDA said that as of January 2024, AFIDA staff in FPAC-BC are updating the existing AFIDA handbook. In addition, a December 15, 2023 *Federal Register* announcement requested public input on proposed revisions to the FSA-153.

USDA said it has concerns with implementing our sixth recommendation without additional financial resources to create and maintain an online filing portal. We acknowledge this concern but stand by our recommendation, as USDA has options to implement it without incurring significant additional costs. While including country information from historical filings would be resource-intensive, USDA has already planned to put some of these measures in place and could use that process to ensure it includes all available country information from future filings. USDA stated that for the 2024 report, containing data through December 31, 2023, it will provide data on secondary and higher interests associated with the People's Republic of China, Russia, Iran, and North Korea. We acknowledge that these data would be useful. However, USDA does not plan to include country information beyond the first ownership tier for other countries. This information is key to a comprehensive picture of foreign investments in agricultural land. Further, USDA could include the country information in its reporting using other methods than the time-consuming manual process that USDA proposed in its comments. For example, USDA could adjust its process to ensure it includes a table showing landholdings by country, including the countries of additional foreign persons. That would allow USDA to provide better information when acreage totals exceed total foreign interest, because additional foreign persons with an interest in the same landholding may be associated with more than one country.

We are sending copies of this report to the appropriate Congressional committees and the Secretaries of Defense, the Treasury, Agriculture, and other interested parties. In addition, the report will be available at no charge on the GAO website at <https://www.gao.gov>.

If you or your staff have any questions about this report, please contact Kimberly Gianopoulos at (202) 512-8612 or [gianopoulosk@gao.gov](mailto:gianopoulosk@gao.gov) or Steve D. Morris at (202) 512-3841 or [morriss@gao.gov](mailto:morriss@gao.gov). GAO staff who made key contributions to this report are listed in *appendix IV*.



KIMBERLY M. GIANOPOULOS,  
*Director, International Affairs and Trade;*



STEVE D. MORRIS,  
*Director, Natural Resources and Environment.*

#### *List of Requesters*

Hon. GLENN THOMPSON,  
*Chairman, Committee on Agriculture,*  
House of Representatives  
Hon. JOEY C. ARRINGTON,  
*Chairman, Committee on the Budget,*  
House of Representatives  
Hon. CATHY McMORRIS RODGERS,  
*Chair, Committee on Energy and Commerce,*  
House of Representatives  
Hon. MICHAEL McCaul,  
*Chairman, Committee on Foreign Affairs,*  
House of Representatives  
Hon. BRUCE WESTERMAN,  
*Chairman, Committee on Natural Resources,*  
House of Representatives  
Hon. FRANK D. LUCAS,  
*Chairman, Committee on Science, Space, and Technology,*  
House of Representatives  
Hon. MIKE BOST,  
*Chairman, Committee on Veterans' Affairs,*  
House of Representatives  
Hon. MIKE BRAUN,  
*United States Senate*  
Hon. ROBERT B. ADERHOLT,  
House of Representatives  
Hon. BRIAN BABIN,  
House of Representatives  
Hon. JAMES R. BAIRD,  
House of Representatives  
Hon. ANDY BARR,

Hon. MIKE ROGERS,  
*Chairman, Committee on Armed Services,*  
House of Representatives  
Hon. VIRGINIA FOXX,  
*Chairwoman, Committee on Education and the Workforce,*  
House of Representatives  
Hon. MICHAEL GUEST,  
*Chairman, Committee on Ethics,*  
House of Representatives  
Hon. JIM JORDAN,  
*Chairman, Committee on the Judiciary,*  
House of Representatives  
Hon. JAMES COMER,  
*Chairman, Committee on Oversight and Accountability,*  
House of Representatives  
Hon. ROGER WILLIAMS,  
*Chairman, Committee on Small Business,*  
House of Representatives  
Hon. JASON SMITH,  
*Chairman, Committee on Ways and Means,*  
House of Representatives  
Hon. TED BUDD,  
*United States Senate*  
Hon. RICK W. ALLEN,  
House of Representatives  
Hon. DON BACON,  
House of Representatives  
Hon. TROY BALDERSON,  
House of Representatives  
Hon. CLIFF BENTZ,

*List of Requesters—Continued*

House of Representatives  
Hon. JACK BERGMAN,  
House of Representatives  
Hon. ANDY BIGGS,  
House of Representatives  
Hon. TIM BURCHETT,  
House of Representatives  
Hon. KAT CAMMACK,  
House of Representatives  
Hon. JERRY L. CARL,  
House of Representatives  
Hon. BEN CLINE,  
House of Representatives  
Hon. ANDREW S. CLYDE,  
House of Representatives  
Hon. SCOTT DESJARLAIS,  
House of Representatives  
Hon. BYRON DONALDS,  
House of Representatives  
Hon. NEAL P. DUNN,  
House of Representatives  
Hon. TOM EMMER,  
House of Representatives  
Hon. RANDY FEENSTRA,  
House of Representatives  
Hon. MICHELLE FISCHBACH,  
House of Representatives  
Hon. CHUCK FLEISCHMANN,  
House of Representatives  
Hon. MIKE GARCIA,  
House of Representatives  
Hon. SCOTT FRANKLIN,  
House of Representatives  
Hon. JENNIFFER GONZÁLEZ COLÓN,  
House of Representatives  
Hon. LANCE GOODEN,  
House of Representatives  
Hon. MARJORIE TAYLOR GREENE,  
House of Representatives  
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**Appendix I: Objectives, Scope, and Methodology**

This report examines the extent to which (1) the U.S. Department of Agriculture (USDA) shares information related to foreign investments in U.S. agricultural land with the Committee on Foreign Investment in the United States (CFIUS) for its national security reviews and (2) USDA's processes enable it to collect, track, and report foreign investments in U.S. agricultural land.

The Department of the Treasury (Treasury), the Department of Defense (DOD), and USDA deemed some of the information in our report to be too sensitive for public disclosure. As a result, this report omits sensitive information about CFIUS's processes for tracking transactions and numbers of transactions CFIUS agencies reviewed related to foreign investments in U.S. agricultural land.

To examine the extent to which USDA shares information related to foreign investment in U.S. agricultural land with CFIUS for its national security reviews, we reviewed the Foreign Investment and National Security Act of 2007 (FINSAs),<sup>1</sup> and the Foreign Investment Risk Review Modernization Act of 2018 (FIRRMA),<sup>2</sup> CFIUS regulations implementing FINSAs and FIRRMA,<sup>3</sup> and relevant executive orders. We also reviewed the 2021 and 2022 CFIUS annual reports. In addition, we reviewed interagency communications and agency documents, such as internal guidance, to understand (1) CFIUS's process and (2) Treasury's, DOD's, and USDA's individual processes for reviewing potential national security risks related to foreign investments and identifying transactions for potential CFIUS review.

We also interviewed officials from Treasury's Office of Investment Security, USDA's Office of Homeland Security, and DOD's Office of the Under Secretary of Defense for Acquisition and Sustainment about these agencies' CFIUS efforts. We interviewed USDA officials from the Farm Service Agency (FSA) and the Farm Production and Conservation Business Center (FPAC-BC) about USDA's processes to track and report foreign investments in U.S. agricultural land pursuant to the Agricultural Foreign Investment Disclosure Act of 1978, as amended (AFIDA).<sup>4</sup>

In addition, we evaluated information from interviews and documents to evaluate efforts amongst these agencies to share information in addition to potential challenges these agencies have faced in doing so. We determined that the internal control principle related to quality information was significant to this objective.<sup>5</sup> We evaluated information from interviews and documents to determine whether the three agencies communicated the necessary quality information through reporting lines so that external parties can help the entity achieve its objectives and address related risks to achieve the entities' objectives. In addition, we evaluated information from interviews and documents to determine whether USDA FPAC-BC communicated the necessary quality information internally down and across reporting lines to enable personnel to perform key roles in achieving objectives, addressing risks, and supporting the internal control system.

To examine USDA's processes to track and report foreign investments in U.S. agricultural land, we reviewed AFIDA,<sup>6</sup> USDA's implementing regulations,<sup>7</sup> and AFIDA requirements found in the Consolidated Appropriations Act, 2023.<sup>8</sup> We also reviewed the Farm Service Agency's (FSA) AFIDA handbook to learn about AFIDA

<sup>1</sup>Pub. L. No.110-49 §2, 121 Stat. 246 (July 26, 2007) (codified as amended at 50 U.S.C. §4565).

<sup>2</sup>John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, §§1701-1728, 132 Stat. 1636, 2173-2208 (Aug. 13, 2018) (codified as amended at 50 U.S.C. §4565).

<sup>3</sup>See 31 CFR pts. 800 and 802.

<sup>4</sup>Pub. L. No. 95-460, 92 Stat. 1263 (codified as amended at 7 U.S.C. §§3501-3508).

<sup>5</sup>*Standards for Internal Control in the Federal Government*, GAO-14-704G (<https://www.gao.gov/products/GAO-14-704G>) (Washington, D.C.: Sept. 10, 2014).

<sup>6</sup>Pub. L. No. 95-460, 92 Stat. 1263 (codified as amended at 7 U.S.C. §§3501-3508).

<sup>7</sup>7 CFR pt. 781.

<sup>8</sup>Pub. L. No. 117-328, div. A, tit. VII, §773, 136 Stat. 4459, 4509 (2022).

responsibilities and guidance for county, state, and headquarters offices.<sup>9</sup> We interviewed USDA headquarters officials from the FSA and FPAC–BC about AFIDA processes, limitations, and their efforts to create an online submission process and public database. We also selected and interviewed FSA officials from a non-generalizable sample of three state offices and three county offices to better understand how FSA state and county offices were fulfilling their AFIDA responsibilities. We selected the FSA Grand Forks County and Val Verde County offices due to media coverage on potential CFIUS reviews of agricultural land transactions occurring in those counties. We selected the FSA Antelope County office, because this county includes the highest number of foreign holdings of agricultural land, by number of land parcels, according to USDA’s AFIDA holdings data. We selected the three FSA state offices that oversee those counties—North Dakota, Texas, and Nebraska, respectively.

We evaluated USDA’s AFIDA processes using as criteria Standards for Internal Control in the Federal Government and USDA guidelines to implement the Information Quality Act.<sup>10</sup>

We assessed the reliability of AFIDA data by reviewing active holdings by foreign persons as of the end of 2021—the latest year of data available from the AFIDA spreadsheet at the time of our review. These data were spreadsheets generated from USDA’s Microsoft Access AFIDA database. According to officials, these data were used to populate USDA’s 2021 AFIDA annual report and represent current foreign investments of U.S. agricultural land, including investments that were made prior to 2021. As such, these data do not include investments that were divested. We also reviewed agency documents and interviewed FPAC–BC headquarters officials about entry and maintenance of the AFIDA spreadsheet, including controls in the spreadsheet and checks done prior to using the AFIDA spreadsheet to populate USDA’s AFIDA annual reports. We electronically tested for missing data, outliers, and obvious errors. We also evaluated AFIDA data against reported summary data in USDA’s 2021 AFIDA Annual Report and the presentation of these data in the report. Based on errors we identified and recent transactions covered by the media, we selected and requested a non-generalizable sample of 20 AFIDA forms, which are source documents used to populate AFIDA data, to review for errors and completeness. According to USDA officials, the data for two of the AFIDA forms were included in one form; therefore, we reviewed 19 AFIDA forms. We also reviewed the data submitted on these forms that USDA does not enter into the AFIDA spreadsheet, such as additional ownership tiers and legal descriptions. We shared inconsistencies we identified with USDA, and USDA confirmed the presence of errors. We determined that the data were not sufficiently reliable to show the amount of foreign investment in U.S. agricultural land and we only include data in this report for contextual purposes or to show examples of data errors. We make recommendations to address the reliability of AFIDA data.

The performance audit upon which this report is based was conducted from October 2022 to January 2024 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

<sup>9</sup> USDA, *FSA Handbook: Foreign Investment Disclosure*, 1–AFIDA (Washington D.C., revised Jan. 27, 2006).

<sup>10</sup> The Information Quality Act, also known as the Data Quality Act, directed the Office of Management and Budget (OMB) to issue guidelines that provide policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information, including statistical information disseminated to the public. Consolidated Appropriations Act, 2001, Pub. L. No. 106–554, app. C, tit. V, § 515, 114 Stat. 2763, 2763A–153, 2763A–154 (2000). OMB, published the required guidelines in 2002. OMB, *Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies*, Final Guidelines, 67 FED. REG. 8452 (Feb. 22, 2002). In 2019, OMB published a memorandum to reinforce, clarify, and interpret agency responsibilities with regard to responsibilities under the Information Quality Act. OMB, *Improving Implementation of the Information Quality Act*, OMB M–19–15 (Apr. 24, 2019). USDA’s guidelines implement OMB guidelines in accordance with the Information Quality Act.

**Appendix II: Factors to Consider When Determining Whether Submitted Transactions Pose a National Security Risk**

**Table 1: List of Illustrative Factors CFIUS and the President May Consider in Determining Whether a Transaction Notified to the Committee Poses a National Security Risk**

- 
- The potential effects of the transaction on the domestic production needed for projected national defense requirements.
  - The potential effects of the transaction on the capability and capacity of domestic industries to meet national defense requirements, including the availability of human resources, products, technology, materials, and other supplies and services.
  - The potential effects of the transaction on a foreign person's control of domestic industries and commercial activity as it affects the capability and capacity of the United States to meet the requirements of national security.
  - The potential effects of the transaction on U.S. international technological leadership in areas affecting U.S. national security.
  - The potential national security-related effects on U.S. critical technologies.
  - The potential effects on the long-term projection of U.S. requirements for sources of energy and other critical resources and material.
  - The potential national security-related effects of the transaction on U.S. critical infrastructure, including critical physical infrastructure such as major energy assets.
  - The potential effects of the transaction on the sales of military goods, equipment, or technology to countries that present concerns related to terrorism; missile proliferation; chemical, biological, or nuclear weapons proliferation; or regional military threats.
  - The potential that the transaction presents for transshipment or diversion of technologies with military applications, including the relevant country's export control system.
  - Whether the transaction could result in the control of a U.S. business by a foreign government or by an entity controlled by or acting on behalf of a foreign government.
  - The relevant foreign country's record of adherence to nonproliferation control regimes and record of cooperating with U.S. counterterrorism efforts.
  - Other factors that the President or the committee may determine to be appropriate, generally or in connection with a specific review or investigation.
- 

Source: 50 U.S.C. § 4565(f). See also Department of the Treasury: Office of Investment Security; *Guidance Concerning the National Security Review Conducted by the Committee on Foreign Investment in the United States*, 73 FED. REG. 74567 (Dec. 8, 2008) (detailing the illustrative list of factors in section 721(f) of the Defense Production Act of 1950, as amended and codified at 50 U.S.C. § 4565(f)). | GAO-24-106337.

**Appendix III: Comments from the Department of Agriculture**

January 4, 2024

STEVE D. MORRIS,  
*Director*  
 Natural Resources and Environment  
 Government Accountability Office  
 Washington, D.C.

Dear Mr. Morris:

The U.S. Department of Agriculture (USDA) Farm Service Agency (FSA) appreciates the opportunity to respond to the U.S. Government Accountability Office (GAO) draft report GAO-24-106337, "Foreign Investments in U.S. Agricultural Land: Enhancing Efforts to Collect, Track, and Share Key Information Could Help Better Identify National Security Risks," received December 4, 2023. The report examines USDA processes associated with the Agricultural Foreign Investment Disclosure Act (AFIDA) and linkages with the Committee on Foreign Investment in the United States (CFIUS).

The items below address the six GAO recommendations. USDA has provided comments on specific items in the GAO report in separate correspondence to GAO.

**Responses to GAO Recommendations:**

**Recommendation 1**—*The Secretary of Agriculture should ensure that the Administrator of FPAC-BC, in coordination with relevant CFIUS member agencies, establish a process to provide detailed and timely AFIDA transaction data relevant to foreign investments in agricultural land to CFIUS member agencies including DOD and Treasury. Such information could include whether a party has filed a disclosure, who filed it, and when it was filed.*

**Response 1**—USDA agrees with this recommendation. The Department has procedures in place for ensuring that AFIDA transactions are flagged for CFIUS review and that our CFIUS partners are aware of agricultural interests. When an FSA-153 filing from a Chinese, Russian, North Korean, or Iranian investor is received by AFIDA staff at USDA headquarters, the entire FSA-153 filing is sent to counterparts in the Department of Defense and the FBI. The filing is also shared with USDA's Office of Homeland Security. Without an appropriation of funding sufficient for development and maintenance of an online filing portal, it will be difficult to provide more real-time filings except through the manual process (scanning and e-mailing) described earlier in this paragraph. If funding becomes available for a filing portal, the Farm Production and Conservation-Business Center (FPAC-BC) will work to ensure that our interagency partners have access to more real-time data, either directly through the portal or through weekly or monthly FSA-153 filing summaries.

**Recommendation 2**—*The Secretary of Agriculture should direct the Administrator of FSA, as FPAC-BC updates the AFIDA handbook, to clarify and provide specific instructions to headquarters and county employees for completing AFIDA responsibilities, including reviewing the accuracy of forms and identifying missing information.*

**Response 2**—USDA agrees with this recommendation. AFIDA staff in FPAC-BC are currently working on updating the existing 1-AFIDA handbook. In addition, a *Federal Register* announcement posted on Friday, December 15, 2023, requests public input on proposed revisions to the FSA-153 (AFIDA reporting) form, plus feedback on specific issues associated with both the existing and proposed form. After responses are received from the public and a revised, updated FSA-153 form is cleared through the Executive Branch process, USDA will make necessary revisions to the 1-AFIDA handbook and provide complete instructions to AFIDA filers and headquarters/county employees who work on AFIDA.

**Recommendation 3**—*The Secretary of Agriculture should direct the Administrators of FPAC-BC and FSA to jointly complete an analysis to determine the extent to which the agency can satisfy the requirements of the Consolidated Appropriations Act, 2023 to create an AFIDA online submission system and public database within its expected budget. If the analysis shows that the agency would be unable to meet the requirements of the Consolidated Appropriations Act, 2023, USDA should report the results to Congress and recommend appropriate legislative changes.*

**Response 3**—USDA agrees with this recommendation and has communicated to Congress the urgent need for funding on multiple occasions over the past year. In addition, and in the absence of funding, USDA has communicated to the Senate and House Agriculture Committees and the Senate and House Agricultural Appropriations Committees, as well as GAO, our efforts to modernize AFIDA in line with the Consolidated Appropriations Act, 2023. In June 2023, Excel spreadsheets for each year from 2010 to 2021 containing the detailed data underlying the annual reports to Congress were posted on the FSA website; this effort was what could be done given the absence of funding in the Consolidated Appropriations Act, 2023. In addition, we developed a proposed, revised FSA-153 (AFIDA filing) form, which was posted in the *Federal Register* on Friday, December 15, 2023. This announcement requests public comment to ensure that we are capturing the most appropriate data and is a first step in online portal development. Should funding be provided for an online filing portal to be created and maintained, USDA needs to ensure that we are capturing the best possible data—including more information on leaseholds and the impacts of foreign investment on U.S. farms and rural communities. The *Federal Register* document asks for input on these items, as well as other information. Beyond revising and updating the FSA-153 form, we have communicated to Congress that we cannot make progress on IT development until funding is provided for IT system creation and additional IT staffing.

**Recommendation 4**—*The Secretary of Agriculture should direct the Administrator of FPAC-BC to improve its verification and monitoring of collected AFIDA*



*data, such as reviewing and validating information throughout the AFIDA data collection process.*

**Response 4**—USDA agrees with this recommendation. In late September 2023, AFIDA staff met with Performance, Accountability, and Risk (PAR) staff, also in the FPAC–BC, to discuss the review and validation of AFIDA data. Going forward, PAR staff will focus on three “buckets” of potential AFIDA data errors: (1) data entry errors from the hard copy FSA–153 forms to the existing Access database; (2) errors made by filers that are not caught by AFIDA staff; and (3) stale data in the AFIDA database that do not match current property tax records. In addition to spot checks, PAR will recommend internal control actions that may be undertaken to add additional rigor to AFIDA processes. PAR staff plan to begin this work in earnest in early 2024.

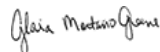
**Recommendation 5**—*The Secretary of Agriculture should direct the Administrator of FPAC–BC, in coordination with the Administrator of FSA, to continue pursuing data monitoring activities that compare AFIDA data to FSA program data to identify suspected non-filers.*

**Response 5**—USDA agrees with this recommendation. In the fall of 2023, the FPAC–BC matched FSA farm program data identifying those flagged as non-U.S. citizens and non-permanent residents with those who are AFIDA filers. For landowners who appear to need to file, but for which we have no FSA–153 form on file, local FSA offices took steps to reconcile individual situations (for example, those who became permanent residents or who were deceased). For those situations where local FSA staff could provide no insights, FPAC–BC headquarters staff sent a letter informing the recipient of AFIDA filing requirements. We have heard back from very few people (or companies) that were contacted. Most letter recipients have very small acreage (10–20 acres). It is possible that many letter recipients discerned that they could face a large penalty (up to 25 percent of the fair market value of the land) and decided to not respond, thinking that the U.S. Government is not going to pursue them for such small acreage. It is also possible that low-resourced producers may not be able to fully respond to the letter. Given the low response rate, and that few new foreign persons are likely to emerge from this process on a year-to-year basis, we intend to engage in this process periodically (but not annually).

**Recommendation 6**—*The Secretary of Agriculture should direct the Administrator of FPAC–BC to ensure its AFIDA reporting is clear and complete, such as incorporating country information from additional foreign persons beyond the primary investor when available.*

**Response 6**—USDA has concerns with this recommendation without additional financial resources and personnel to create and maintain an online filing portal. For the 2024 report, containing data through December 31, 2023, we will provide data on secondary and higher interests associated with Chinese, Russian, Iranian, and North Korean interests. This would apply only to new filings received in 2023 as developing these data back to 1978 would require manually reviewing all historical paper FSA–153 filings and manually entering all Chinese, Russian, Iranian, and North Korean data for any tier reported by investors from those countries. A manual check of this scope is infeasible without additional financial resources and personnel. However, doing so for the four high-priority countries is manageable for new filings starting in 2023 and going forward. Note that, to develop detailed acreage data with secondary (and higher) interests in mind, USDA would have to weight the acreage data by country for each filing (or else the final report would over-report acreage). With a manual process, this would be very time consuming and likely prone to error. To accurately capture secondary and higher interests for **all** countries, we would need an online filing portal with the burden placed on the filer to accurately develop this information.

Sincerely,



GLORIA MONTAÑO GREENE,  
Deputy Under Secretary,  
Farm Production and Conservation.

#### **Appendix IV: GAO Contact and Staff Acknowledgments**

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In addition to the contact named above, Christina Werth (Assistant Director), Thomas Cook (Assistant Director), Jaime Allentuck (Analyst in Charge), Brian Hackney (Senior Analyst), Cory Ryncarz (Analyst), Larissa Barrett, John Bornmann, Kevin Bray, Neil Doherty, Bahareh Etemadian, Grace Lui, Terry Richardson, and Miranda Riemer made key contributions to this report. Other contributors to this report include Ming Chen, Steven Flint, Jeff Isaacs, Heather Miller, Ben Moser, and Meghan Perez.

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SUBMITTED ARTICLE BY HON. JAMES P. MCGOVERN, A REPRESENTATIVE IN CONGRESS  
FROM MASSACHUSETTS



[<https://www.justsecurity.org/86722/with-new-alien-land-laws-asian-immigrants-are-once-again-targeted-by-real-estate-bans/>]

## With New “Alien Land Laws” Asian Immigrants Are Once Again Targeted by Real Estate Bans

By EDGAR CHEN<sup>1</sup>

May 26, 2023



*Florida Gov. Ron DeSantis speaks during a press conference held at the Florida National Guard Robert A. Ballard Armory on June 07, 2021 in Miami, Florida, announcing the signing of two bills including SB 264. (Photo by Joe Raedle/Getty Images).*

In Congress and in statehouses throughout the United States, lawmakers continue to *introduce legislation*<sup>2</sup> designed to bar citizens of foreign adversaries from being able to purchase real property. Ostensibly aimed at preventing a short list of enemy governments from controlling the American food supply or spying on military facilities, these laws’ most cited rationale is fear of Chinese Communist Party (CCP) influence on American soil. Sponsors argue that such legislation would safeguard agricultural land, defense, and critical infrastructure from malign foreign influence. However, much of the legislation introduced so far extends well beyond this ambit, restricting even those with no discernable ties to the CCP or other organs of Chinese state power.

These bills—which are opposed by groups including the *National Asian Pacific American Bar Association*,<sup>3</sup> where I previously served as Policy Director and continue to advise—raise significant concerns regarding the balancing of national security equities against civil liberties, Federal preemption grounds, and present a host of unintended consequences with the potential to harm the economies of affected states. *Opponents of these bills*<sup>4</sup> have described such legislation as a revival of unconstitutional anti-Asian land laws—a class of law once called “alien land laws”—

<sup>1</sup> <https://www.justsecurity.org/author/chenedgar/>.

<sup>2</sup> <https://advancingjustice-aajc.quorum.us/advancingjustice-aajc.landlawresources>.

<sup>3</sup> <https://www.napaba.org/page/preemption-of-real-property-discrimination-act>.

<sup>4</sup> <https://www.asiantexasforjustice.org/sb-147>.

and an ongoing threat to the civil rights of all Asian Americans, regardless of ethnic background.

*Did You Say “Asians” or “Agents”?*

On May 8, 2023, Florida Governor Ron DeSantis signed into law *SB 264*,<sup>5</sup> which bars “foreign principals”—defined as government officials, members of political parties, and anyone domiciled in certain countries of concern (China, Russia, Iran, North Korea, Syria, Venezuela, and Cuba) from purchasing any agricultural land or any property within 10 miles of a military installation or critical infrastructure. The law also specifically bars any Chinese foreign principals from purchasing any real estate whatsoever in the state, with limited exceptions for residential property by those lawfully present in the United States. Upon enactment, *DeSantis proclaimed*,<sup>6</sup> “I’m proud to sign this legislation to stop the purchase of our farmland and land near our military bases and critical infrastructure by Chinese agents.”

The legislation, however, far exceeds the purchase of strategically important land by “Chinese agents.” With few exceptions, anyone *domiciled*<sup>7</sup> in China—regardless of non-affiliation with the CCP—is barred from purchasing real estate in Florida. Unlike Russians or Syrians, Chinese citizens are singled out and prohibited from purchasing non-residential property, even land nowhere near a military base. There are carveouts for dual U.S. citizens and green card holders, but other lawfully present Chinese nationals face further restrictions. Violations could result in forfeiture and criminal penalties.

If part of the intent of the Florida legislation is to thwart the viability of adversarial authoritarian regimes, the law’s blanket prohibition on real estate acquisition by any member of any political party from the named countries works against this. While potentially deterring single party regimes such as China and North Korea from investing in Florida, *SB 264*’s terms would also place restrictions on Venezuelan opposition leader *Juan Guaido*<sup>8</sup> (who was recently spotted in Miami) and Russian dissident Alexei Navalny.

Florida is not alone in ramping up legislation to ban Chinese residents and others from purchasing real estate. Sponsors from both parties, including in *California*<sup>9</sup> and *New York*<sup>10</sup> have introduced drafts, and bills have advanced quickly in *Texas*,<sup>11</sup> *Louisiana*,<sup>12</sup> *South Carolina*,<sup>13</sup> and *Alabama*<sup>14</sup> presenting many of the same scoping problems. For example, *SB 91* in Louisiana prohibits the *leasing* of immovable property to any citizen of China within 50 miles of a military facility, unless they hold a green card. Thus, lawfully admitted Chinese citizens present on student or employment visas studying or working at Louisiana State University would not be able to even *rent* an apartment in Baton Rouge, which houses an *armed forces reserve center*.<sup>15</sup> Louisiana’s House companion bill, *HB 537* now contains exceptions for residential property, but would still restrict sales or leases of commercial property to foreign investors. While the latest version also does not apply to “lawfully present” immigrants, a prior draft only excepted valid visa holders, which would have barred most refugees, asylees, and asylum seekers, all of whom are authorized to live and work in the United States, from renting business space. (Refugees often enter the country using State Department issued transportation letters or boarding foils, which are not technically visas, and asylees are authorized to live and work in the United States by immigration judges or the Department of Homeland Security, not generally through visas). Legislation may prevent many of these vulnerable persons, like the *63 Chinese Christians who fled religious persecution in China*<sup>16</sup> or others escaping political oppression in Russia, Iran, Cuba, and Venezuela, from establishing roots.

<sup>5</sup> <https://laws.flrules.org/2023/33>.

<sup>6</sup> <https://www.flgov.com/2023/05/08/governor-ron-desantis-cracks-down-on-communist-china/>.

<sup>7</sup> <https://www.floridabar.org/the-florida-bar-journal/domicile-planning-dont-take-it-for-granted/>.

<sup>8</sup> <https://www.reuters.com/world/americas/venezuelas-guaido-arrives-miami-after-surprise-columbia-visit-2023-04-25/>.

<sup>9</sup> <https://www.cpradio.org/articles/2023/04/26/california-bill-could-ban-foreign-investors-from-buying-state-farmland/>.

<sup>10</sup> <https://assembly.state.ny.us/mem/Angelo-Santabarbara/story/105616>.

<sup>11</sup> <https://capitol.texas.gov/tlodocs/88R/billtext/html/SB001471.htm>.

<sup>12</sup> <https://legis.la.gov/legis/ViewDocument.aspx?d=1317999>.

<sup>13</sup> [https://www.scstatehouse.gov/sess125\\_2023-2024/prev/576\\_20230324.htm](https://www.scstatehouse.gov/sess125_2023-2024/prev/576_20230324.htm).

<sup>14</sup> <https://www.legislature.state.al.us/pdf/SearchableInstruments/2023RS/HB379-eng.pdf>.

<sup>15</sup> <https://geauxguard.la.gov/la-soldiers-marines-celebrate-new-armed-forces-center/>.

<sup>16</sup> <https://apnews.com/article/china-house-church-thailand-texas-e8f193fa733d279176ef845f42a06b35>.

### Unintended Economic Pitfalls

When first introduced, HB 537 banned any person or entity “subject to the jurisdiction of a foreign adversary” from purchasing or leasing real estate. This would have potentially swept up anyone who does business in, resides in, has assets in, or even visits one of the named countries. For example, foreign-based energy companies operating in Louisiana, who may have subsidiaries, stakes in joint ventures, or other interests in countries such as Russia or Venezuela, could technically be “subject to the[ir] jurisdiction” and would not be allowed to purchase or lease office space in the state under the introduced version.

In an amended draft, the language was changed to “connected with a foreign adversary.” However, the definition of “connected with a foreign adversary” included persons “contracted by” foreign states. While U.S. and other energy companies have largely exited Russia<sup>17</sup> due to its attack on Ukraine, others remain in the *Caspian pipeline consortium with Russia*.<sup>18</sup> Furthermore, U.S.-based and foreign oil and gas companies like Chevron still maintain *significant operations*<sup>19</sup> in places such as Venezuela. While this provision was later amended, it illustrates the risk for business actors.

The Florida law bars entities, whether state owned or not, that are headquartered or incorporated under the laws of foreign adversaries from purchasing farmland or land near critical infrastructure. This calls into question whether Miami’s billion dollar *Brickell City Centre project*,<sup>20</sup> led by Hong Kong based Swire, would violate the new law. Smithfield Foods, the *world’s largest pork producer*,<sup>21</sup> and the AMC Theatres, the *world’s largest theatre chain*,<sup>22</sup> are also both owned by Chinese investors.

### Origin Story One: Concerns Over Large Scale Land Transactions in Texas and North Dakota

While the downing of a Chinese spy balloon in March 2023 underscored the ongoing espionage threat posed by China, two erstwhile land transactions in Texas and North Dakota have been widely cited as the impetus for the raft of anti-Chinese land laws.

In 2016, Chinese billionaire entrepreneur Sun Guangxin began purchasing nearly 140,000 acres of land in southern Texas to build a wind farm that would feed directly into the state’s electrical grid. The transaction raised eyebrows due to Sun’s ties to the CCP and his former military service with the People’s Liberation Army (PLA). In 2020, the proposal was vetted by the Federal interagency *Committee on Foreign Investment in the United States (CFIUS)*,<sup>23</sup> which is comprised of representatives from 16 U.S. departments and agencies, including Treasury, Justice, Commerce, Defense, Energy, and Homeland Security. CFIUS is tasked with reviewing, and if appropriate, *blocking*<sup>24</sup> certain covered commercial transactions that could jeopardize national security. (CFIUS jurisdiction was expanded by the Foreign Investment Risk Review Modernization Act of 2018 (*FIRRMA*)<sup>25</sup> to include real estate transactions *located in proximity to sensitive governmental facilities*.<sup>26</sup>)

The Trump Administration, through CFIUS, ultimately *declined to block*<sup>27</sup> the transaction even though the project was located within 50 miles of *Laughlin Air Force Base*,<sup>28</sup> the largest training facility for Air Force pilots in the country. In response, in June 2021, Texas Governor Greg Abbott signed the *Lonestar Infrastructure Protection Act*<sup>29</sup> (LSIPA) which barred Chinese, North Korean, and Russian

<sup>17</sup> <https://www.reuters.com/business/energy/halliburton-suspends-future-business-russia-2022-03-18/>.

<sup>18</sup> <https://www.reuters.com/article/cpc-oil/update-1-caspian-pipeline-consortium-resumes-oil-exports-from-black-sea-terminal-idUKL1N36H0IJ>.

<sup>19</sup> <https://www.chevron.com/worldwide/venezuela>.

<sup>20</sup> <https://www.swireproperties.com/en/portfolio/current-developments/brickell-city-centre/>.

<sup>21</sup> <https://www.wsj.com/articles/smithfield-foods-ceo-defends-pork-producers-chinese-owner-ship-a78827da>.

<sup>22</sup> <https://www.amctheatres.com/corporate/about>.

<sup>23</sup> <https://home.treasury.gov/policy-issues/international/the-committee-on-foreign-investment-in-the-united-states-cfius>.

<sup>24</sup> <https://www.justsecurity.org/85836/how-lawmakers-hope-to-sidestep-existing-national-security-reviews-to-target-foreign-investment/>.

<sup>25</sup> <https://www.congress.gov/115/plaws/publ232/PLAW-115publ232.pdf>.

<sup>26</sup> <https://home.treasury.gov/system/files/206/Summary-of-FIRRMA.pdf>.

<sup>27</sup> <https://foreignpolicy.com/2020/06/25/texas-chinese-wind-farm-national-security-espionage-electrical-grid/>.

<sup>28</sup> <https://www.laughlin.af.mil/>.

<sup>29</sup> <https://capitol.texas.gov/BillLookup/History.aspx?LegSess=87R&Bill=SB2116>.

companies from entering into agreements affecting infrastructure, effectively *killing the project*.<sup>30</sup>

Similarly, in North Dakota, Chinese investment in a corn mill, *originally welcomed*<sup>31</sup> as an economic boon, was scuttled after concerns were raised that the 370 acre farm, located near the Grand Forks Air Force Base, could be a staging ground for espionage, and a threat to the American food supply. Plans by the Chinese Fufeng Group to build the mill were also reviewed by CFIUS, which in December 2022 *declined to exercise jurisdiction*<sup>32</sup> after determining that “greenfield” investments were not *covered transactions*,<sup>33</sup> which generally require a foreign entity to take over control of a U.S. business, and that the nearby base was not on a designated list of particularly sensitive facilities. The decision was *criticized*<sup>34</sup> by the North Dakota’s senators, who requested an *opinion by the Air Force*<sup>35</sup> which later claimed that the Fufeng project “presents a significant threat to national security.” Senator Marco Rubio, Vice Chair of the Senate Select Committee on Intelligence, *blasted CFIUS*,<sup>36</sup> calling the transaction “dangerous and dumb.” The fate of the project was sealed when the Grand Forks City Council *voted to terminate the deal*<sup>37</sup> in the wake of the Air Force letter.

On May 5, 2023, the Treasury Department, seemingly in response to the outcry over the Fufeng and Texas windfarm controversies, issued a *notice of proposed rule-making*<sup>38</sup> to add the Grand Forks and Laughlin Air Force Bases and six other military installations to the list of facilities that would be covered under the real estate provisions of CFIUS.

#### *Proposed Legislation Is Disproportionate to the Perceived Threat*

When SB 264 passed in Florida, the state’s agriculture commissioner hailed its enactment, stating “*food security is national security*.”<sup>39</sup> Similarly, HB 379 was introduced in Alabama in order to “*protect our agricultural interests and military facilities*.”<sup>40</sup> Despite legislators’ focus on protecting the American farmland, the U.S. Department of Agriculture (USDA) reported<sup>41</sup> that, as of December 2020, Chinese investors held slightly less than one percent of *foreign-held* agricultural acreage, well behind Canada which held the largest amount at 32% or 12.4 million acres and investors from the Netherlands, Italy, United Kingdom, and Germany, who collectively held 12 million acres or 31 percent of foreign-owned land. In total, foreign investors reported holding interests in nearly 37.6 million acres (2.9 percent) of all privately held farmland and 1.7 percent of all land in the United States. *Chinese owners held only 352,140 acres*.

According to the *National Agricultural Law Center*,<sup>42</sup> at least 21 states have already enacted legislation to limit foreign ownership of farmland, with states such as Iowa<sup>43</sup> having near absolute restrictions on the books since the 1970s. Since 1978, the USDA has required that foreign ownership of agricultural land be registered with the agency pursuant to the Agricultural Foreign Investment Disclosure Act.

Much of the current legislation goes far beyond farmland. The Florida law prevents any Chinese citizen domiciled in China (except for U.S. citizens or green card holders) from purchasing any real estate, anywhere in the state, irrespective of whether the property has any agricultural or strategic value. For certain Chinese visa holders and asylees already in the United States, there are exceptions to pur-

<sup>30</sup> <https://www.forbes.com/sites/johnhyatt/2021/08/09/why-a-secretive-chinese-billionaire-bought-140000-acres-of-land-in-texas/?sh=75e8f15c78c3>.

<sup>31</sup> <https://www.nytimes.com/2022/07/17/us/grand-forks-north-dakota-fufeng-china.html>.

<sup>32</sup> <https://www.mayerbrown.com/en/perspectives-events/publications/2023/01/cfius-determines-it-has-no-jurisdiction-over-fufeng-groups-north-dakota-corn-mill-project>.

<sup>33</sup> <https://www.law.cornell.edu/cfr/text/31/800.301>.

<sup>34</sup> <https://www.hoeven.senate.gov/news/news-releases/hoeven-cramer-air-force-provides-official-position-on-fufeng-project-in-grand-forks>.

<sup>35</sup> <https://www.hoeven.senate.gov/imo/media/doc/USAIRFORCE-FUFENG-LETTER-HOEVEN.pdf>.

<sup>36</sup> <https://www.rubio.senate.gov/public/index.cfm/2022/12/rubio-slams-cfius-s-refusal-to-take-action-regarding-fufeng-farmland-purchase>.

<sup>37</sup> <https://www.grandforksherald.com/news/local/city-ends-standstill-terminating-development-agreement-with-fufeng>.

<sup>38</sup> <https://www.federalregister.gov/documents/2023/05/05/2023-09259/provisions-pertaining-to-certain-transactions-by-foreign-persons-involving-real-estate-in-the-united>.

<sup>39</sup> <https://www.morningagclips.com/simpson-applauds-legislature-for-passing-sb-264/>.

<sup>40</sup> <https://www.facebook.com/repsscottstadhagen/>.

<sup>41</sup> [https://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdafiles/EPAS/PDF/2020\\_afida\\_annual\\_report.pdf](https://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdafiles/EPAS/PDF/2020_afida_annual_report.pdf).

<sup>42</sup> <https://nationalaglawcenter.org/foreign-investments-in-ag/>.

<sup>43</sup> <https://www.legis.iowa.gov/docs/code/9I.pdf>.

chase a single residence, but the property is limited to 2 acres and cannot be within 5 miles of any military installation, potentially ruling out much of Tampa Bay, home to *U.S. CENTCOM*,<sup>44</sup> and *MacDill AFB*,<sup>45</sup> and preventing many lawfully admitted Chinese residents from buying a condo in downtown Miami, given the two Coast Guard stations located there.

In Alabama, before a last minute Senate amendment re-focused HB 379 on governments and government officials, the bill restricted those domiciled in China from buying within a 10 mile radius of a military base or any “critical infrastructure,” which is defined to include any airport, refinery, electric plant, or wastewater treatment facility. So, for example, a Chinese citizen enrolled at the University of Alabama on a student visa would not have been able to buy a condo in Tuscaloosa, which has two water treatment plants within 5 miles of the campus, and those on employment-based visas couldn’t have purchased a home in Birmingham, Huntsville (home to the state’s largest Asian American population), or in Montgomery, home to Maxwell Air Force Base.

#### *Constitutional Challenges and the Potential for Discriminatory Enforcement*

If the legislation is an excessive response to legitimate policy concerns, what are its real goals? Critics of anti-Chinese real estate legislation have argued that such laws violate the Constitution’s Equal Protection clause of the 14th amendment as they single out persons for adverse treatment based on national origin and would not survive strict scrutiny, and that provisions of these laws would violate the *Fair Housing Act*,<sup>46</sup> which bars discrimination in any transactions related to residential housing. Indeed, just this week, a group of Chinese citizens who lawfully reside in Florida, *sued*<sup>47</sup> the state alleging violations of both.

Lawmakers around the country have defended against allegations that their bills are unconstitutional, discriminatory, or promote anti-Asian racism, in part, by pointing to Federal determinations of adversarial nations. For example, Alabama’s HB 379 originally targeted only Chinese citizens, but a Senate amendment changed the bill to instead blacklist officials from a list of “foreign countries of concern” (China, Russia, North Korea, and Iran), and others on the Treasury Department’s *OFAC*<sup>48</sup> sanctions list. Legislation introduced in *South Carolina*<sup>49</sup> and *Louisiana*<sup>50</sup> is tethered to *15 CFR* §7.4,<sup>51</sup> which lists foreign governments or foreign non-government persons that have “engaged in a long-term pattern or serious instances of conduct significantly adverse to the national security of the United States” as determined by the Secretary of Commerce.

While the “People’s Republic of China” is not explicitly listed in the text of either the Louisiana Senate or South Carolina bills, lead sponsors have specifically *cited to stopping China*<sup>52</sup> as the primary motivation. New Jersey’s Doug Steinhardt introduced a bill that would bar *any foreign government or person*<sup>53</sup> from buying agricultural land in the Garden State, without naming names, but declared his *legislative intent*<sup>54</sup> to “stop the Chinese Communist Party from establishing strategic control over sprawling tract of our farmland.” When DeSantis signed SB 264, he made *no* mention of *Russian oligarchs purchasing condos in Miami*,<sup>55</sup> but instead issued a press released headlined, “*Stop CCP Influence*.”<sup>56</sup>

By contrast, *Utah’s HB 186*,<sup>57</sup> signed into law in March 2023, also does not explicitly mention “China,” but appears more narrowly tailored to barring real estate purchases by “restricted foreign entities” rather than individuals. A “restricted foreign entity” is defined as “a company that the United States Secretary of Defense is required to identify and report as a military company” under section 1260H of the *Na-*

<sup>44</sup> <https://www.centcom.mil/>.

<sup>45</sup> <https://www.macdill.af.mil/>.

<sup>46</sup> <https://www.justice.gov/crt/fair-housing-act-2>.

<sup>47</sup> <https://www.aclu.org/documents/complaint-shen-v-simpson>.

<sup>48</sup> <https://ofac.treasury.gov/>.

<sup>49</sup> [https://www.scstatehouse.gov/sess125\\_2023-2024/prever/576\\_20230324.htm](https://www.scstatehouse.gov/sess125_2023-2024/prever/576_20230324.htm).

<sup>50</sup> <https://www.legis.la.gov/legis/ViewDocument.aspx?d=1322395>.

<sup>51</sup> <https://www.ecfr.gov/current/title-15/subtitle-A/part-7/subpart-A/section-7.4>.

<sup>52</sup> <https://apnews.com/article/south-carolina-foreign-land-ownership-158e23561036f15505775f9a81251ae5>.

<sup>53</sup> <https://apnews.com/article/south-carolina-foreign-land-ownership-158e23561036f15505775f9a81251ae5>.

<sup>54</sup> <https://www.senatenj.com/index.php/steinhardt/editorial-we-cant-let-china-buy-up-new-jersey-farmland/59523>.

<sup>55</sup> <https://www.nbcnews.com/business/real-estate/russian-money-flows-us-real-estate-rena17723>.

<sup>56</sup> <https://www.flgov.com/wp-content/uploads/2023/05/Stop-CCP-Influence-2023.pdf>.

<sup>57</sup> <https://le.utah.gov/~2023/bills/static/HB0186.html>.

*tional Defense Authorization Act of 2021*.<sup>58</sup> This list is limited to companies known to be operating in the United States, and that are owned or controlled by the PLA, are Chinese defense contractors, or are tech companies that receive funding through the Chinese military apparatus.

What remains to be seen, even with facially neutral legislation, is how such laws will be enforced, including whether Asian Americans of any heritage may face additional unwarranted scrutiny in real estate transactions by sellers, realtors, lenders, or others seeking to comply with the laws, based on impermissible factors such as names or appearance. At a *Louisiana house committee hearing*,<sup>59</sup> the sponsor of HB 537 explained that if there was “reasonable suspicion” that a buyer could be connected to a foreign adversary, that should trigger additional scrutiny and “investigation”—but would that suspicion be precipitated merely by a purchaser being Chinese-American? Or even Asian American? The potential for untoward, unjustified scrutiny based on perceived race or national origin would have devastating consequences for innocent Asian Americans seeking the American dream.

#### *An Ounce of Preemption*

As discussed above, the Federal CFIUS process already scrutinizes transactions, including of real estate, that could jeopardize national security. The CFIUS regime raises questions as to whether state laws purporting to protect military facilities and combat the influence of foreign adversaries named by the Federal Government may be preempted by Federal equities under the *Constitution’s Supremacy clause*.<sup>60</sup> The Supreme Court has already ruled that Federal power supersedes state attempts to legislate in traditional areas of Federal domain: foreign relations and immigration.

A state law may be preempted by a Federal statute that contains an express preemption provision, or when states attempt to exercise jurisdiction in areas where the Federal authority is exclusive, such as foreign relations, or when state laws conflict with, or stand as an obstacle to Federal interests. In *Arizona v. United States*,<sup>61</sup> the Supreme Court struck down several provisions of Arizona’s SB 1070, which among other things, made it a state crime for non-citizens to fail to register with the Federal Government and to work without authorization—both of which the Court found to be matters within the exclusive jurisdiction of the Federal Government. When Massachusetts attempted to impose its own sanctions regime against Burma by barring state entities from buying goods or services from companies doing business with Burma, the Supreme Court *struck down that law*<sup>62</sup> on Federal preemption grounds, as an obstacle to the President’s authority both to conduct diplomacy as the commander-in-chief saw fit, and to deploy the Federal sanctions regime with discretion in furtherance of the Administration’s foreign policy preferences. Furthermore, the Court noted that the Massachusetts law conflicted with the Federal regime as its scope differed from Federal sanctions, and “penalized individuals and conduct that Congress excluded.”

Professor Kristen Eichensehr *has argued*<sup>63</sup> that CFIUS would preempt state laws such as the LSIPA, used to undo the Texas windfarm project. Eichensehr noted that the Texas infrastructure law could be preempted as it imposes restrictions in the name of national security that differ from Federal law, which, under CFIUS, allows a review of individual transactions, not a blanket ban, and that CFIUS allows parties to negotiate and mitigate risk whereas the LSIPA does not provide any flexibilities.

From a policy standpoint, a patchwork of state laws purporting to protect Federal facilities and enjoin foreign governments may undermine the Federal executive’s ability to conduct foreign policy with one voice. Additionally, how would states (or realtors or lenders wary about facilitating barred transactions) identify specific national security risks or individuals who may be actual agents of foreign adversaries? While CFIUS relies on the investigative and analytical power of multiple Federal agencies, including the Department of Defense and the *intelligence community*,<sup>64</sup> states do not possess such tools. Notably the LSIPA’s list of barred countries that pose a threat to infrastructure is not based on a Federal source, but is determined by the governor of Texas.

<sup>58</sup> <https://www.congress.gov/116/plaws/publ283/PLAW-116publ283.pdf>.

<sup>59</sup> [https://house.louisiana.gov/H\\_Video/VideoArchivePlayer?v=house/2023/may/0515\\_23\\_CL](https://house.louisiana.gov/H_Video/VideoArchivePlayer?v=house/2023/may/0515_23_CL).

<sup>60</sup> [https://constitution.congress.gov/browse/essay/artVI-C2-1/ALDE\\_00013395/](https://constitution.congress.gov/browse/essay/artVI-C2-1/ALDE_00013395/).

<sup>61</sup> <https://www.oyez.org/cases/2011/11-182>.

<sup>62</sup> <https://www.oyez.org/cases/1999/99-474>.

<sup>63</sup> <https://harvardnsj.org/wp-content/uploads/2022/01/HNSJ-Vol-13-Eichensehr-CFIUSPreemption.pdf>.

<sup>64</sup> [https://www.dni.gov/files/documents/ICD/ICD\\_11-CFIUS-09-04-22-REDACTED.pdf](https://www.dni.gov/files/documents/ICD/ICD_11-CFIUS-09-04-22-REDACTED.pdf).



### Federal Responses

In response to this torrent of state bills, Congressional Asian Pacific American Caucus (CAPAC) Chair Representative Judy Chu and CAPAC Housing Task Force Chair Representative Al Green yesterday *introduced*<sup>65</sup> the Preemption of Real Property Discrimination Act to preempt discriminatory state laws, which Chu *previously noted*<sup>66</sup> “harken back to nativist anti-Asian alien land laws in the 19th and 20th centuries after Chinese immigrants first arrived here, and later, a xenophobic suspicion of Japanese Americans during World War II that also led to their blanket incarceration.”

It is not just states, however, but her Congressional colleagues who are attempting to legislate in this area: several bills in Congress would also bar foreign governments and citizens from purchasing property in the United States. On the Senate side, S. 1136, the “*Not One More Inch or Acre Act*”<sup>67</sup> introduced by Senators Tom Cotton and Katie Britt, would bar any citizen of China, or any entity subject to Chinese jurisdiction, from purchasing real property in the United States, with the notable exception of refugees or those granted asylum, who have typically been barred under various state legislation. Representative Chip Roy has sponsored H.R. 344, the “*Securing America’s Land for Foreign Interference Act*,”<sup>68</sup> which would direct the President to take necessary actions to prevent the purchase of land by CCP members or entities under the control or influence of the CCP.

### Origin Story Two: Restrictions on Asians Owning Land Have Been Part and Parcel of American History

Unfortunately, the United States has seen this movie before. Authors on *Just Security* wrote last year<sup>69</sup> about the pattern of anti-Asian discrimination and purported facial neutrality under the pretext of national security legislation on the 80th anniversary of Executive Order 9066, which targeted Japanese-Americans and Japanese nationals in the United States during World War II. While that may be the most famous example of anti-Asian discrimination in the United States, it is only one of many.

Florida’s newly-enacted ban on Chinese purchasers of real estate is an ironic twist to a saga that only 5 years ago, saw it become the last state in the union to strike discriminatory “alien land laws” from its books. In 2018, Florida voters *finally removed language*<sup>70</sup> that had been enshrined in the constitution since 1926 which read, “all natural persons . . . are equal before the law and have inalienable rights, among which are the right to enjoy and defend life and liberty, to pursue happiness, . . . and to acquire, possess and protect property *except that the ownership, inheritance, disposition and possession of real property by aliens ineligible for citizenship may be regulated or prohibited by law*” (emphasis added).

The term “aliens ineligible for citizenship” was, as late property law Professor Keith Aoki wrote, “a disingenuous euphemism to disguise the fact that the targets of such laws were first-generation Japanese immigrants.” Indeed, in 1922, the Supreme Court ruled in *Ozawa v. U.S.*<sup>71</sup> that naturalization was “limited to free white persons and aliens of African nativity,” leaving immigrants of Asian descent unable to gain citizenship. Historically, American immigration statutes had predominantly targeted Asians for exclusion—from the enactment of the earliest laws such as the Page Act of 1875 (barring Chinese women from entry) and Chinese Exclusion Act of 1882.

California enacted its first alien land law in 1913, and then in 1920 added further limitations on lease-holding. Similar laws were passed<sup>72</sup> in Washington, Oregon, Idaho, Montana, Arizona, New Mexico, Texas, Kansas, Louisiana, Missouri, and Minnesota, Wyoming, and Florida. The rationale for these laws, in addition to suppressing economic competition, was, according to Aoki, the perceived threat of Japan’s growing industrial strength, its imperial military aspirations, and the projection onto Japanese immigrants of an image of disloyalty as a “fifth column . . . waiting to be activated at the emperor’s command.”

<sup>65</sup> <https://capac-chu.house.gov/press-release/capac-leaders-introduce-federal-legislation-preempt-discriminatory-state-land-laws>.

<sup>66</sup> <https://capac-chu.house.gov/press-release/capac-chair-statement-florida-law-banning-chinese-nationals-purchasing-land>.

<sup>67</sup> <https://www.congress.gov/bills/118/congress/senate/bills/1136/text>.

<sup>68</sup> <https://www.congress.gov/bills/118/congress/house/bills/344/text>.

<sup>69</sup> <https://www.justsecurity.org/80290/introduction-to-just-securitys-series-on-executive-order-9066-80-years-after-signing/>.

<sup>70</sup> <https://www.napaba.org/page/2018-repealFLlandlaw>.

<sup>71</sup> <https://supreme.justia.com/cases/federal/us/260/178/>.

<sup>72</sup> <https://amhistory.si.edu/perfectunion/resources/history.html>.

California's alien land law was overturned in 1952 by its state Supreme Court, which held in *Sei Fuji v. State of California*<sup>73</sup> that it violated the 14th amendment and was:

obviously designed and administered as an instrument for effectuating racial discrimination, and the most searching examination discloses no circumstances justifying classification on that basis. There is nothing to indicate that those alien residents who are racially ineligible for citizenship possess characteristics which are dangerous to the legitimate interests of the state, or that they, as a class, might use the land for purposes injurious to public morals, safety or welfare.

This ruling followed on the heels of the U.S. Supreme Court's 1948 decision in *Oyama v. California*<sup>74</sup> which held that California's alien land laws abridged the 14th amendment rights of U.S. citizens of Japanese descent.

#### *Prognosis*

Conventional wisdom holds that it is the CCP that is in the business of taking away people's property rights. As the nation heads into a presidential election year, fear mongering by state legislators may continue and more anti-China messaging bills may be introduced and passed barring Chinese and others from buying homes. With the Asian American community having just experienced a rise in hate crimes and bias-motivated incidents in the wake of *false scapegoating over COVID*,<sup>75</sup> the deluge of anti-China legislation exacerbates long held perceptions of Asian Americans as perpetual foreigners, who hold loyalty to their ancestral homelands rather than the United States.

These laws on their face may make superficial efforts to distinguish between persons of Chinese ancestry and the CCP, but they also equate all Chinese denizens with foreign agents, and imply they pose national security threats regardless of lack of party or state affiliation. In a country where a Chinese American like *Vincent Chin*<sup>76</sup> was murdered by disgruntled autoworkers who believed he was Japanese, or Sikh Americans were targeted after 9/11, technical distinctions will not allay concerns of racial profiling. Still, *grassroots efforts*<sup>77</sup> to mitigate harms and narrow scoping do appear to be working in some places. In the United States, unlike in China, the people can—and should—actually do something about problematic laws by apprising legislators of the economic, reputational, and constitutional perils of these bills.

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#### SUBMITTED QUESTIONS

##### **Response from Josh Gackle, President, American Soybean Association**

*Questions Submitted by Hon. Derrick Van Orden a Representative in Congress from Wisconsin*

*Question 1.* China is stealing our technology and trade secrets. How do you think we can remain a leader in the global production and supply of food while protecting our intellectual property and national security?

*Answer.* While I do not have specific recommendations, ASA supports resolution of issues with China regarding national security and intellectual property rights. ASA supports engagement of the U.S. Government, seed industry and national and international organizations to ensure consistent global application of soybean technologies' intellectual property rights, which are essential to the growth and development of the soybean industry.

*Question 2.* What strategies do you think we can adopt to become less reliant on China and diversify our agriculture export markets?

*Answer.* Diversification of export markets for U.S. agriculture is one of ASA's top priorities. For decades, U.S. soy has worked to open and develop markets and now actively works in 112 markets around the world.

Regarding China, the issue is diversification of scale. No other market in the world can come close to matching the sheer demand China has for soybeans. One

<sup>73</sup> <https://casetext.com/case/sei-fujii-v-state-of-california>.

<sup>74</sup> <https://supreme.justia.com/cases/federal/us/332/633/>.

<sup>75</sup> [https://www.advancingjustice-aajc.org/sites/default/files/2021-04/Anti-Asian\\_Hate\\_Report\\_One-Pager.pdf](https://www.advancingjustice-aajc.org/sites/default/files/2021-04/Anti-Asian_Hate_Report_One-Pager.pdf).

<sup>76</sup> <https://www.pbs.org/newshour/nation/40-years-after-vincent-chins-death-activists-work-to-keep-legacy-from-fading>.

<sup>77</sup> <https://www.stateman.com/story/news/politics/politifact/2023/01/30/senate-bill-147-protest-texas-china-iran-north-korea-russia/69847738007/>.

in three rows of soybeans grown in the U.S. is destined for the Chinese market. China imports more soybeans than the rest of the world combined.

While ASA continues to urge the Administration to reengage in traditional bilateral and multilateral free trade agreements, Congress can assist in market diversification efforts by increasing the investment in USDA's Market Access Program (MAP) and Foreign Market Development (FMD) program. The long-term success of U.S. soy abroad would not be possible without these programs, and the resources provided through USDA are vital in assisting farmers with promoting agricultural products on a global stage and expanding and diversifying export opportunities. Utilizing MAP and FMD, ASA has leveraged funds received to increase market access, address technical barriers to entry and create on-the-ground capacity and demand for U.S. soy.

These programs have been very successful and great potential remains. Unfortunately, investment in MAP and FMD have remained mostly unchanged, even as the number of cooperators to these programs has increased. FMD has been funded at the same level—\$34.5 million annually—since the 2002 Farm Bill, and MAP funding has been level at \$200 million since 2006. As we look toward the next farm bill, ASA strongly supports efforts to double funding to \$400 million for MAP and \$69 million for FMD. This is a strong strategy to help U.S. agriculture become less reliant upon China and cultivate new export markets.

*Question 3.* Rural WI communities are concerned with foreign investment in U.S. agriculture-related business. How can we ensure that capital is reinvested in local communities and that these foreign-owned companies adhere to fair business practices?

*Answer.* This question is outside the purview of the American Soybean Association and my role as a farmer.

*Question 4.* Are we tracking land purchases from one foreign owner to another?

*Answer.* This question is outside the purview of the American Soybean Association and my role as a farmer.

*Question 5.* Is USDA tracking the amount of agriculture incentives going to foreign land investors?

*Answer.* This question is outside the purview of the American Soybean Association and my role as a farmer.

*Questions Submitted by Hon. Nikki Budzinski, a Representative in Congress from Illinois*

*Question 1.* Unfortunately, we are all too familiar with the statistics showing the downward trend in U.S. public agricultural R&D funding over the past 2 decades. This disturbing trend occurs at the same time other nations, including China, have rapidly increased their investments in public ag R&D. We know that China spends more than \$10 billion annually on agricultural R&D, more than twice what the U.S. is investing. China has also filed twice as many agricultural biotechnology patents as the U.S. When we consider new innovations in ag engineering, biotech, and AI, from both an economic and national security perspective, these next generation innovations must originate in the U.S. Can any of the panelists speak to the concerns and potential vulnerabilities the United States is facing given our underinvestment in public ag R&D and how legislation like the farm bill can address the growing gap in ag R&D funding?

*Answer.* Federally funded agricultural research is critical to the success of U.S. agriculture. In addition to the farm bill providing an opportunity to address research policy needs, the appropriations process provides an annual avenue to address resource needs, including funding for programs like the Agriculture Advanced Research and Development Authority (AgARDA), Agriculture and Food Research Initiative (AFRI), the National Institute for Food and Agriculture (NIFA), and Agricultural Research Service (ARS). AFRI and AgARDA both have faced cuts to their budgets in recent years. The ARS budget has increased, but only by 1% which is not enough to compete with China's investment. AFRI provides research that keeps growers competitive by finding solutions to adapt to climate change, improve nutrition in food, and create new technological innovations. AgARDA also funds projects that develop new technology, similar to the work of DARPA for the defense industry. ARS develops and maintains long-term databases that provide information for ag research as well as conducting its own work to support food production. Each of these as well as other programs provide U.S. growers with vital research that increases their productivity on the farm.

*Question 2.* The inflation-adjusted value of China's agricultural production has soared in the last few decades, increasing more than 530 percent since 2000 according to data reported by the UN's Food and Agriculture Organization. Over the same

period, China's agricultural land area actually decreased slightly, down by less than 0.5 percent. What factors would you attribute these gains to? How does China's increase in agricultural production potentially impact U.S. agriculture and food security?

*Answer.* Technological advancements, research, and government policies can impact productivity. Farmers in the U.S. have been able to produce more with less for the last several decades. Input use has gone down, including land use and labor, while total production has soared according to USDA's Economic Research Service. Some of the same factors making U.S. farmers more productive may also be present in China.

It is not expected that China will be able to produce enough food and agricultural products to meet its own needs, however. Instead, it will continue to rely on trade partners, such as the U.S. and Brazil, to supply needs.

*Questions Submitted by Hon. Eric Sorensen, a Representative in Congress from Illinois*

*Question 1.* How has the increase in the importation of used cooking oil from China negatively impacted domestic soybean oil prices?

*Answer.* Biomass-based diesel capacity grew from 3.3 billion gallons beginning in 2021 to 5.9 billion gallons at the end of 2023 and is slated to continue to grow. At the same time, used cooking oil imports increased from 300 million pounds in 2021 to over 3 billion pounds in 2023. While biofuel growth is helping to spur expansion in the domestic soybean crush industry to produce soybean oil, the pronounced growth of imported used cooking oil as an available feedstock is concerning.

In its Renewable Volume Obligation rule, EPA sets blending levels on assumed feedstock availability, not biofuel capacity. Therefore, when imports exceed EPA expectations, domestic feedstocks are pushed out by a corresponding amount over time. To put this in perspective, used cooking oil and tallow imports in 2023 were large enough to produce over 600 million gallons of renewable diesel, whereas the EPA assumed that 649 million gallons of renewable diesel would either be imported or made from imported feedstocks. Add to this the 240 million gallons of canola oil imports and 360 million gallons of renewable diesel imports in the same year, and EPA's estimates were exceeded by about 550 million equivalent gallons of renewable diesel. Thus, it can be assumed that almost 550 million renewable diesel gallons worth of domestic feedstocks were displaced by imports.

*Question 2.* Would limitations on foreign feedstocks from generating Renewable Identification Numbers or receiving credits in the Biodiesel Blenders Credit or the upcoming Clean Fuel Production Credit provide support to the industry?

*Answer.* Unlike the Biodiesel Blenders Credit, the Clean Fuel Production Credit will prohibit imported biofuels from being eligible, which ASA supports. However, this does not address concerns with foreign feedstocks for biofuel production domestically. ASA supports a diverse feedstock portfolio for biomass-based diesel but believes that since the mission of the RFS is to promote U.S. energy independence and reduce dependence on imports, priority should be placed on domestic feedstocks. Limitations on foreign feedstock imports could also raise other questions, including potential World Trade Organization challenges. However, ASA supports stricter and more robust mechanisms for enforcement of chain of custody requirements which could theoretically crack down on potential mislabeled used cooking oil if it is indeed being imported.

*Question 3.* What can be changed in the Renewable Fuel Standard to specifically support domestic feedstocks that are being used to produce advanced biofuels?

*Answer.* First and foremost, supporting increased volumes in the annual Renewable Volume Obligation that are consistent with production and consumption indicators is critical for the entire biofuel industry. Looking specifically at used cooking oil, policies like the Low Carbon Fuel Standard programs and new Federal tax credits are incentivizing used cooking oil due to its lower carbon intensity score. At the same time, there is no standard definition of used cooking oil. EPA does require that biofuel producers maintain chain of custody data for every gallon of used cooking oil, both domestic and imported. However, EPA does not audit the chain of custody (which must be kept by the fuel producer) until an enforcement action has been initiated, which is after the RIN has been generated. Stricter and more robust mechanisms for enforcement could theoretically crack down on potential mislabeled used cooking oil if it is indeed being imported.

*Question Submitted by Hon. Salud O. Carbajal, a Representative in Congress from California*

*Question.* In your testimony, you mention how the 2018 trade war drastically impacted the Soybean industry along with other agricultural commodities. Those com-

modities that were impacted include many of the specialty crops grown in my district on the Central Coast of California such as wine grapes, tree nuts, and berries. I have heard consistently from growers in my district about the impacts of the retaliatory tariffs including financial losses and restrictions on opportunities for growth in foreign markets.

Can you elaborate on how a renewed trade war could impact the U.S. agriculture industry domestically and what Congress can do to help support our growers and protect them from future trade wars?

*Answer.* As highlighted in my written testimony, the impact of the 2018 trade war was severe for both farmers and exporters. USDA's Economic Research Service (ERS) estimated the impact of retaliatory tariffs on U.S. agriculture, including Section 301 tariffs and Section 232 tariffs on steel and aluminum: The ERS estimate showed a 76% reduction in the value of U.S. exports to China from 2017 to 2018. ERS also estimated the trade war cost U.S. agriculture over \$27 billion. Soybeans accounted for 71% of the annualized losses. Furthermore, the trade war led to the rise of Brazil as U.S. soy's largest competitor—not just in China, but in export markets around the world.

If the past is prologue, another trade war could lead to a loss of markets and a decrease in prices—much like we saw in 2018. At the same time, input costs for farmers, including seed, fertilizer, and pesticides, remain high. Coupling an already-troubling farm income forecast with impacts from a trade war could indeed be severe for farmers.

In my written testimony, I shared three policy recommendations for Congress. Those recommendations include:

1. Reject legislative attempts to repeal or modify China's Permanent Normal Trade Relations (PNTR) status.
2. Pass a comprehensive farm bill this year that meets the needs of U.S. agriculture.
2. Exercise Congressional oversight authority to urge the Administration to re-engage in negotiations for bilateral and multilateral free trade agreements (FTA).

**Response from Nova J. Daly, Senior Public Policy Advisor, Wiley Rein LLP; former Deputy Assistant Secretary for Investment Security, U.S. Department of the Treasury**

*Questions Submitted by Hon. Derrick Van Orden a Representative in Congress from Wisconsin*

*Question 1.* China is stealing our technology and trade secrets. How do you think we can remain a leader in the global production and supply of food while protecting our intellectual property and national security?

*Answer.* Thank you Representative Van Orden for this important question. I concur, and as I relayed in my written testimony, there is clear evidence that Chinese entities have stolen U.S. agricultural technology and trade secrets (e.g., seed technology). To remain a leader in the global production and supply of food and protect our intellectual property as well as national security, it may be prudent to consider undertaking certain actions, such as:

**Address Supply Chain Risks**

The United States House of Representatives Committee on Agriculture (Committee) has done good work and should continue to heighten its focus on supply chain resilience by addressing critical vulnerabilities in the U.S. agricultural supply chain. Reshoring certain sectors of the U.S. agricultural supply chain has already been identified by the Committee as an important priority. Notably, under the American Rescue Plan Act of 2021, the Secretary of Agriculture was tasked with creating grant programs that would invest in American agricultural supply chain resiliency. The goals and funding for such programs are worth examining. Chinese market control over IoT devices, certain pesticides and herbicides, and certain animal feed and vitamins poses a potentially serious risk to the U.S. agricultural market and its supply chains.

**Incentivize R&D**

Central to innovation and leadership is strength in research and development (R&D). The United States appears to be falling behind in agriculture R&D. According to the U.S. Department of Agriculture's (USDA) Economic Research Service, public R&D spending in the United States dropped 30% from 2002 to 2019. Increasing public-private R&D funding in areas such as crop and seed technologies, among others, can help ensure that U.S. farmers and their technologies are cutting-edge

and in a stronger position to compete with producers internationally. Incentivizing R&D can help address potential choke-point vulnerabilities in our supply chains, including for items noted above.

#### Address Unwarranted Acquisitions

As noted in my testimony, the People's Republic of China (PRC) has dedicated substantial resources toward the acquisition of large-scale agricultural assets. This PRC effort extends beyond farmland to include resources throughout the agricultural supply chain, including mills, logistics companies, and numerous agricultural companies with significant intellectual property assets. To address these matters domestically, it is critical for the USDA to ensure that the reporting of foreign agricultural land acquisitions is thorough and timely. The USDA, with the Members of the Committee on Foreign Investment in the United States (CFIUS), should assist with all cases that impact U.S. agriculture, including acquisitions of companies that produce, store, and/or process technology, data, or information used in agricultural supply chains. Lastly, CFIUS should be provided with a broader scope of authority to address certain land holdings in urban areas and discretion to address acquisitions near sensitive military and other facilities, including critical infrastructure.

*Question 2.* What strategies do you think we can adopt to become less reliant on China and diversify our agriculture export markets?

*Answer.* Thank you Representative Van Orden for this question. It is critical that U.S. agricultural producers remain strong and expand production and export market opportunities, including becoming less reliant on markets in China or any one country. Toward that end, I note certain recommendations made in November 2023 by a group of U.S. agricultural associations to the members of the President's Export Counsel.

Some of the groups' recommendations include:

- Increasing collaboration on diversifying the U.S. agricultural supply chain by diversifying sourcing and/or incentivizing cost-effective U.S. production of ingredients such as fertilizers, vitamins, and chemicals to maintain U.S. agricultural production;
- Establishing a robust agricultural trade agenda, including by expanding domestic trade promotion programs, recommitting to comprehensive trade agreements where possible, and eliminating tariff and non-tariff trade barriers; and
- Enforcing existing trade agreements.

See National Association of State Departments of Agriculture, *Coalition Letter on President's Export Council's Agricultural Trade Proposal*, <https://www.nasda.org/coalition-letter-on-presidents-export-councils-agricultural-trade-proposal/> (see attachment 1).

Toward this end, fellow panelist Josh Gackle noted programs administered by the USDA, such as the Market Access Program and the Foreign Market Development program, which assist farmers with promoting agricultural products on a global stage and expanding and diversifying export opportunities.

*Question 3.* Rural WI communities are concerned with foreign investment in U.S. agriculture-related business. How can we ensure that capital is reinvested in local communities and that these foreign-owned companies adhere to fair business practices?

*Answer.* Thank you Representative Van Orden for this important question. The concerns of rural Wisconsin communities regarding certain foreign investments in U.S. agriculture-related businesses are well-founded and must be addressed. Ensuring that foreign entities engage in fair business practices is crucial. Noting that most foreign U.S. agriculture-related holdings are made by investors from allied nations, one would expect that such investors would realize that capital reinvestments into the local communities—where they have production—would strengthen the value of their own investments and build broader community support for their businesses.

That said, agricultural investments by entities from non-allied countries, should be subject to a higher degree of scrutiny. As you and other Members of the Committee have noted, "agriculture and food security are key to national security." Wisconsin law currently has restrictions on foreign land ownership. The law limits land owned by non-allied nation actors where the United States does not have a treaty. Additional measures can be taken on the Federal level to address the concerns of Wisconsin communities.

For the purposes of greater disclosure of foreign land holdings and other purposes, one notable bill is the "AFIDA Improvements Act of 2024" (H.R. 7131). Other bills, such as the "No American Land for the Chinese Communist Party Act" (H.R. 8693),

could also be useful in thwarting unwarranted land acquisitions that raise national and food security concerns. Lastly, oversight of the Grain Inspection, Packers & Stockyards Administration in their role in regulating and enforcing competitive conditions in the grain and livestock industry could be another important action.

I note that often, foreign companies considering making U.S. investments may reach out to Federal, state, and local officials seeking incentives in exchange for bringing business into the community. Considerations can be made on whether the investor plans to employ members of local communities, participate in community initiatives, and address any transportation or healthcare infrastructures utilized by its employees as well as reducing reliance on non-allied foreign supply chains.

*Question 4.* Are we tracking land purchases from one foreign owner to another?

*Answer.* Thank you Representative Van Orden for this question. As you may know, the Agricultural Foreign Investment Disclosure Act (AFIDA) regulations require that foreign persons and entities who acquire, *transfer*, or hold any interest other than a security interest in agricultural land to submit a completed FSA-153 to the USDA no later than 90 calendar days after the date of the acquisition or transfer. This requirement must be met when one foreign owner transfers such ownership to another.

As noted in its January 2024 U.S. Government Accountability Office (GAO) report (*Foreign Investments in U.S. Agricultural Land: Enhancing Efforts to Collect, Track, and Share Key Information Could Better Identify National Security Risks*),<sup>1</sup> the GAO recommends that USDA enhance its efforts to collect, track, and share key information on foreign investments in U.S. agricultural land to better identify national security risks. In addition to the recommendations made by the GAO, Congress may wish to consider addressing potential gaps in such reporting requirements, such as requiring reporting of complex ownership structures and investment intentions, among other changes. Further, recently introduced legislation would improve foreign investment tracking, including modernizing the AFIDA handbook, requiring USDA to meet specific implementation benchmarks for an online AFIDA submission system and public database, and require reporting by foreign persons with a minority stake in an agricultural land asset, including through ownership tiers or shell companies.

*Question 5.* Is USDA tracking the amount of agriculture incentives going to foreign land investors?

*Answer.* Thank you Representative Van Orden for this question. While AFIDA does require the disclosure of foreign investments in U.S. agriculture, I am not aware of any program under the USDA that is tracking the amount of agriculture incentives going to foreign land investors. However, foreign land investors may be eligible for several U.S. agricultural incentive programs such as direct payments, crop insurance benefits, disaster assistance, and various conservation programs.

*Question Submitted by Hon. Yadira Caraveo, a Representative in Congress from Colorado*

*Question.* From conversations with Colorado farmers, I hear that the lack of public USDA data on farms, to avoid disclosing sensitive information, means we may know very little about certain operations in the state, particularly for industries like our hog farms. But we do know that the Chinese-owned Smithfield is the largest pork producer in the U.S.

Additionally, users of the USDA's Agricultural Foreign Investment Disclosure Act (AFIDA) data have noted inaccuracies and underreporting under current disclosure requirements. We have seen recommendations from the GAO on how to improve deficiencies in foreign ownership data and Congressional efforts to solve these issues.

Colorado farmers have told me they also support proposals for expanded reporting that includes more granular data on long-term leases, data to assess the impacts of foreign investment on agriculture producers and rural communities, and even geospatial information.

There are real national security concerns on foreign investments from the CCP in U.S. agricultural land, and it is vital we have accurate data and transparency on this issue.

Mr. Daly, what do you believe Congress and the USDA should focus on to increase data accuracy and transparency to better understand and respond to our concerns on foreign investments in U.S. agriculture?

*Answer.* Thank you Representative Caraveo for this important question. Clearly, as the U.S. Government Accountability Office (GAO) found in its January 2024 re-

<sup>1</sup>**Editor's note:** the referenced report was also submitted by Mr. Thompson, and is located on p. 101.

port: *Foreign Investments in U.S. Agricultural Land: Enhancing Efforts to Collect, Track, and Share Key Information Could Better Identify National Security Risks*, there are improvements that the U.S. Department of Agriculture (USDA) can undertake in order to collect, track, and share data on foreign investments in U.S. agricultural land. The GAO report provided several useful recommendations including development of a real-time data systems. Further, now that the USDA has been legislatively included in the processes of the Committee on Foreign Investments in the United States (CFIUS), the USDA should consider taking on a more proactive position where it concerns the collection of such data and analysis of foreign investments that may raise national security concerns. Issues raised by your farmers, including gaining more granular data on long-term leases, data to assess the impacts of foreign investment on agriculture producers and rural communities, and even geospatial information should all be implemented.

I also take note of the oversight role of Congress. Along with your efforts, there are multiple bills under consideration that would heighten and focus additional resources on the analysis and approval of agricultural and broader real estate transactions by certain foreign entities that can raise national security considerations. Some bills would require mandatory notifications of certain real estate transactions, and some would outright block certain deals. I would also note that the Farm Transitions Act includes a provision that would require the Commission on Farm Transitions to study the impact of leasing and ownership trends by foreign persons or entities. Additionally, as noted in my testimony, Congress should address potential gaps in reporting requirements, including reporting complex ownership structures and investment intentions, among other changes.

*Question Submitted by Hon. Nikki Budzinski, a Representative in Congress from Illinois*

*Question.* According to estimates from USDA's Economic Research Service, China's annual public investment on agricultural research surpassed U.S. investment in this area as of 2008, and China has continued to move past us in the years that have followed. Based on your experience, how important has this surge in China's research investment been in stimulating recent growth in their agricultural sector? What are the implications for U.S. national security and economic competitiveness from China's surge in investment in agricultural research and innovation?

*Answer.* Thank you Representative Budzinski for this important question. As you noted, China's public investments in agricultural-related research and development have exceeded, those of the United States for many years. China and President Xi Jinping have, for many years, been focused on China's food security and self-sufficiency. While I am not an expert on the correlation between China's increases in agricultural research and their agricultural sector growth, based on reporting, it appears that such research funding increases have led to notable growth. See Iowa State University, *World Spending on Agricultural Research and Development*, <https://agpolicyreview.card.iastate.edu/winter-2023/world-spending-agricultural-research-and-development> (see attachment 2).

Regarding your second question, there certainly are implications to U.S. national security and economic competitiveness resulting from China's surge in domestic and international investment in agricultural research and innovation. Limited domestic farmland availability, combined with China's diligent pursuit of food security, correlate to its expansion of overseas farmland investments and advancements in agricultural technologies. See FOREIGN POLICY, *China's Farmland is in Serious Trouble: Local governments are desperate to balance the books with land sales*, <https://foreignpolicy.com/2023/02/27/china-xi-agriculture-tax/> (see attachment 3). To address the food security challenges China has faced, it has (along with increased spending on research) acquired important agricultural businesses with operations in the United States, such as Syngenta and Smithfield. China's investments extend beyond farmland to include resources throughout the agricultural supply chain, including mills, logistics companies, and numerous other agricultural entities with significant intellectual property assets. Also, as noted in my testimony, we have seen agricultural IP theft in items such as seeds. Such theft creates vulnerabilities for the United States as they impact the ability of U.S. companies to fund continued improvements in agricultural R&D.

Broadly speaking, as China builds and diversifies its agricultural production and capabilities and technologies, domestically and globally, it can create economic vulnerabilities for U.S. producers and innovators. Also, where China's growth creates supply chain vulnerabilities in U.S. agricultural production and innovative technologies, such vulnerabilities can be exploited and used for coercive purposes where and when needed. It is important that the United States assist U.S. compa-



nies and their innovations and consider where additional public agricultural research funding is needed.

*Question Submitted by Hon. Salud O. Carbajal, a Representative in Congress from California*

*Question.* Apart from sitting on the House Agriculture Committee, I also sit on the House Armed Services Committee. In that role, I have collaborated with a group of my colleagues on legislation calling for the Protection of U.S. farmland and preventing foreign adversaries from exploiting U.S. land near national security sites.

It is no secret that land purchased by China near military bases is a national security concern. China isn't going anywhere so we need to develop solutions for the long-term.

In your opinion, what are the potential implications of China's continued growth and pursuit of self-sufficiency for the global economic landscape if it were to remain unchecked?

*Answer.* Thank you Representative Carbajal for this important question and the legislative action you have taken to address unwarranted Chinese agricultural acquisitions in the United States. As you are aware, China and President Xi Jinping have been focused on China's food security and self-sufficiency. Based on reports, it appears that China's ability to gain full self-sufficiency is a long way off. To compensate for this issue, China has invested in agricultural assets outside of the country, including in land in Africa and agricultural companies with operations globally and in the United States, such as Syngenta and Smithfield. Further, China has increased its research and development of agricultural technologies in terms of seed production as well as machinery. These efforts, combined with outright theft of IP technology, raise significant U.S. national security considerations. China's actions will be increasingly disruptive to the global economic landscape and to U.S. long-term growth and productivity if left unchecked and/or unaddressed. See U.S.-China Economic and Security Review Commission, *China's Interests in U.S. Agriculture: Augmenting Food Security through Investment Abroad*, [https://www.uscc.gov/sites/default/files/2022-05/Chinas Interests in U.S. Agriculture.pdf](https://www.uscc.gov/sites/default/files/2022-05/Chinas%20Interests%20in%20U.S.%20Agriculture.pdf) (see attachment 4).

The broader hope has always been for China to become a responsible global player, but that has not been the case in multiple instances, including those involving agriculture-related technology. If China continues to act in ways contrary to U.S. national and economic security, its actions will likely only increase tensions between our two nations.

#### ATTACHMENT 1

November 27, 2023

President's Export Council,  
International Trade Administration,  
U.S. Department of Commerce,  
Washington, D.C.

Dear Members of The President's Export Council,

We are writing on behalf of the U.S. food and agriculture community to ask you to support this important President Export Council (PEC) proposal to bolster American agriculture's global competitive standing around the world.

Together, the proposal's recommendations provide guidance for the Administration to expand export markets opportunities for U.S. food and agriculture, eliminate unwarranted non-tariff barriers, and reinforce global food security.

***U.S. agriculture is foundational to the American economy—reaching far beyond farms and rural communities to support more than 46 million jobs across the country.***

The U.S. food and agriculture industries contributed \$2.61 trillion in total wages this past year and generated over \$8.6 trillion in total economic output. Key to its economic contributions and its sustainability, the food and agriculture sector exports about 20 percent of production. In 2022, American food and agriculture exports totaled nearly \$200 billion, providing jobs and economic opportunity throughout the supply chain in every corner and coast of the country.

Unfortunately, in 2023 we are experiencing a nine percent decline in the value of U.S. food and agricultural exports, and a 16 percent decline in volume. The latest forecast by the U.S. Department of Agriculture for the 2023 marketing year predicts a food and agriculture trade **deficit** of \$17 billion, a stark contrast to the United States' historical trade surplus in agricultural exports, averaging \$12.5 billion over the past 10 years.

While our two million U.S. farms and ranches are the backbone of America's food and ag sector, the impact of decreased exports and resulting economic fallout reverberates throughout the economy. More than twice as many Americans are manufacturing agricultural products as are manufacturing cars and trucks, and millions of food scientists, production workers, logistics experts, truck drivers, and engineers work in more than 200,000 food manufacturing, processing, and storage facilities. All in all, our industries are responsible for nearly 20 percent of the United States' economic activity.

In addition to its commercial exports, the United States plays an indispensable role in feeding millions around the world as the largest country donor of international food assistance.

With that in mind, we are asking the Council to support this proposal to bolster America's food and ag industries, and with it, the U.S. economy at large.

Specifically, this proposal asks PEC to:

1. **Increase Collaboration on Diversifying the U.S. Agricultural Supply Chain** by urging the Administration to develop recommendations to diversify sourcing and/or incentivize cost effective U.S. production of ingredients such as fertilizers, vitamins, and chemicals to maintain U.S. agricultural production.
2. **Establish a Robust Agricultural Trade Agenda**, comprising of a package of strategies including expanding domestic trade promotion programs, committing to comprehensive trade agreements where possible, and eliminating tariff and non-tariff trade barriers to enhance the ability of American producers to gain export market access and maintain competitiveness.
3. **Enforce Existing Trade Agreements**, including through strengthening the World Trade Organization dispute resolution process and enforcing all U.S. free trade agreements.
4. **Lead on International Sustainability and Climate Efforts** by urging the U.S. Government to coalesce around a unified message on agricultural sustainability that focuses on voluntary, incentive-based programs to support sustainable productivity growth; keeps food accessible; supports climate-smart agricultural practices and provides additional market opportunities.

American agriculture is a global leader in sustainable production and innovative practices that enable us to feed a growing world population. Therefore, the trade barriers and setbacks that we've experienced this year do not only threaten our economic growth, but nutritional security around the world. Fortunately, the PEC and U.S. Government has the infrastructure and resources to tackle these challenges, and it begins with the proposal that we've laid out above.

Thank you in advance for your consideration of this proposal and for your leadership on the President's Economic Council. We look forward to working together to restore U.S. agriculture exports, and build a stronger, more resilient U.S. agriculture industry and a better economy for all.

Sincerely,

American Farm Bureau Federation  
 American Feed Industry Association  
 American Seed Trade Association  
 American Soybean Association  
 Biotechnology Innovation Organization  
 Corn Refiners Association  
 Distilled Spirits Council  
 Farm Credit Council  
 Farmers for Free Trade  
 FMI—The Food Industry Association  
 Fresh Produce Association of the Americas  
 Global Cold Chain Alliance  
 Leather and Hide Council of America  
 Meat Import Council of America  
 Meat Institute  
 National Association of State Departments of Agriculture  
 National Association of Wheat Growers  
 National Corn Growers Association

National Cotton Council  
 National Council of Farmer Cooperatives  
 National Grain & Feed Association  
 National Milk Producers Federation  
 National Oilseed Processors Association  
 National Pork Producers Council  
 National Sorghum Producers  
 National Turkey Federation  
 North American Export Grain Association  
 North American Millers' Association  
 Northwest Horticultural Council  
 U.S. Apple Association  
 U.S. Dairy Export Council  
 US Dry Bean Council  
 U.S. Pea & Lentil Trade Association  
 USA Dry Pea & Lentil Council  
 USA Rice

## ATTACHMENT 2



## Agricultural Policy Review

IOWA STATE UNIVERSITY  
OF SCIENCE AND TECHNOLOGY

Ames, Iowa • Winter 2023

[<https://agpolicyreview.card.iastate.edu/winter-2023/world-spending-agricultural-research-and-development>]

### World Spending on Agricultural Research and Development

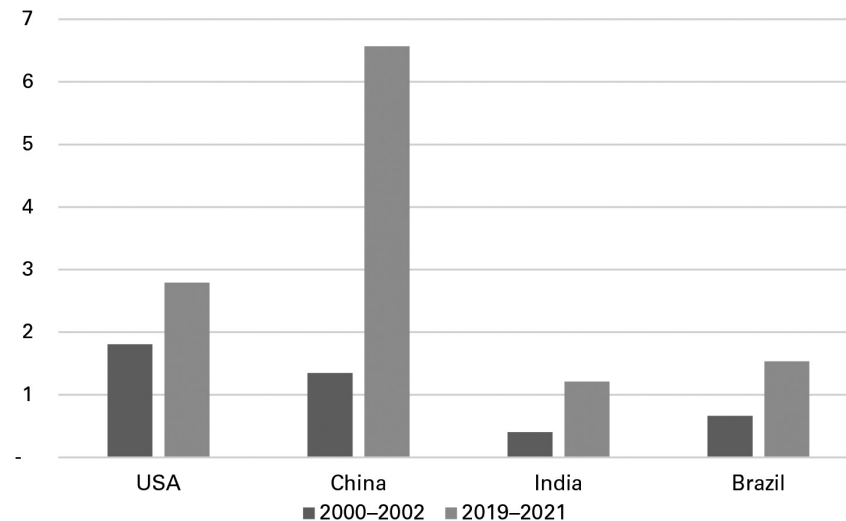
By ALEJANDRO PLASTINA<sup>[1]</sup> and TERRY TOWNSEND<sup>[2]</sup>

In May 2020, the U.S. Department of Agriculture reported that China, followed by the European Union (EU), the United States, India, and Brazil spent the most public funds on agricultural research and development (R&D) (Fuglie and Nelson 2022). U.S. public expenditures on agricultural R&D were about  $\frac{1}{3}$  lower in real terms in 2019 than at their peak in 2002 when spending, in 2019 dollars, was \$7.64 billion (Fuglie and Nelson 2022). In contrast to the decline in U.S. public expenditures since 2002, China's public expenditures on agricultural R&D (deflated by national GDP indexes) rose by a factor of approximately five in the 2 decades since 2000. EU expenditures rose by about  $\frac{1}{3}$ , India's approximately doubled, and Brazil's rose by about half. The USDA report carries an alarmist tone, suggesting that the reduction in U.S. public spending on agricultural R&D will lead to a reduction in competitiveness in agricultural production and lower social welfare in the long term.

#### Public R&D vs. value of ag production

Organization for Economic Cooperation and Development (OECD) data demonstrate the relative size of public-sector expenditures on agricultural research and development (OECD 2022). Between 2000–2002, annual average spending on agricultural knowledge and innovation systems rose about \$1 billion (in nominal dollars) per country in the United States,<sup>1</sup> India, and Brazil. In contrast, China's public-sector expenditures on agricultural R&D leapt by a factor of approximately five, growing from around \$1.3 billion per year to \$6.6 billion. In 2019–2021, China's annual average public-sector expenditures on agricultural R&D were larger than in the United States, India, and Brazil combined (*figure 1*).

**Figure 1. Spending on agricultural knowledge and innovation systems (\$U.S./billion), 2000–2002 and 2019–2021.**



<sup>[1]</sup> <mailto:plastina@iastate.edu>.

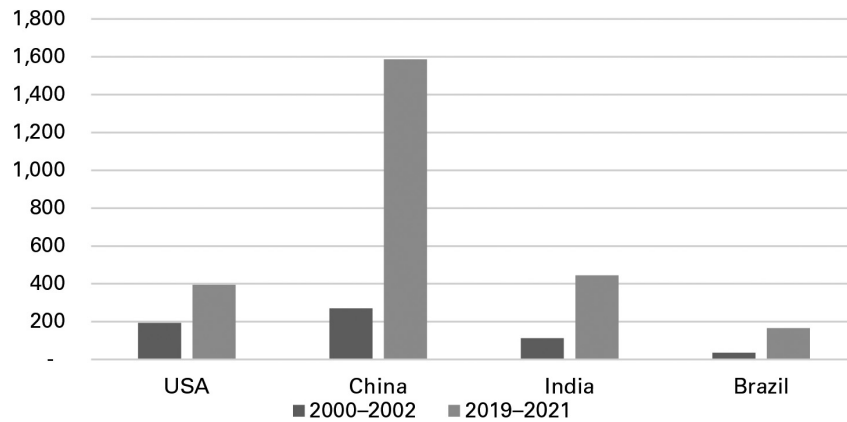
<sup>[2]</sup> <mailto:terry.terry@cottonanalytics.com>.

<sup>1</sup> U.S. public-sector spending on agricultural research and development has been declining since the early 2000's. However, U.S. private-sector spending on agricultural R&D has been climbing, and total U.S. agricultural R&D spending (public plus private) is probably still larger than in other countries.

China's public-sector spending on agricultural R&D during 2019–2021 was roughly double the level of U.S. public-sector spending and four to six times that of India or Brazil. As measured by TFP indexes, U.S. agricultural productivity declined between 2009 and 2019; however, India, Brazil, and China's TFPs rose. Accordingly, the United States' advantage in agricultural productivity is less now than a decade ago.

China now has the largest agricultural system in the world by value of production. As of 2019–2021, China's value of production at the farm gate was about \$1.6 trillion, compared with \$400 billion in the United States and India and about \$200 billion in Brazil (*figure 2*). The structure of China's farm economy is different from the structures in the other countries because China does not have an abundance of arable land. Except for the far-West region Xinjiang, farmers in China operate relatively small farms producing high-value products such as meat and vegetables. In contrast, the United States and Brazil have larger arable areas and much smaller populations and can afford to produce huge swaths of row crops. India has a population as large as China but has more arable land and can afford to produce lower value products.

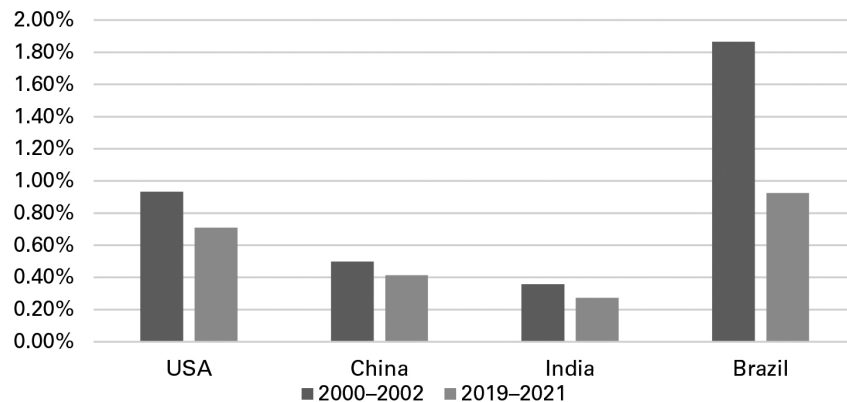
**Figure 2. Value of agricultural production at the farm gate (\$U.S./billion).**



Source: OECD (2022).

As a share of the value of agricultural production at the farm gate, Brazil's public-sector expenditures on agricultural R&D were the largest in 2019–2021 at 0.9%, compared with 0.7% in the United States, 0.4% in China, and 0.3% in India (*figure 3*). Public sector expenditures on agricultural R&D declined as a percentage of the value of agricultural production in all countries between 2000–2002 and 2019–2021, mainly because the value of production rose.

**Figure 3. Spending on agricultural knowledge and innovation systems as a percent of value production.**



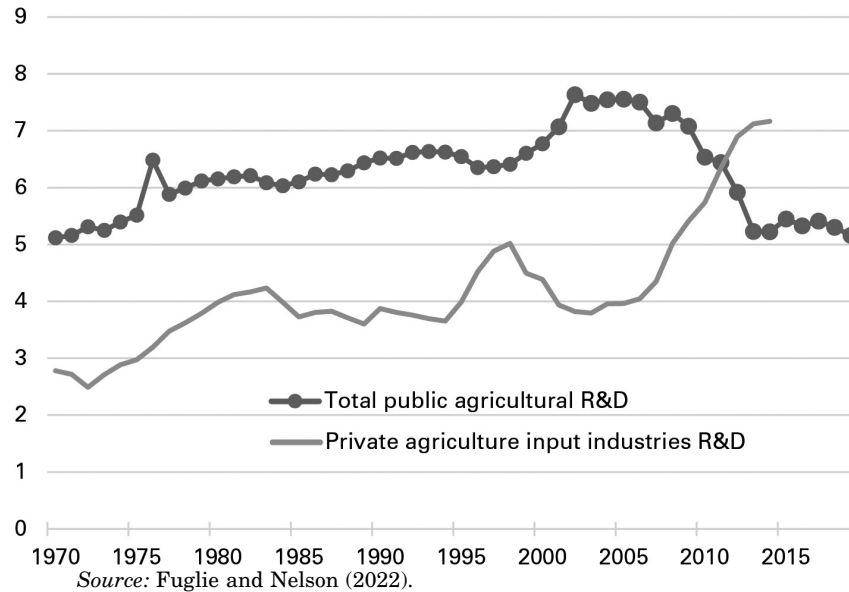
Source: OECD (2022).

#### The role of private R&D

Private-sector spending may offset the United States' lower public spending on agricultural R&D (Fuglie and Nelson 2022). Between 1970 and 2008, the public-sector

funded about half of the agricultural R&D directly used by U.S. agriculture. However, by 2013, the publicly funded share fell to 40–45% because real ([inflation]-adjusted) public agricultural R&D fell by about 20%, while real private R&D spending increased around 50%. Furthermore, if we exclude private-sector expenditures on R&D for food manufacturing (*figure 4*), the average share of private agriculture input industries R&D increased from 38% between 1970 and 2010 to 55% between 2011 and 2014.

**Figure 4. Real agricultural R&D funding, 1970–2019 (\$U.S./billion, 2019 inflation-adjusted).**



When we consider private-sector spending, the United States is probably still the world leader in funding for agricultural R&D.

Beginning in the 1800's, the Federal Government funded most agricultural research in the United States because private-sector firms did not have the means and because agricultural research generates significant externalities with significant public benefit. Over time, specialized [farms] in the farm machinery, agricultural chemical, crop seed, and other agricultural input industries grew large enough to make considerable investments in R&D. Between 1970 and 2013, private-sector expenditures on agricultural R&D in the United States rose by a factor of three to about \$6 billion, while public spending on agricultural R&D in the United States grew very little.

As a result, by 2013, private-sector expenditures on agricultural R&D (not counting food manufacturing R&D spending) accounted for nearly 60% of total agricultural R&D expenditures. Data on private-sector expenditures on agricultural R&D in the United States are not available for recent years, but the upward trend apparent between 2008 and 2013 has probably continued. By 2020, it is likely that U.S. private-sector agricultural R&D spending was between two and three times that of the public-sector, meaning that total agricultural R&D spending in the United States was between \$15 billion and \$20 billion.

In contrast, private-sector expenditures on agricultural research and development in China are, almost by definition, zero, and private-sector expenditures on agricultural R&D in the EU, India, and Brazil are, at best, modest. Accordingly, total U.S. expenditures on R&D related to agriculture are still the largest in the world, albeit by a shrinking margin as public expenditures in China, the EU, India, and Brazil rise.

There is a distinction between public and private agricultural R&D expenditures, but such expenditures tend to be complementary, rather than substitutes. Therefore, the fall in U.S. public-sector agricultural R&D spending and rise in private spending

does not necessarily presage a decline in the growth rate of agricultural productivity.

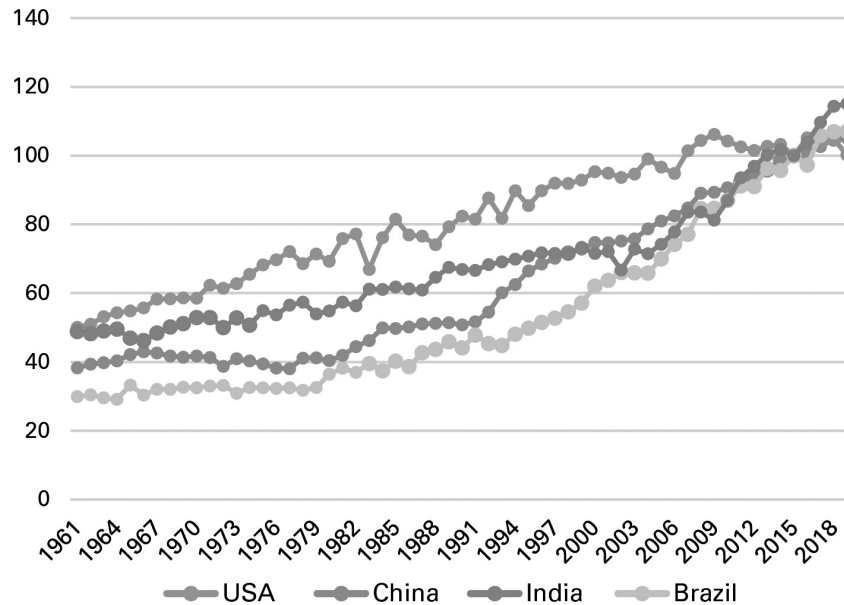
Since WWII, improvements in genetics, chemicals, fertilizers, agricultural machinery, and farm management techniques have transformed U.S. agriculture. As agricultural productivity has increased, public-sector research has tended to focus on environmental impacts, animal welfare, farm worker welfare, farm structure (*i.e.*, farm size, organization, and management), and other issues of broad public interest. Meanwhile, privately funded R&D has tended to focus on the development of marketable inputs and services eligible for patent protection.

Recent research suggests that over the last 7 decades it has taken about 20 years for usable technologies to reflect advances in basic agricultural science (Clancy 2020). Given that agricultural R&D expenditures by the U.S. private-sector began exceeding public expenditures only about a decade ago, it may be another decade before the implications of reduced public-sector spending become apparent.

### Total Factor Productivity

Nevertheless, USDA data on total factor productivity (TFP)<sup>2</sup> suggest that the decline in U.S. public-sector spending on agricultural R&D may be affecting productivity growth. An index of agricultural TFP (2015 = 100) peaked in the United States at 106 in 2009 (*figure 5*). As of 2019, the U.S. TFP index was 100, meaning that input use efficiency per unit of output (or output production efficiency per unit of input) in the United States actually declined by about 6% during the decade ending in 2019.

**Figure 5. Total factor productivity indexes, 1961–2019.**



Notes: This graph does not track relative TFP across countries, only TFP for each separate country. For each country, 2015=100.

Source: Fuglie (2015) and Fuglie, Jelliffe, and Morgan (2022).

In contrast, China, India, and Brazil's TFP indexes increased between 2009 and 2019, meaning that the agricultural industries of those countries became more input use efficient (or output production efficient).

These indexes of TFP cannot be compared from one country to another. Therefore, we cannot say that as of 2019, India was the most efficient agricultural producer among the countries shown. However, we can say that productivity grew faster in India than in China, the United States, and Brazil during the past decade, rising

<sup>2</sup>Total factor productivity—usually measured as the ratio of aggregate output to aggregate inputs—is a measure of productive efficiency.

from an index value of 81 in 2009 to 115 in 2019. Brazil's TFP index (2015 = 100) grew from 85 in 2009 to 107 in 2019, and China's rose from 89 to 105 over those same years.

Curiously, productivity growth among the countries shown was the greatest in India between 2009 and 2019. Spending on agricultural knowledge and innovation systems during 2000–2002 and 2019–2021 was lower in India than in China, the United States, and Brazil, both in absolute dollars and as a percentage of the value of agricultural production. India's TFP index probably rose faster than those of Brazil, China, and the United States during the last decade because India was starting from a smaller base. Nevertheless, India's TFP growth between 2009 and 2019 is still a significant achievement.

The decline in the U.S. TFP index between 2009 and 2019 might be a result of reduced public-sector expenditures on agricultural R&D after 2002, as is implied in Fuglie and Nelson (2022). With public-sector spending on agricultural R&D declining, enhancements to productivity in the agricultural sector of the U.S. economy are increasingly coming from private-sector investments, which may not be sufficient to maintain growth in U.S. agricultural input use efficiency.

However, the reduction in productivity could also reflect that a rising proportion of U.S. public-sector spending on agricultural R&D is oriented toward welfare and environmental issues, rather than traditional productivity-enhancing topics like soil science and breeding. Therefore, the decline in U.S. agricultural input use efficiency after 2009 could reflect not just a decline in public-sector R&D spending but also a shift in spending to topics that, while important, have little impact on traditional measures of productivity.

The reduction in the U.S. TFP index could also derive from factors unrelated to agricultural R&D spending. Reduced productivity could reflect reduced investments in agricultural infrastructure in response to better opportunities for the use of capital in other segments of the U.S. economy such as cell phones, electric cars, or space tourism.

Regardless of what caused the decline in U.S. TFP after 2009, it is self-evident that more investment on agricultural R&D would result in more input use efficiency, other things equal. Therefore, while the reduction in U.S. public-sector spending on agricultural R&D since 2002 may not in-and-of itself be a cause of a decline in agricultural productivity, it nevertheless is a subject that warrants more study.

## Conclusions

U.S. public-sector spending on agricultural research and development has been declining since the early 2000's. However, U.S. private-sector spending on agricultural R&D has been climbing, and total U.S. agricultural R&D spending (public plus private) is probably still larger than in other countries.

China's public-sector spending on agricultural R&D during 2019–2021 was roughly double the level of U.S. public-sector spending and four to six times that of India or Brazil. As measured by TFP indexes, U.S. agricultural productivity declined between 2009 and 2019; however, India, Brazil, and China's TFPs rose. Accordingly, the United States' advantage in agricultural productivity is less now than a decade ago.

It is not clear what caused the decline in U.S. TFP between 2009 and 2019. Most likely, a multitude of factors including a reduction in public expenditures on agricultural R&D and a shift in public-sector spending away from topics having a bearing on input use efficiency toward welfare and environmental issues caused the decline.

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FP

[<https://foreignpolicy.com/2023/02/27/china-xi-agriculture-tax/>]

### China's Farmland Is in Serious Trouble

*Local governments are desperate to balance the books with land sales.*

By ZONGYUAN ZOE LIU,<sup>1</sup> a columnist at *Foreign Policy* and the Maurice R. Greenberg Fellow for China Studies at the Council on Foreign Relations.



This aerial photo taken on September 26, 2022 shows an image welcoming the 20th Communist Party Congress, created by growing red sorghum, in a field in Hangzhou, in China's eastern Zhejiang province. STR/AFP via Getty Images

Former U.S. President Ronald Reagan offered his “lesson number one about America” in *his farewell address to the nation*:<sup>2</sup> “All great change in America begins at the dinner table.” The same is true in China. One of the first steps of the Maoist revolution was forced *collective dining*,<sup>3</sup> but reform and opening up of the country revolutionized Chinese households’ dinner options with an array of diverse delicacies from Dutch cheese and Norwegian salmon to Mexican avocados and Rainier cherries.

Tang Renjian,<sup>4</sup> China’s minister of agriculture and rural affairs, accounted that, every day, China’s 1.4 billion people consume a staggering 700,000 tons of grain, 98,000 tons of edible oil, 1.92 million tons of vegetables, and 230,000 tons of meat. The leaders of the Chinese Communist Party (CCP) understand that “to the emperor, the people is heaven; to the people, food is heaven,” as the traditional saying goes, and they have prioritized food security as a prerequisite to maintaining power, especially after the calamitous famines of the Maoist era. For decades, coupons were necessary to buy any food—a system not fully ended until 1995,<sup>5</sup> although largely dead in the cities by the mid-1980s. Despite China’s emergence as *the world’s fac-*

<sup>1</sup> <https://foreignpolicy.com/author/zongyuan-zoe-liu/>.

<sup>2</sup> <https://www.reaganfoundation.org/ronald-reagan/reagan-quotes-speeches/farewell-address-to-the-nation-3/>.

<sup>3</sup> <https://www.atlasobscura.com/articles/peoples-commune-canteens-china>.

<sup>4</sup> [https://www.sohu.com/a/528199780\\_121123704](https://www.sohu.com/a/528199780_121123704).

<sup>5</sup> <https://www.china-briefing.com/news/757/>.



tory,<sup>6</sup> the country's No. 1 central document, the first policy statement issued by the top authorities each year, has centered on food security and the three issues of agriculture, the countryside, and farmers since 2004.<sup>7</sup>

This year is no exception, as the Central Committee of the CCP and the State Council jointly released<sup>8</sup> the highly anticipated No. 1 document for 2023 on Feb. 13. The document, which carries enormous weight, sets forth two critical priorities: safeguarding national food security and protecting farmland. While previous No. 1 documents touched on these issues between 2004 and 2012, it was not until 2013, when Xi Jinping assumed leadership, that the annual No. 1 document established a consistent and resolute focus on food security and farmland preservation.

The 2013<sup>9</sup> No. 1 document marked Xi's first policy statement as China's top leader and laid out his roadmap for enhancing China's food security. At its core was ensuring China's national food supply to strengthen food self-sufficiency. The document called for a robust supervision system to improve China's food safety. It also unprecedentedly urged the need to "implement the most stringent farmland protection system and promote the development of high-standard farmland."

Xi's steadfast prioritization of food security is not misplaced, as China's political system remains vulnerable to food insecurity. Amid the COVID-19 pandemic, *collective grievances*<sup>10</sup> aggravated by disruptions in the food supply and lockdown-induced food shortages sparked a wave of *protests*<sup>11</sup> in more than a dozen cities, with demonstrators demanding, "We want food, not COVID tests." Such public expressions of dissent have been rare in China since the mass Tiananmen protests in 1989. Given such alarming circumstances, Xi has underscored that China's growing dependence on *imported food*<sup>12</sup> presents a national security concern, even though China so far has been able to feed its 1.4 billion people.

Since taking office in 2013, Xi has stressed that "the rice bowls of the Chinese people must always be held firmly in our own hand and filled mainly with Chinese grain." His *approach*<sup>13</sup> to safeguarding national food security rests on achieving self-sufficiency by increasing domestic supply. At the Central Economic Work Conference in December 2022, Xi reiterated<sup>14</sup> the importance of bolstering China's capacity to ensure food security and self-sufficiency.

Xi is correct to recognize that preserving farmland is an indispensable factor in the quest to achieve food self-sufficiency. China has experienced alarming levels of farmland loss and deterioration in recent years. The most recent land use survey showed that China's total arable land decreased from 334 million acres in 2013 to 316<sup>15</sup> million acres in 2019, a loss of more than five percent in just 6 years. Shockingly, more than 1/3 of China's remaining arable land (660 million mu,<sup>16</sup> a traditional unit of land measurement in China and equal to roughly 109 million acres, slightly larger than Montana) suffers from problems of degradation, acidification, and salinization.

The land has been eroding faster in recent years. The annual net decrease of arable land has risen from about 6 million mu (about 988,421 acres) from 1957 to 1996 to more than 11 million mu (about 1.8 million acres) from 2009 to 2019. This means that between 2009 and 2019, China lost farmland equal to about the size of South Carolina. China's diminishing farmland is also losing productivity due to over-cultivation and excess use of fertilizers. China's fertilizer usage in 2018 was 6.4 times<sup>17</sup> that of 1978, but grain yield in 2018 was only 2.2 times that of 1978.

As in many other countries, such as the *United States*<sup>18</sup> and *India*,<sup>19</sup> a major cause for China's farmland deterioration has been its land-intensive industrialization and urbanization over the past 3 decades. Farmland has been expropriated to meet the strong demand for land to support the expansion of manufacturing, infrastructure, and urban development. Competing interests for land use have resulted

<sup>6</sup> <https://www.economist.com/finance-and-economics/2021/09/08/china-is-the-worlds-factory-more-than-ever>.

<sup>7</sup> [http://english.www.gov.cn/policies/latestreleases/202302/13/content\\_WS63ea2efcc6d0a757729e6b4b.html](http://english.www.gov.cn/policies/latestreleases/202302/13/content_WS63ea2efcc6d0a757729e6b4b.html).

<sup>8</sup> [http://www.gov.cn/zhengce/2023-02/13/content\\_5741370.htm](http://www.gov.cn/zhengce/2023-02/13/content_5741370.htm).

<sup>9</sup> [http://www.cirs.tsinghua.edu.cn/document/20130912/289\\_5.html](http://www.cirs.tsinghua.edu.cn/document/20130912/289_5.html).

<sup>10</sup> <https://www.washingtonpost.com/world/2022/09/12/china-covid-lockdown-xinjiang-food/>.

<sup>11</sup> <https://foreignpolicy.com/2022/12/04/china-mass-protests-zero-covid-xi-demonstrations/>.

<sup>12</sup> <https://www.cfr.org/article/china-increasingly-relies-imported-food-thats-problem>.

<sup>13</sup> [http://www.gov.cn/xinwen/2022-09/22/content\\_5711153.htm](http://www.gov.cn/xinwen/2022-09/22/content_5711153.htm).

<sup>14</sup> [http://www.qstheory.cn/dukan/qs/2023-02/15/c\\_1129362874.htm](http://www.qstheory.cn/dukan/qs/2023-02/15/c_1129362874.htm).

<sup>15</sup> <http://www.stats.gov.cn/tjsj/ndsj/2021/indexch.htm>.

<sup>16</sup> <https://www.jiemodui.com/N/132449.html>.

<sup>17</sup> <https://news.cctv.com/2022/02/14/ARTIGlQUZStJhv330DHw1DXZ220214.shtml>.

<sup>18</sup> <https://www.yahoo.com/video/us-lost-1-3-million-180438622.html>.

<sup>19</sup> <https://qz.com/flood-and-drought-are-ravaging-indias-farmlands-1849766266>.

in arable land being expropriated for more lucrative development projects. In the contest for land use among food growers, cash-crop planters, and property developers, profit maximization often trumps the needs of food farmers, especially when imported foods are much cheaper than locally grown options.

Satellite monitoring data shows that grain planting accounts for about 70 percent<sup>20</sup> of China's existing arable land, while the remainder is used for growing cash crops, gardens, forestry, or left fallow. Several Chinese researchers, such as *scholars*<sup>21</sup> from Anhui and a *team*<sup>22</sup> from China Agricultural University and China's Ministry of Natural Resources, have independently reached the same conclusion that by the time China achieves an urbanization rate of 70 percent by 2030, the country is likely to lose about 20 million mu<sup>23</sup> (about 3.3 million acres) of high-quality arable land.

In March 2022, the State Administration for Market Regulation and the Standardization Administration of China jointly issued<sup>24</sup> "General Rules for Well-Facilitated Farmland Construction," which set quantifiable criteria for high-quality farmland for different Chinese regions. The Chinese Government aims to develop 1.2 billion mu<sup>25</sup> of high-quality farmland (about 198 million acres) by 2030, an area larger than Texas. The government plans to increase investment in high-standard farmland to an annual average of 3,000 yuan per mu nationwide, which requires a yearly investment of at least 75 billion yuan<sup>26</sup> for 2023–2030. However, current investment significantly falls short at only 1,458 yuan<sup>27</sup> per mu, less than half of the target, due to local government fiscal difficulties and declining central government subsidies.

Yet, however necessary it might be, Xi's prioritization of food security and farmland protection does not and cannot come for free. Implementing restrictive farmland protection policies will inevitably reduce local governments' fiscal capacity because revenue from land-use-right sales constitutes the majority of local government revenue—as it has done since fiscal reforms in the 1990s left regular tax income flowing toward the central government, not local authorities. In 2022, local governments' land-related income fell<sup>28</sup> for the first time in 6 years, primarily due to declined revenue from land-use-right sales.

According to China's Ministry of Finance, local government revenue from land-use-right sales fell from a record high of 8.7 trillion<sup>29</sup> yuan in 2021 to 6.68 trillion<sup>30</sup> yuan in 2022, a reduction of 23.3 percent. Given that revenue from land-use-right sales remained as high as 51.29 percent<sup>31</sup> of local government revenue, any further decrease in this revenue source will worsen their fiscal capability to finance public expenditures, including funding the development of high-quality farmland urged by Xi.

In addition, the massive nationwide spending on COVID controls in 2020–2022, which the *BBC*<sup>32</sup> reported to be somewhere between 520 billion yuan and 1.56 trillion yuan, coupled with the decline in local government revenue, suggests that neither the central authorities nor local governments will have the fiscal capacity to increase expenditure on farmland protection without increasing their debt. Allocating money to finance farmland protection with debt proceeds is particularly challenging when the government has another more urgent priority: boosting economic recovery by encouraging *Chinese households*<sup>33</sup> to expand their *consumption*.<sup>34</sup>

Stripped of financial resources, local governments are more incentivized to boost land sales and increase revenue than to abandon selling farmland, especially when the immediate priority is to jump-start an economic rebound. To this end, in November 2022, the People's Bank of China and China's Banking and Insurance Regulatory Commission jointly issued<sup>35</sup> a set of 16 measures to revive the country's *dis-*

<sup>20</sup> <https://news.cctv.com/2022/02/14/ARTIGlQUZStJhv330DHw1DXZ220214.shtml>.

<sup>21</sup> <http://www.tcsae.org/nygxcb/article/abstract/20140401>.

<sup>22</sup> [http://www.bulletin.cas.cn/publish\\_article/2020/5/20200513.htm](http://www.bulletin.cas.cn/publish_article/2020/5/20200513.htm).

<sup>23</sup> <https://news.sciencenet.cn/htmlnews/2020/5/439394.shtm>.

<sup>24</sup> <http://www.jszg.com.cn/Files/PictureDocument/20220419160640156833862054.pdf>.

<sup>25</sup> <https://www.ndrc.gov.cn/jggz/fzslgh/gjzxgh/202111/P020211102598713060217.pdf>.

<sup>26</sup> [https://pdf.dfcfw.com/pdf/H3\\_AP202206101571178941\\_1.pdf?1657450456000.pdf](https://pdf.dfcfw.com/pdf/H3_AP202206101571178941_1.pdf?1657450456000.pdf).

<sup>27</sup> [https://pdf.dfcfw.com/pdf/H3\\_AP202206101571178941\\_1.pdf?1657450456000.pdf](https://pdf.dfcfw.com/pdf/H3_AP202206101571178941_1.pdf?1657450456000.pdf).

<sup>28</sup> <https://www.wsj.com/articles/to-boost-land-sales-local-chinese-governments-set-up-new-companies-to-buy-plots-11668681002>.

<sup>29</sup> <http://finance.china.com.cn/news/20220129/5738839.shtml>.

<sup>30</sup> [http://gks.mof.gov.cn/tongjishuju/202301/t20230130\\_3864368.htm](http://gks.mof.gov.cn/tongjishuju/202301/t20230130_3864368.htm).

<sup>31</sup> <http://news.szhom.com/380976.html>.

<sup>32</sup> <https://www.bbc.com/zhongwen/simp/chinese-news-64635752>.

<sup>33</sup> <https://www.cfr.org/blog/chinas-covid-19-comeback-rides-strength-chinese-households>.

<sup>34</sup> <https://foreignpolicy.com/2023/02/02/beijing-economy-playbook-gdp-household-consumption/>.

<sup>35</sup> [http://www.gov.cn/xinwen/2022-11/23/content\\_5728466.htm](http://www.gov.cn/xinwen/2022-11/23/content_5728466.htm).

ressed property market<sup>36</sup> and help developers secure financing. This policy change suggests the party-state is once again *betting on*<sup>37</sup> the property market's recovery to restore growth.

Over the past 2 years, Chinese private property developers such as Evergrande and Vanke have *pulled back*<sup>38</sup> from aggressive land purchasing due to stringent restrictions. While this reduced demand from private property developers should have helped alleviate the temptation to appropriate farmland for property development, much of the demand void has been filled by state-owned enterprises and government-backed developers or companies, such as local government financing vehicles (LGFVs). LGFVs allow local governments to raise off-balance-sheet debt through bond issuance to fund long-term infrastructure investment without increasing their on-the-book leverage ratio. A report<sup>39</sup> by Haitong Securities, a Shanghai-based securities brokerage firm, showed that in 2022 more than 80 percent of the 100 largest land-purchasing companies were state-owned enterprises.

The share of LGFVs' land purchases in local government land sale revenue increased to nearly 20 percent in 2022, up from 14.5 percent in 2021, suggesting that LGFVs likely have provided a false revenue source and exacerbated local governments' off-balance-sheet debt problem. Similarly, *The Wall Street Journal* reported<sup>40</sup> cases in Zhengzhou, Shenyang, and Suzhou where  $\frac{1}{2}$  to  $\frac{3}{4}$  of land sold by the city governments were bought by local government-controlled companies, many of which were set up just days or weeks after the announcement of the land auctions. In essence, local authorities are borrowing illicitly to fund their own revenue, mortgaging their financial and pastoral future in order to stay afloat. Boosting land sales through government-owned or government-controlled entities when demand from private developers is low provides a politically convenient channel for local governments to raise revenue at limited costs.

Investing limited fiscal resources in farmland protection, in contrast, does not generate immediate political and financial returns, making it a tough sell for local officials who are under pressure to deliver a rapid economic recovery. While safeguarding farmland is an important cause in the long term, and one backed from the top in Beijing in theory, it costs money from the pockets of local governments and subsidies from the central authorities. For local officials, the more pressing challenge consuming their attention and resources is to restore economic growth.

These cost-benefit calculations mean local officials are likely to revert to their most familiar playbook of increasing revenue by expanding land sales and converting farmlands to factories and houses to accelerate rural industrialization and urbanization. This immediate-term expansion in land sales implies that China could have an excess housing supply that may lead to another housing market crash in the next 5 to 10 years if demand for housing fails to catch up.

Limited domestic farmland availability combined with the pursuit of food security dictates that China would expand its overseas farmland investment and advance its strategy of farming out. The 2007<sup>41</sup> No. 1 document set farming and agriculture "going out" into the rest of the world as a national strategy for the first time, but the focus back then was exports. The 2016<sup>42</sup> No. 1 document updated guidelines on international agriculture cooperation, focusing on agricultural investment and supporting Chinese companies' overseas operations.

According to Land Matrix, a European land-monitoring organization, Chinese companies have gained control of 6.48 million<sup>43</sup> hectares (16 million acres) in foreign territories, which is nearly the size of Ireland. This number dwarfs the combined 1.56 million hectares controlled by British companies, the 860,000 hectares held by U.S. companies, and the 420,000 hectares owned by Japanese companies. Chinese investment in U.S. farmland has already triggered concerns in Washington, even though China currently only holds less than 1 percent<sup>44</sup> of foreign-owned U.S.

<sup>36</sup> <https://foreignpolicy.com/2022/07/20/china-mortgage-boycott-real-estate-crisis/>.

<sup>37</sup> <https://foreignpolicy.com/2023/01/10/chinese-communist-party-property-bubble-real-estate/>.

<sup>38</sup> <https://www.wsj.com/articles/chinas-private-developers-abstain-from-land-auctions-as-red-lines-draw-blood-11644330780>.

<sup>39</sup> <https://www.htsec.com/jfimg/colimg/upload/20230206/37481675649664054.pdf>.

<sup>40</sup> <https://www.wsj.com/articles/to-boost-land-sales-local-chinese-governments-set-up-new-companies-to-buy-plots-11668681002>.

<sup>41</sup> [http://www.moa.gov.cn/ztl/nyfzhjsn/zyhwj/201208/t20120823\\_2864991.htm](http://www.moa.gov.cn/ztl/nyfzhjsn/zyhwj/201208/t20120823_2864991.htm).

<sup>42</sup> [http://www.agri.cn/V20/SC/jjps/201601/t20160127\\_5000509.htm](http://www.agri.cn/V20/SC/jjps/201601/t20160127_5000509.htm).

<sup>43</sup> <https://asia.nikkei.com/Spotlight/Datawatch/Chinese-companies-corralling-land-around-world&cd=1&hl=en&ct=clnk&gl=us>.

<sup>44</sup> [https://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdafilis/EPAS/PDF/2021\\_afida\\_annual\\_report\\_through\\_12\\_31\\_2021.pdf](https://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdafilis/EPAS/PDF/2021_afida_annual_report_through_12_31_2021.pdf).

farmland. Republican lawmakers have already drafted a *bill*<sup>45</sup> to ban Chinese purchases of American farmland, while in states like Texas measures are even more advanced. China not only owns farmland in the United States but also in U.S. allies' territory, such as the *United Kingdom*,<sup>46</sup> *France*,<sup>47</sup> and *Australia*.<sup>48</sup>

If China's economic recovery and its continued growth are fueled by land sales and its property market, Xi's prioritization of food security means Chinese entities will have to embark on more aggressive overseas land purchases. While the current theater of U.S.-China competition has been centered on the chips and semiconductors industry, a new front may emerge in the form of competition over farmland and agriculture technology. The party can survive setbacks in the chip war, but the stakes are much higher in the fight for food security. Failure on the food security front will threaten the survival of the regime.

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<sup>45</sup> [https://newhouse.house.gov/sites/evo-subsites/newhouse.house.gov/files/evo-media-document/NEWHOU\\_063\\_xml.pdf](https://newhouse.house.gov/sites/evo-subsites/newhouse.house.gov/files/evo-media-document/NEWHOU_063_xml.pdf).

<sup>46</sup> <https://www.scmp.com/article/990443/chinese-buy-own-piece-england>.

<sup>47</sup> <https://www.marketplace.org/2016/09/19/chinese-investors-are-buying-french-farmland/>.

<sup>48</sup> <https://www.weeklytimesnow.com.au/agribusiness/decisionag/china-to-become-biggest-foreign-owner-of-australian-farmland/news-story/ba27742491380f55568bc3d5ada296cb>.

U.S.-China Economic and  
Security Review Commission  
Staff Research Report



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**China's Interests in U.S. Agriculture:  
Augmenting Food Security through  
Investment Abroad**

**Author: Lauren Greenwood, Policy Analyst, Security and Foreign Affairs**

**Disclaimer:** This paper is the product of professional research performed by staff of the U.S.-China Economic and Security Review Commission and was prepared at the request of the Commission to support its deliberations. Posting of the report to the Commission's website is intended to promote greater public understanding of the issues addressed by the Commission in its ongoing assessment of U.S.-China economic relations and their implications for U.S. security, as mandated by Public Law 106-398 and Public Law 113-291. However, the public release of this document does not necessarily imply an endorsement by the Commission, any individual Commissioner, or the Commission's other professional staff, of the views or conclusions expressed in this staff research report. This staff research report was updated for clarity on June 13, 2022.

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## Introduction

China faces growing demands on its agricultural production that it seeks to address through policy, technology, and economic activities. In 2021, China imported a record amount of corn at 28.35 million metric tons (mmt), 152 percent more than in 2020 and more than 10 percent of China's Ministry of Agriculture and Rural Affairs (MARA) estimate for the country's total corn consumption (see Tables 1 and 2).<sup>1</sup> The China Academy of Social Sciences' 2020 Rural Development Institute report claimed "there is likely to be a grain shortfall of about 130 mmt, including about 25 mmt of staple food grain" by the end of 2025."<sup>2</sup>

Diminishing arable land, shifting demographics, and natural disasters compound these trends and present food security challenges to China's leaders. In response, China has introduced domestic policies to promote food security and lessen food waste, both of which have been a priority of General Secretary of the Chinese Communist Party (CCP) Xi Jinping since he assumed power. Under his rule, the government has also established policies to expand domestic farmland and harness innovations in agricultural technologies, such as genetically modified (GM) seed lines, all in an effort to bolster food security.

The Chinese government's domestic efforts, however, are not enough to solve China's problems. Recognizing its challenges, China has also gone abroad to address its needs through investments and acquisitions of farmland, animal husbandry, agricultural equipment, and intellectual property (IP), particularly of GM seeds. The United States is a global leader in all of these fields, making it a prime trading partner and often a target of China's efforts to strengthen its agriculture sector and food security, sometimes through illicit means.

These efforts present several risks to U.S. economic and national security. For example, Chinese companies' acquisition of hog herds in the United States may save China money and enhance its domestic capacity; however, this could also reduce China's need for U.S.-sourced production and redistributes the environmental effects of hog waste to U.S. communities. If further consolidations and Chinese investments in U.S. agricultural assets take place, China may have undue leverage over U.S. supply chains. China's access to U.S. agricultural IP may also erode U.S. competitiveness in agriculture technology that supports food production. Additionally, China's illicit acquisitions of GM seeds provides a jumpstart to China's own development of such seeds, deprives U.S. companies of revenue, and offers an opportunity to discover vulnerabilities in U.S. crops.

This report reviews China's food security challenges and how these vulnerabilities drive interests in U.S.-China agricultural relations. Specifically, it evaluates the motivations behind China's agricultural investments, including challenges to food production and relevant CCP efforts to reduce import reliance, conserve farmland, and modernize agricultural technologies. It then examines the main areas of Chinese investment in the United States, including land, livestock, grains, and relevant infrastructure, like agricultural equipment and technology. Finally, the report presents considerations for lawmakers regarding further Chinese integration in the U.S. agriculture sector.

<sup>1</sup> The report also predicts that China's grain output will be around 636 million metric tons by 2025. This would be a decline in production according to China's National Bureau of Statistics, which reports that grain output has exceeded 650 million tons for seven consecutive years. Ministry of Agriculture and Rural Affairs of the People's Republic of China, "Grain Acreage among Key Issues for Rural Areas," *China Daily*, January 16, 2022. [http://webcache.googleusercontent.com/search?q=cache:V5JXZahwpn8J:english.moa.gov.cn/news\\_522/202201/t20220116\\_300779.html+&cd=2&hl=en&ct=clnk&gl=us](http://webcache.googleusercontent.com/search?q=cache:V5JXZahwpn8J:english.moa.gov.cn/news_522/202201/t20220116_300779.html+&cd=2&hl=en&ct=clnk&gl=us).

**Table 1: Top Ten U.S. Agricultural Exports to China, 2016 and 2021**  
(US\$ millions)

Top Ten Exports (2016)		Top Ten Exports (2021)	
Soybeans	\$ 14,202.62	Soybeans	\$ 14,102.15
Grain Sorghum	\$ 1,031.34	Corn	\$ 5,099.47
Residues of Starch Manufacture	\$ 471.30	Grain Sorghum	\$ 1,863.43
Rutabagas, Hay, Clover	\$ 429.75	Beef	\$ 1,299.96
Pork	\$ 329.81	Poultry & Edible Offal	\$ 896.16
Ethyl Alcohol	\$ 313.48	Pork	\$ 890.39
Edible Offal (internal organs), Bovine, Swine, etc.	\$ 245.19	Nuts	\$ 867.39
Wheat & Meslin	\$ 211.51	Wheat & Meslin	\$ 802.54
Animal Guts, Bladders, Stomachs, & Parts	\$ 176.30	Edible Offal Bovine, Swine, etc.	\$ 657.93
Whey & Milk Products	\$ 169.24	Rutabagas, Hay, Clover	\$ 640.20

Source: U.S. Census Bureau, *USA Trade Online*, March 2022. <https://usatrade.census.gov/>.

**Table 2: Top Ten U.S. Agricultural Imports from China, 2016 and 2021**  
(US\$ millions)

Top Ten Imports (2016)		Top Ten Imports (2021)	
Prepared/Preserved Fruit, Nuts	\$ 556.40	Prepared/Preserved Fruit, Nuts	\$ 402.22
Fruit, Nuts, Vegetable Juices	\$ 325.85	Food Preparations	\$ 361.32
Vegetable Saps & Extracts	\$ 246.84	Vegetable Saps & Extracts	\$ 314.85
Preparations Used in Animal Feeding	\$ 210.96	Preparations Used in Animal Feeding	\$ 274.34
Dried Vegetables	\$ 177.86	Vegetables, Not Frozen	\$ 161.94
Onions, Shallots, Garlic, Leeks	\$ 147.21	Fruit, Nuts, Vegetable Juices	\$ 145.46
Vegetables, Not Frozen	\$ 146.10	Animal Products, Dead Animals, Inedible	\$ 126.73
Sugar	\$ 137.49	Dried Vegetables	\$ 106.17
Animal Guts, Bladders, Stomachs, & Parts	\$ 136.54	Pasta, Prepared or Not	\$ 104.02
Food Preparations	\$ 136.36	Sauces & Prep, Mixed Condiments	\$ 102.81

Source: U.S. Census Bureau, *USA Trade Online*, March 2022. <https://usatrade.census.gov/>.



## Challenges Facing China's Food Security

### Lack of Arable Land

Although the United States and China have roughly the same amount of land mass, China's arable land is shrinking. China possesses only 7 to 9 percent of the world's arable land, but it houses nearly 20 percent of the global population.<sup>3</sup> As of 2018, China has 294 million acres (1.79 billion mu) of arable land and a population of 1.4 billion (2020).<sup>4</sup> The United States has more than 375 million acres (2.27 billion mu) of arable land and a population of 329.5 million.<sup>5</sup>

Throughout the last decade, rapid urbanization and industrial growth have encroached onto farmland, displaced agricultural workers, and reduced land that communities are dependent on for agricultural work. In addition, soil and water pollution challenges are further threatening the availability of arable land. Rapid urban growth has significantly polluted the country's farmland, destroying crops and raising concerns about food safety.<sup>6</sup> China's pesticide and fertilizer use has also contributed to its extreme water and soil pollution. China's Ministry of Ecology and Environment (MEE) reported in 2018 that 15.5 percent of groundwater was considered unsuitable for any use.<sup>7</sup> Similarly, the Ministry of Land and Resources<sup>8</sup> and the Ministry of Environmental Protection<sup>9</sup> published a report in 2014 that determined that 19.4 percent of China's agricultural land, or about 64 million acres, had contaminated soil.<sup>8</sup> The Chinese government has taken some steps to respond to extensive soil contamination, for instance by forbidding farming on plots of farmland to allow time for it to be rehabilitated.<sup>9</sup> According to Reuters, China's State Council "aims to make around 93 percent of its contaminated farmland fit for crops by the end of 2025," but Chinese researchers are open about the challenges of soil and groundwater rehabilitation.<sup>10</sup> After China's 2021 rural work conference, Xu Xiaoqing, a researcher at the State Council's Development Research Center, assessed that managing and restoring China's soil and groundwater is unlikely to be accomplished in the short term and will require sustained efforts.<sup>11</sup> China's 14th Five-Year Plan also says it will curb "nonagricultural" uses of arable land and increase concentrated farmland by 177 million acres (1.08 billion mu) in an effort to preserve its limited supply of land.<sup>12</sup>

China's policymakers face the challenge of balancing industrialization with preserving and growing the agricultural economy. China's leaders intended to protect land from urbanization and subsequent pollution challenges, so they established a clear "red line" of 296.5 million acres (1.80 billion mu) as a minimum to be preserved as arable land in order to achieve the goal of 95 percent self-sufficiency in grain production.<sup>13</sup> Reporting from the UN Food and Agricultural Organization suggests the red line was crossed in 2010.<sup>14</sup> China's Ministry of Natural Resources (MNR) claims China has more arable land and the red line has not been crossed, but notably reports a more drastic decline in arable land since 2009.<sup>15</sup> Its Third National Land Survey<sup>16</sup> indicates China's arable land declined 5.6 percent from 334.4 million acres (2.03 billion mu) in 2009 to 314 million acres

\* Chinese sources generally list land in mu, but measurements are given in acres throughout this paper for consistency. In discussions regarding Chinese land, mu will also be listed for reference.

† One mu (亩) is equal to 0.165 acres, or 1 acre is equal to 6.07 mu.

‡ The Ministry of Land and Resources was folded into the Ministry of Natural Resources in March 2018.

§ The Ministry of Environmental Protection was folded into the Ministry of Ecology and Environment in March 2018.

\*\* China's government distinguishes arable or cultivated land (耕地) from "garden land," which includes tea plantations and orchards, as well as "forests," which are other types of agricultural land. Gao Wen, "How to Understand the Loss of 113 Million Mu in Cultivated Land between the Second and Third National Survey" (如何看待“三调”比“二调”少了1.13亿亩耕地), *Farmer's Daily*, Translation, August 27, 2021.

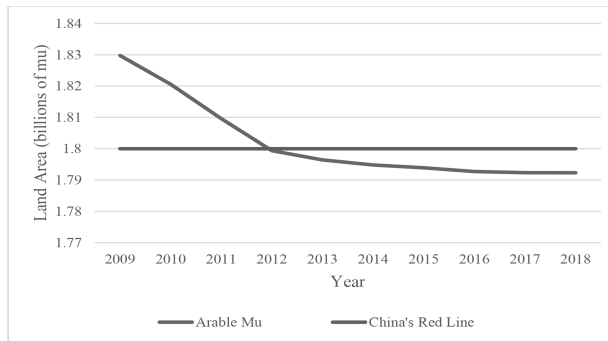
[http://weibcache.googleusercontent.com/search?q=cache:fa0Az5Zg2i8J:www.moa.gov.cn/ztzl/gdzlbhyjs/mtbd\\_28775/mtbd/202108/120210827\\_6375079.htm](http://weibcache.googleusercontent.com/search?q=cache:fa0Az5Zg2i8J:www.moa.gov.cn/ztzl/gdzlbhyjs/mtbd_28775/mtbd/202108/120210827_6375079.htm).

†† According to World Bank data, China's arable land shrank by 2.45 percent from 2009 to 2018, decreasing from 299.8 million acres (1.82 billion mu) to 294.8 million acres (1.79 billion mu).

‡‡ The survey has been conducted every decade by MNR or its predecessor. The most recent survey was launched in September 2018 and collected data through the end of 2019. It was released in August 2021. Yang Wangli, "Survey: Nation Getting Greener over Past Decade," *China Daily*, August 27, 2021. [www.gov.cn/policies/latest\\_releases/2017/10/16/content\\_281475909460245.htm](http://www.gov.cn/policies/latest_releases/2017/10/16/content_281475909460245.htm).

(1.91 billion mu) in 2019.<sup>\* 15</sup> Regardless of whether or not the red line was actually crossed, if China's industrial development and subsequent pollution are not controlled, the amount of arable land China does have is not sustainable or sufficient for meeting its food production goals.

**Figure 1: China's Arable Land Declines below Red Line (World Bank/Food and Agriculture Organization), 2009–2018**



Source: World Bank, Food and Agriculture Organization, "Arable Land – China," 2018.  
<https://data.worldbank.org/indicator/AG.LND.ARBL.ZS?end=2018&locations=CN&start=2000&view=chart>.

### Shifting Migration and Consumption Demands Strain Domestic Capacity

Declining birthrates and increased migration to the cities, particularly among young adults, are straining farms across China. Similar to the United States, Chinese families with small-scale farms struggle to pass down their way of life to the next generation as more working-age individuals travel to the larger cities hoping to find higher-paid jobs or pursue education.<sup>16</sup> China's 14th Five-Year Plan articulates its goals for moving more rural residents into cities.<sup>17</sup> This rural to urban migration moves workers off of the farms and into manufacturing jobs in the cities.<sup>†</sup> This creates a labor shortage among an already aging farmer population. The *New York Times* tells the story of Zheng Nanda, a farmer in Shanhuai, China, whose children moved to city centers or chose a different line of work. The article explains, "As young people leave for the cities, more small farmers like Mr. Zheng are leasing their land for others to work."<sup>18</sup> In 2021, 64.72 percent of China's population lived in urban areas, compared to just 37.09 percent in 2001.<sup>19</sup> This puts China on track to reach, or possibly exceed, its 14th Five-Year Plan goal of 65 percent urbanization by 2025. In that same Five-Year Plan, the CCP said it would delineate and implement urban development boundaries and ecological barriers to protect its land and water sources.<sup>20</sup> While China has clear objectives for increasing urban migration, it is challenged with also creating policies to mitigate the effects of migration on rural communities. In an effort to address the pressures on farmers and meet its development goals, the Chinese government provides various agricultural insurance plans and subsidies for farmers.<sup>21</sup>

As populations have grown in the cities, so has Chinese household wealth, driving demand for more protein and higher-quality cuts of meat: China's growth in animal protein consumption has almost tripled in the last 40

<sup>\*</sup> MNR Deputy Minister Wang Guanghua claims that much of the reduction in arable land between 2009 and 2019 can be explained by agricultural land being converted to forest or garden land used for tea plantations or orchards. Gao Wen, "How to Understand the Loss of 113 Million Mu in Cultivated Land between the Second and Third National Survey" (如何看待“三调”少了1.13亿亩耕地), *Farmer's Daily*, August 27, 2021. Translation, [http://webcache.googleusercontent.com/search?q=cache:fa0Az5Zg2i8J:www.moa.gov.cn/ztl/gdzlbyjs/mtbd\\_28775/mtbd/202108/t20210827\\_6375079.htm](http://webcache.googleusercontent.com/search?q=cache:fa0Az5Zg2i8J:www.moa.gov.cn/ztl/gdzlbyjs/mtbd_28775/mtbd/202108/t20210827_6375079.htm).

<sup>†</sup> For more on China's urbanization, see "April 2021 Trade Bulletin," U.S.-China Economic and Security Review Commission, April 30, 2021. <https://www.uscc.gov/trade-bulletins/april-2021-trade-bulletin>.

years.<sup>22</sup> On March 6, 2022, at a Two Sessions meeting, an annual gathering of China's two main political bodies, General Secretary Xi acknowledged China's changing diet. Using the term "big food concept," General Secretary Xi spoke about the country's new food demands reflecting China's economic and social growth.<sup>23</sup>

The Organization for Economic Cooperation and Development (OECD) estimates that by 2029 China's total meat consumption will reach about 54 kilograms (kg) per capita. This is up from around 45 kg per capita in 2009, and compared to 64 kg per capita in OECD countries, which has remained relatively consistent over the last decade.<sup>24</sup> Pork accounts for the majority of growth in China's meat consumption, and the demand for protein is growing quicker than Chinese farmers are able to produce.<sup>25</sup>

China's growing pork industry also requires greater levels of grain imports to feed hog herds. Given these demands, CoBank, a major lender to the U.S. agricultural sector, confirmed that through May 2021, China was closest to meeting its purchase commitments made in the January 2020 Phase One Trade Agreement in U.S. grain imports.<sup>26</sup> According to Chad P. Bown, Reginald Jones Senior Fellow at the Peterson Institute of Economics, China purchased 83 percent of the agricultural commodities agreed to under the Phase One commitment between January 2020 to November 2021.<sup>27</sup> The trend can be attributed to stable pork production in China, higher slaughter rates, and poor grain supplies from Brazil.<sup>28</sup> In 2021, China imported more than 30 mmt of corn, used mainly for feed, from the United States, a substantial increase from the less than 5 mmt of corn in 2019.<sup>29</sup>

### Livestock Diseases, Pests, Pollution, and Natural Disasters

Livestock diseases, pests, and extreme weather conditions exacerbate China's land scarcity, rapidly growing food demand, and diminished production capacity. These recurring challenges increasingly impact global agriculture markets, including in the United States.

- **African swine fever (ASF)** is a highly contagious virus that is deadly for domestic and wild hogs but does not affect humans. Hogs first tested positive in Liaoning Province in August 2018, and by April 2019 the virus had spread to all of China's provinces.<sup>\*</sup> The majority of China's pig farms are considered small or medium-sized farms and often struggle to afford adequate waste management systems and maintain sanitary conditions.<sup>†</sup> Consequently, after one pig becomes sick, the virus often quickly spreads to the rest of the herd, destroying the farms in its wake.<sup>‡</sup> In 2018, China's National Bureau of Statistics reported a stock of 428 million hogs, hundreds of millions of which died or required culling during the ASF outbreak.<sup>§</sup> The timing of this challenge further compounded the economic burdens brought on by the novel coronavirus (COVID-19) shutdowns and pandemic response. China produced only 36 mmt of pig meat in 2020 compared to 54 mmt in 2018.<sup>||</sup> The ASF outbreak also highlights the importance of China as an export market for the United States. As China's hog supply decreased, domestic pork prices rose to new highs.<sup>¶</sup> By early 2020, pork prices in China reached more than \$3.50 per pound compared to about \$1.50 per pound in mid-2018.<sup>‡</sup> The economic effects associated with the outbreak and subsequent control measures have affected farmers in both China and the United States.<sup>‡</sup> With fewer hog herds to feed and rising bilateral political tensions, China's demand for U.S. corn and soybeans substantially dropped. Beginning July 2018, U.S. farmers also faced Chinese tariffs on corn and soybean exports, compounding the pricing problem.<sup>§</sup> As a result, U.S. soybean exports dropped below a 20 percent market share in 2018 compared to 37 percent the previous three years.<sup>§</sup> <sup>36</sup> Pork deficits caused by ASF, however, drove up U.S. pork exports to China. In 2020, pork exports reached 3.7 mmt, more than double 2018 exports to China.<sup>37</sup> The average retail value of pork in the United States also rose by 4.84

<sup>\*</sup> For an assessment of the impact of ASF in 2019, see Sean O'Connor, "China's African Swine Flu Outbreak: Implications for U.S. Food Safety and Trade," *U.S.-China Economic and Security Review Commission*, May 15, 2019.

<sup>†</sup> <https://www.uscc.gov/sites/default/files/Research/China%27s%20African%20Swine%20Flu%20Outbreak.pdf>.

<sup>‡</sup> China's government considers a small or medium-sized farm to be less than about 16 acres (100 mu). Huang Zongzhi, "Are Family Farms the Development Path Forward for China's Agriculture?" (家庭农场 是中国农业的发展出路吗?) Open Times (开放时代) 2014. [www.opentimes.cn/Abstract/1947.html](http://www.opentimes.cn/Abstract/1947.html).

<sup>§</sup> Not only is there an immediate financial loss from culling but also a longer-term impact on reproductive capacity from losing breeding pigs.

<sup>||</sup> As noted above, corn exports to China rebounded from their low 2018 and 2019 levels following the conclusion of the Phase One Trade Agreement in January 2020.

percent from \$3.84 per pound to \$4.03 per pound between 2019 and 2020.<sup>38</sup> These market disruptions put pressure on the Chinese government to stabilize the country's pork supply, the main protein of choice for China's modern middle class.

- **Fall Army Worm (FAW)** devastated China's southwestern provinces beginning in 2019.<sup>39</sup> FAW is an invasive pest that feeds on 80 different crop species, including corn, and has affected crops in more than 100 countries, including the United States.<sup>40</sup> The outbreak spread to 26 provinces in 2019 and infested an estimated 2.8 million acres of land.<sup>41</sup> In 2020, it spread into China's northeast provinces, home to its corn belt. In February 2020, MARA responded by issuing a 2020 Plan for Fall Armyworm Prevention ahead of the spring planting season, but it estimated that 16.6 million acres would be affected, a large increase from the 2.7 million acres affected the prior year.<sup>42</sup> China continued to work to minimize the impact of the FAW outbreak. FAW in China—combined with recovery in the hog sector and the Phase One Trade Agreement—created a favorable climate for U.S. corn exports. In 2020, exports of U.S. corn (primarily used in animal feed) to China reached \$1.2 billion compared to just \$56 million in 2019.<sup>43</sup>
- **Water and soil pollution**, as noted above, has damaged 19.4 percent of China's arable land and created additional challenges for China's agricultural production goals, including food safety, grain output, and difficulties with regulatory enforcement.<sup>44</sup> Rapid urbanization and poor environmental regulations have exacerbated existing burdens on China's farms, including water shortages. China's water and soil have been polluted by toxic human, agricultural, and industrial waste resulting from economic development in the last several decades. In 2021, a research team at Tsinghua University released a study that found 100 million people in China accessed water with unsafe levels of toxic chemicals.<sup>45</sup> In 2013, China's 2nd National Water Resource Survey found that 60 percent of groundwater was polluted, often by heavy metals, and as noted above, a 2018 government study found 15.5 percent of groundwater was unsuitable for any use.<sup>46</sup> Furthermore, the 2013 survey reported that each year heavy metal pollution destroyed about 10 mmt of grain and contaminated an additional 12 mmt.<sup>47</sup> Mining and industrial sewage has also affected China's rice fields, causing serious food safety concerns. China's government has made efforts to curb water pollution, but it often struggles with enforcement.
- **Flooding** across China over the last several years has had a notable impact on food production, including crop yields and pork output. As the country responded to the COVID-19 pandemic in June and July 2020, historic rainfall ripped through Wuhan and other parts of China.<sup>48</sup> The floods destroyed crops and delayed production by damaging roads and farms and displacing people. The summer floods affected approximately 63 million people and more than 14 million acres of cropland.<sup>49</sup> More flooding took place in August after heavy rains in Sichuan and Shandong. Damage to farmland and transportation infrastructure, compounded by setbacks from ASF, fostered a surge in imports, particularly for pork, wheat, and corn.<sup>50</sup> Throughout 2021, China again experienced severe flooding, this time primarily in Henan and Shanxi provinces. The July 2021 floods in Henan were the worst the province had seen in decades.<sup>51</sup> The floods displaced hundreds of thousands of residents and had devastating effects on local farmland.<sup>52</sup> Despite the natural disasters of the last few years, China's National Bureau of Statistics (NBS) reports positive growth in key sectors.<sup>\*</sup> For instance, in 2021 China's grain output rose to 682.9 million tons, compared to 650 million tons in 2020.<sup>53</sup>

## China's Policies Seek to Build Self-Sufficiency

China's government sees two main options for addressing land scarcity concerns, relative to food security, without becoming more reliant on other countries' producers. It can either purchase land abroad where it will have captive production or work to improve its domestic land. Both options have become integral to China's strategy as the population has grown and new domestic production challenges have arisen. There is, however, tension between China's desire to build self-sufficiency in agriculture and the reality of its domestic resources that drives it to

<sup>\*</sup> Foreign analysts, economists, and investors maintain skepticism about the reliability of China's official reported economic data. China's economic data are highly politicized and help to support a curated narrative of national success.

attractive investments abroad. Each force is pulled tighter by General Secretary Xi's desire to maintain China's food security.

Although the CCP expresses confidence in its processes for maintaining food security, General Secretary Xi's consistent emphasis in public speeches on minimizing food waste suggests there is enduring fear over food deficiencies. Shortly after coming into power in 2013, Xi Jinping established the "operation empty plate" initiative as an anti-food-waste campaign.<sup>54</sup> The issue received renewed focus in General Secretary Xi's August 2020 speech following the summer floods that so badly destroyed crops. General Secretary Xi emphasized China's progress in grain production, but he explained that the nation was still in a state of balancing its demand for grain and grain supply and called for people to be vigilant and avoid waste.<sup>55</sup>

While publicly, General Secretary Xi calls for agricultural frugality and self-sufficiency, China's investments in foreign farms, mills, and other agricultural assets diversify its supply chain and provide a level of insurance should its domestic ecosystem face challenges like the ones discussed above. China is wary of overreliance on any foreign source but is expected to continue investing in attractive aspects of the U.S. agricultural economy, like the pork industry, in tandem with its efforts to improve its domestic production.

**Reduce Import Reliance:** Amid the deficit of these critical products in China and rising prices, MARA announced policies in March 2021 to reduce the amount of soy and corn used in animal feed.<sup>56</sup> China relies heavily on corn and soy imports from countries like the United States and Brazil, which supply more than 80 percent of global soybean exports.<sup>57</sup> About 60 percent of global soybean exports go to China.<sup>58</sup> The deficits were compounded by logistics challenges resulting from China's response to COVID-19, including port closures.<sup>59</sup> In 2019, 86.4 percent of China's corn imports came from Ukraine, meaning Russia's invasion of Ukraine may prolong the challenges to China's food security even as the effects of the COVID-19 pandemic subside.<sup>60</sup> At a Politburo Standing Committee meeting in December 2021, General Secretary Xi added an emphasis on food security, saying that "the food of the Chinese people must be made by and remain in the hands of the Chinese. Everyone needs to take responsibility for food security."<sup>61</sup> Then, at the December 2021 Central Rural Work Conference in Beijing, General Secretary Xi further stressed the importance of food security by saying that the Chinese people's "rice bowl must be firmly held in their hands at all times."<sup>62</sup> He also called for efforts to increase soybean and oilseed production.<sup>63</sup> In February 2022, CCP mouthpiece *People's Daily* reported that General Secretary Xi identified quality seeds as one of the primary solutions to ensuring stable grain output, calling on the Chinese people to "develop China's seed industry, pay close attention to cultivating excellent varieties with independent intellectual property rights, and ensure food security from the source."<sup>64</sup>

**Improve Domestic Farmland:** China's State Council and MARA have announced numerous efforts to improve and conserve China's farmland, including a January 2021 statement by Agriculture and Rural Affairs Minister Tang Renjian that China would improve and conserve China's domestic farmland by almost 25 percent in 2021.<sup>65</sup> The government plans to upgrade 16.5 million acres (100 million mu)—more than 3 million acres (20 million mu) above the 2020 target—to high standard or well-facilitated farmland able to withstand droughts and floods while producing high and stable yields.<sup>66</sup> A 2022 government report reiterates calls for improving land, indicating that it has yet to reach its goals.<sup>67</sup> Looking to address food security concerns, MARA has said that it plans to use large-scale mechanical farming to improve productivity and crop yields on the nation's farms.<sup>68</sup> MARA also plans to upgrade irrigation systems to conserve water and improve the systems' effectiveness.<sup>69</sup> China's 14th Five-Year-Plan to Advance Agricultural and Rural Modernization (2021–2025) includes plans to upgrade its arable land through improving saline and alkali soils in northern China and acidified soils in southern China. The plan also calls for greater pollution control by reducing farmers' use of chemical fertilizers and pesticides. In less polluted areas, the State Council wants to implement rehabilitation measures. By contrast, heavily polluted land will be converted into forests and grassland or adjusted to accommodate nonedible

<sup>54</sup> For more on China's port closures, see U.S.-China Economic and Security Review Commission, "September 2021 Trade Bulletin," September 14, 2021.

<sup>55</sup> For more on China's actions toward Russia following Russia's invasion of Ukraine, see the U.S.-China Economic and Security Review Commission, "China's Position on Russia's Invasion of Ukraine," May 11, 2022.

<sup>56</sup> New articles have pointed out that this amount of land is roughly equal to the size of the Republic of Ireland. William Zheng, "China Aims to Upgrade Farmland the Size of the Republic of Ireland. Here's Why," *South China Morning Post*, December 18, 2020. <https://www.scmp.com/news/china/politics/article/3114483/china-aims-upgrade-farmland-size-republic-ireland-heres-why>.

agricultural commodities.<sup>69</sup> In February 2022, China released its No. 1 central document for rural vitalization. The document includes plans to promote black soil protection and conduct the third national census on soil conditions, which will occur more than 40 years after the last one. The census will examine soil quality to improve soil protection and utilization efforts.<sup>70</sup>

**Advance Agritech Innovation:** China hopes industrial farming approaches will increase agricultural productivity as the rural population declines. However, the transition is disruptive for local agricultural economies composed of small-scale farms, requiring them to purchase expensive equipment and transform practices they have been implementing for generations. One study found farmers' intentions to use machines were limited by the financial burden of purchasing and maintaining the equipment. Instead, many smaller farms in China still rely on low-tech tractors. The *South China Morning Post* points out, "These low-tech tractors will be unable to work the kind of larger-scale plots that the government wants to create."<sup>71</sup> China's agricultural machinery industry also struggles to produce the high-end machinery needed to create the kind of large-scale agricultural ecosystem the government envisions. As Luo Xiwen, an academician of the Chinese Academy of Engineering explains, "In terms of typical agricultural machinery such as tractors and harvesters, there is a gap of more than 30 years between us and foreign countries."<sup>72</sup> The CCP has particularly emphasized investments in high-tech innovations that will advance China's agricultural capabilities. China's 2015 blueprint to gain dominance in high-tech industries, *Made in China 2025*, focuses on driving innovation in ten specific sectors, including agricultural equipment.<sup>73</sup> The policy directs the state to advance its production of agricultural technology and equipment like high-end tractors and harvesters.<sup>74</sup> By 2025, Beijing wants 95 percent of Chinese market demand for agricultural equipment to be met by domestic manufacturing.<sup>75</sup> More specifically, it aims to meet 60 percent of its demand for large tractors above 200 horsepower and harvesters. While China's output of smaller tractors has decreased in recent years, its medium and large-sized tractor output has increased. China produced 40,000 large tractors in both 2018 and 2019 and imported more than 10,000 agricultural machines.<sup>76</sup> In 2021, China produced 51,000 large-sized tractors, a 27.5 percent increase from the previous two years.<sup>77</sup> This appears to have impacted China's purchase of U.S. tractors and could impact third-country buyers in the U.S. export market. In 2013, U.S. agricultural equipment sent to China totaled nearly \$27 million.<sup>78</sup> In 2015, the year the *Made in China 2025* policy was introduced, exports were at about \$16 million and have since dropped to around \$9 million in 2021.<sup>79</sup>

This policy shift has implications for U.S. trade with China, which is a large market for U.S. agricultural equipment companies. China's expansion of agricultural equipment production comes at the same time as its implementation of tariffs on foreign imports, which has produced a notable decline in agricultural machinery exported to China and impacted U.S. agricultural equipment businesses like John Deere.

Where it once saw itself as far behind the United States and others in agricultural technology and equipment, China is now catching up. The United States remains the frontrunner in agricultural innovations, but MARA claims China is now among the world's leaders in agricultural technology and science.<sup>80</sup> MARA's director for science and technology development, Yang Xiongian, spoke at a China Academy of Agricultural Sciences (CAAS) forum in November 2021, saying, "China is self-sufficient in 70 percent of key livestock and poultry varieties" and has a more than 71 percent mechanization rate of crop cultivation and harvesting.<sup>81</sup> MARA also released a five-year plan for agricultural mechanization in December 2021 that calls for securing "total power of agricultural machinery nationwide."<sup>82</sup> The plan includes farmland development, smart information technology, and agronomic systems as areas in need of agricultural mechanization.<sup>83</sup> Despite its anxieties about food security and efforts to grow domestic capacity, China still finds value in investing in U.S. agriculture. It recognizes that in many areas of the ecosystem, the United States has something China does not, whether that is infrastructure, land mass, IP, or an already built out supply chain. By accessing these areas through capital, or in some cases theft, China gains useful intelligence for achieving agricultural self-sufficiency.

## How U.S. Agriculture Assets Assist China

The Chinese government's concerns about food security inform its interests in an array of U.S. agricultural assets. Investment targets include land, livestock, seeds, and supporting infrastructure, like grain elevators.<sup>\*</sup> In owning these assets in both the United States and within China, Chinese agricultural producers diversify supply and mitigate risks from events like natural disasters. Consolidating some of its production lines within the United States, for instance with pork, also helps expedite the production process from farm to table. Additionally, shifting its more environmentally taxing agricultural practices to the United States appeals to China, as it faces global and domestic criticism for its environmental record. While these assets primarily remain in the United States, perhaps the most valuable and easily transferrable property are seeds. As China's government attempts to foster development of a domestic seed industry, Chinese nationals have smuggled seeds out of the United States to China to be replicated, which is discussed in more detail later in this paper. There are not clear estimates on the scale of commercial losses due to agricultural IP theft, but losing these seeds to China is certainly costly for the United States. For example, creating a single hybrid seed, the typical subject of theft, requires breeding two inbred seed lines. Each inbred seed can cost up to \$30 million to \$40 million in lab costs, field work, and trial and error, not to mention the time spent completing this work.<sup>84</sup> Though it is illegal to import GM seeds, China allows imports of GM crops, used mainly for animal feed, and has active research into GM seeds.<sup>†</sup><sup>85</sup> China's government has encouraged further development of the country's domestic seed industry, however, including GM seeds. China's 14<sup>th</sup> Five-Year Plan calls for developing new agricultural varieties, accelerating the commercialization and industrial application of biological breeding, and fostering "leading enterprises in the seed industry with international competitiveness."<sup>86</sup>

### Agribusinesses

#### Fufeng Group in North Dakota

One case of Chinese agribusiness investment is in a relatively small plot of land in North Dakota that local officials argue will have a large return on investment. In November 2021, Grand Forks announced that Fufeng Group of Shandong, China, had selected the municipality as the location for its new wet corn mill, a potential driver of revenue for local or regional corn farmers depending on where the company decides to buy its corn.<sup>‡</sup><sup>87</sup> The Chinese company, known for its MSG production within China, purchased 370 acres in Grand Forks' agribusiness park.<sup>88</sup> While not a state-owned enterprise, Fufeng Group has ties to the Chinese government. Li Xuechun, Fufeng's chairman, previously participated in Shandong's 12<sup>th</sup> People's Congress and has received praise for being the "Model Laborer" for his business achievements.<sup>89</sup>

The mill will be located about 12 miles from the Grand Forks Air Force Base, which houses some of the United States' top intelligence, surveillance, and reconnaissance capabilities. The location of the land close to the base is particularly convenient for monitoring air traffic flows in and out of the base, among other security-related concerns.<sup>90</sup> Under the Foreign Investment Risk Review Modernization Act of 2018 (FIRRMA), the land's proximity to a military installation may qualify the transaction for a review by the Committee on Foreign Investment in the United States (CFIUS). There have been no public reports indicating whether CFIUS did or did not review Fufeng's purchase in Grand Forks.

Fufeng Group considered a number of locations before choosing to settle in Grand Forks. Some local corn cooperatives are concerned about where Fufeng may choose to buy their corn and are wary of industry

<sup>\*</sup> Grain elevators are facilities for storing grains in bulk that use a conveyor or elevator to lift grain into a silo. They are typically located near railroads, highways, or waterways to make transporting the grain easier. George Carney, "Grain Elevators," *Encyclopedia of the Great Plains*, 2011. <http://plainshumanities.unl.edu/encyclopedia/doc/egp.arc.026>.

<sup>†</sup> Breeding GM crop varieties and manufacturing GM seeds is also prohibited by the Chinese government. The Chinese populace harbors skepticism regarding the safety of GM products.

<sup>‡</sup> Wet corn mills use water to process and break down corn kernels to separate the parts for various uses, such as corn starch, corn oil, sweetener, and gluten meal. Daniel O'Brien and Mike Woolverton, "Recent Trends in U.S. Wet and Dry Corn Milling Production," *Agricultural Marketing Resource Center*, February 2009. <https://www.agmrc.org/renewable-energy/renewable-energy-climate-change-report/renewable-energy-climate-change-report/february-2009-newsletter/recent-trends-in-us-wet-and-dry-corn-milling-production>.

consolidation, particularly when it corners off a critical market to a foreign company with ties to the CCP.<sup>91</sup> The U.S. agriculture industry has already witnessed this kind of consolidation following Smithfield Foods' acquisition by a Chinese company, which is discussed below. Evaluating lessons learned by the United States from the Smithfield case can provide insight into what vulnerabilities may exist in other foreign acquisitions of U.S. agribusinesses and agricultural land.

#### **WH Group (万州国际) and Smithfield Foods**

Smithfield Foods, Inc. is the largest pork producer in the United States. It was founded in 1936 in Smithfield, Virginia, but acquired in 2013 by Shuanghui International Holdings Limited, a subsidiary of the Chinese company WH Group (formerly Shuanghui Group). With backing from the Chinese government, the acquisition marked China's largest purchase of a U.S. asset to date at \$4.7 billion, or \$7.1 billion, including debt.<sup>92</sup> State-owned Bank of China provided the \$4 billion loan for WH Group to make the purchase.<sup>93</sup> CFIUS conducted a review of the acquisition and approved the proposal in September 2013, despite concerns raised by some lawmakers.<sup>94</sup> The company gained more than 146,000 acres in the acquisition, which are mostly concentrated in North Carolina, Missouri, Utah, Virginia, Colorado, and Oklahoma.<sup>95</sup> These states host Smithfield's hog farms, processing plants, and feed mills, among other things.<sup>96</sup>

Shuanghui was founded in 1958 by a municipal government in Henan Province.<sup>97</sup> WH Group's longtime chairman, Wan Long, joined the plant ten years later and was general manager by 1984. Wan Long grew the company from a small and struggling single processing plant into China's largest food processor by 2006.<sup>98</sup> As Usha Haley noted in her testimony before the Senate Committee on Agriculture, Nutrition, and Forestry in 2013, Wan Long spent more than 15 years as a member of China's National People's Congress.<sup>99</sup> Wan Long's links to the CCP provided him the support Shuanghui needed to acquire Smithfield. The Chinese government stood to benefit from Smithfield's established reputation globally and record on food safety, both areas where Shuanghui struggled. Additionally, the U.S. company's advanced hog genetics and valuable technology were an undeniable draw for China, which was looking to diversify its agricultural supply chain and increase the yield of its herds. WH Group was also seeking out ractopamine-free pork, which Smithfield was able to provide. Ractopamine is a feed supplement often used by producers to promote leaner hogs. China has long banned pork imports using ractopamine production due to concerns about its health effects on pigs and humans.<sup>100</sup>

Since 2012, China's investment in Smithfield has continued to prove its worth. Pork prices have been particularly volatile over the last five years as China's hog herds battled disease and the COVID-19 outbreak disrupted domestic and global supply chains. Despite these challenges, Smithfield supplied China with record amounts of pork in 2020 as its own hog farms were still recovering from the ASF outbreak, many facilities had closed due to the pandemic, and pork prices remained high.<sup>101</sup> China is incentivized to do what it can to guard against volatility in its own food supply. Investing in a major foreign pork operation like Smithfield allows China to hedge against uncertainty in its domestic pork production. Short-term challenges, like higher shipping costs, are not likely to impact China's long-term strategy of diversifying its food supply chain.

More recently, WH Group has encountered challenges in its leadership. In June 2021, the conglomerate announced it was ending the employment of its executive director, Wan Honjian, the son of Chairman Wan Long, who was the company's expected successor. Wan's eldest son was fired due to "aggressive behaviors against the company's properties."<sup>102</sup> Shortly after, in August 2021, it was announced that Wan Long would also be stepping down from his role as chairman and chief executive officer of WH Group. WH Group's stock price dropped by 17 percent on the Hong Kong stock exchange following allegations from Wan Honjian that his father had evaded taxes and mismanaged the company's finances for years.<sup>103</sup>

#### **Other Investments**

While not as substantial as the Fufeng or Smithfield deals, there are examples of smaller Chinese investments in U.S. agribusinesses, including COFCO's 2017 partnership with GROWMARK, a U.S. grain logistics company. COFCO is a Chinese state-owned food processing company headquartered in Beijing. Its deal with GROWMARK gave it joint ownership and operation of the latter's Mississippi barge, truck, and rail terminal in



Illinois.<sup>104</sup> This strategic partnership gives the Chinese company access to key areas for exporting grain in the United States. In 2015, China's New Hope Liuhe also invested \$127 million in Lansing Trade Group, a grain trading company.<sup>105</sup> New Hope Liuhe is primarily engaged in animal feed manufacturing and meat processing.<sup>106</sup> Its alliance with Lansing gave it 20 percent ownership in the company and access to a number of the company's grain elevators.<sup>107</sup>

#### Chinese-Owned Agricultural Land in the United States

While Chinese entities held slightly less than 1 percent of all foreign-held acres in the United States in 2020, the volume of their holdings increased dramatically over the preceding decade.<sup>\*108</sup> According to U.S. Department of Agriculture (USDA) Agricultural Foreign Investment Disclosure (AFIDA) reports, Chinese investors' holdings of U.S. agricultural land surged from 13,720 acres in 2010 to 352,140 acres in 2020 (for more on AFIDA, see Appendix).<sup>109</sup> This jump owes chiefly to Shuanghui's 2013 purchase of Smithfield Foods. As of 2019, 76 percent of U.S. agricultural land owned by Chinese entities belonged to Smithfield Foods.<sup>110</sup> Smithfield, like other foreign-owned companies, is required to report to USDA when it purchases agricultural land. Reporting does not require much detail regarding a company's ownership structure or intentions behind the investment. Lack of transparency related to foreign investors self-reporting purchases of U.S. land makes it difficult to gauge their specific interests.

It is also interesting to note the types of land Chinese investors are purchasing. According to AFIDA reports, Chinese buyers largely invest in what USDA categorizes as "other land."<sup>111</sup> While some of the Chinese-held land is considered cropland, and an even smaller amount pasture land, a significant amount of the acreage owned is labeled "other land." USDA defines this type of land as having unclassified uses like swamps, marshes, or bare rock. This may include scenic wetlands or property with water sources running through it.<sup>112</sup> In 2013, the year Shuanghui acquired 146,000 U.S. acres in the Smithfield acquisition, USDA reported that Chinese-owned acreage totaled 192,928, 78 percent of which was labeled "other land."<sup>113</sup> Chinese investors reported just 31 thousand acres as cropland that same year.<sup>114</sup> It is not clear why Chinese investors hold so much other land. Notably, they are distinct from most other foreign holders of U.S. agricultural land in owning far more "other land" and far less cropland or pasture land. In 2013, German investors owned more than 547,000 acres of cropland and more than 52,000 acres of other land.<sup>115</sup> Italians owned more than 911,000 acres of cropland in 2013 and more than 63,000 acres of other land.<sup>116</sup> "Other land" is not intended for growing crops or for livestock grazing.

The categorization of other land, particularly Chinese Investments of this type, poses a transparency issue for U.S. regulators. The possibility remains that land usage could change after a foreign buyer's purchase is cleared and the investor has completed the initial reporting requirements. USDA requires foreign buyers to report on any changes to land use, but the lack of enforcement makes this an area ripe for neglect.

Each state has its own foreign-ownership laws in place for land, and some ban it outright, making just a few exceptions. In Iowa, for example, a nonresident alien, foreign business, or foreign government cannot purchase land in the state; the law does not apply to acquisitions prior to 1980. Exceptions to this rule include land acquired for research or experimental use or for testing, developing, or producing seeds.<sup>117</sup> In Arkansas, any foreign party can acquire interest in agricultural land, but it must register with the county clerk where the land is located within 60 days.<sup>118</sup>

#### Building Out the Supply Chain: Livestock, Grain, and Supporting Infrastructure

China's rapid economic growth and large population make it a major consumer of food products. For example, in 2020 China's soybean imports accounted for 85 percent of its domestic consumption.<sup>119</sup> As China's demand for food continues to swell, the country is looking to the United States as a source for increasing its livestock supply and to boost production. While China has made great strides in animal husbandry, it continues its efforts to evolve the quality of its livestock. Ronald Lemenager, professor and cochair of the Beef Center at Purdue

\* While this is slim in comparison to Canadian or Dutch ownership, there has been a steady increase in Chinese-held land over the last decade. U.S. Department of Agriculture Farm Service Agency, *Foreign Holdings of U.S. Agricultural Land through December 31, 2020*, 2021, [https://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdafiles/EPAS/PDF/2020\\_afida\\_annual\\_report.pdf](https://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdafiles/EPAS/PDF/2020_afida_annual_report.pdf).

University, observes, “When you have a nation’s diet changing as rapidly as China’s, the most efficient way to build up production is to improve your animal genetics. We have the genetics they want.”<sup>120</sup> China has purchased millions of U.S. animals as breeding stock, saving itself decades of time and resources on the advanced agricultural research that goes into improving animal health and nutritional quality.<sup>121</sup> Each year, China produces and consumes more than 50 percent of the pork supply worldwide and continues to seek ways to secure its supply chain and boost production.<sup>122</sup>

Following its acquisition of Smithfield, China has acquired additional links in the global food supply chain through its ownership of the U.S.-based company. WH Group was founded as a state-run meatpacking plant in China.<sup>123</sup> Just three years after it was acquired by WH Group, Smithfield bought Clougherty Packing from Hormel Foods Corp. The deal cost them \$145 million, and in return they acquired two processing facilities in California and three farms in Wyoming, California, and Arizona.<sup>124</sup> The acquisitions continued in 2017 with Smithfield’s purchase of Kansas City Sausage Co. LLC, a joint venture formed in 2013 between KC Sausage and sister company Pine Ridge Farms.<sup>125</sup>

Since its acquisition of Smithfield, WH Group has reorganized operations to cut out many of Smithfield’s U.S. suppliers and service providers. CHS, the largest farmer-owned grain cooperative in the United States, saw its contract end with Smithfield in 2014, the year after the acquisition.<sup>126</sup> Then, in 2015 Smithfield ended its contract with MaxYield Cooperative in Algona, Iowa. The company had supplied a Smithfield feed mill for 20 years.<sup>127</sup> In the fall of 2016, Smithfield purchased grain elevators in Harpster and Morral, Ohio.<sup>128</sup> This allows the company to ship grain directly from Ohio to North Carolina where it has its feedlots for the hogs.<sup>129</sup> Owning grain elevators allows WH Group to cut out the middle men or grain handlers. Animal feed makes up more than half of Smithfield’s costs, so buying directly from farmers and using its own grain elevators to transport the feed lowers costs and allows the company to be less reliant on commercial grain processors. While acquisitions of this kind are not unique to Smithfield, concerns regarding its consolidations stem from its foreign ownership and links to the Chinese government.

## Risks of Chinese Acquisition of U.S. Agriculture Assets

### Impact on Local Communities

Chinese companies, particularly Smithfield, have expanded their hog farms instead of just processing the meat. The livestock is either exported to China for breeding or the company seeks out hog farms for purchase in the United States.<sup>130</sup> Chinese buyers were particularly attracted to Smithfield because of its U.S.-based hog herds, which allows its Chinese parent company, WH Group, to consolidate its production line—saving time and money—and to offshore some of the environmental impacts of hog farming. Feeding the herds in the United States is cheaper, the farms are more expansive, and the environmental concerns do not impact China’s land.<sup>131</sup> As noted above, China is the top importer of U.S. corn and soybeans and relies heavily upon the United States as well as other countries to feed both its U.S.-based and home-grown hog herds. In 2021, the United States sent 30 million tons of corn to China, up from 9 million tons in 2017.<sup>132</sup> In the United States, Smithfield, for example, feeds 16 million hogs annually, which take around 150 million bushels of wheat, sorghum, corn, and soybeans.<sup>133</sup> The company also imports feed from Brazil, Argentina, and Europe.<sup>134</sup> By offshoring its hog herds to the United States, China is less reliant on feed grain imports since Smithfield can transport feed grain directly from U.S. sellers to its U.S.-based hog farms. U.S.-based hog farms allow China to augment its domestic pork production at a scale and speed not possible at home. WH Group’s acquisition of more than 400 Smithfield-owned hog farms and an additional 2,000 independent farms gave it access to a well-established and integrated system in the United States where it could increase its access to quality pork while creating a buffer against U.S. tariffs on feed grain exports necessary for feeding China’s domestic hogs.<sup>135</sup> According to Smithfield’s 2016 report, the last year for which there is a publicly available report, its sales to international customers accounted for approximately 20 percent of its net sales.<sup>136</sup>

Additionally, raising hogs is an environmentally impactful practice, as hog waste fills acres of open-air lagoons or pits that have been found to emit toxic chemicals.<sup>137</sup> Farmers aware of how quickly disease can wipe out their

herds rely heavily on antibiotics, insecticides, and vaccines to protect against health problems.<sup>138</sup> These toxins have also been found to seep into local water supplies, causing residents to become sick with various ailments.<sup>139</sup> Hog farms—including those owned by Smithfield—in eastern North Carolina and the surrounding towns have been notably impacted by the effects of pork production. A study from 2018 found that North Carolinians who reside near clusters of industrial swine operations have a higher rate of sepsis, kidney disease, tuberculosis, and infant mortality, among other conditions.<sup>140</sup> Other studies have also found that children who go to school near hog farms more frequently experience asthma or wheezing.<sup>141</sup> Recognizing its challenges with soil and water pollution, China stands to benefit from keeping its hog farms abroad, not to mention avoiding the health impacts these farms can have on surrounding communities. After years of a poor environmental record and subsequent lawsuits, Smithfield invested \$15 million into researching alternative waste management systems. This investment led to a 2013 report, released the same year WH Group acquired Smithfield, which identified a more environmentally sound system for managing hog waste. Smithfield ultimately chose to forgo this option, citing the cost as not economically feasible. Despite using different biogas digesters at its Chinese-based farms, WH Group still uses open-air lagoons at its U.S. Smithfield farms, which are subject to less stringent regulations than Chinese farms.<sup>142</sup>

## Hungry for U.S. IP

### Economic Competitiveness

China's efforts to gain access to data on U.S. genetically modified (GM) grains present serious concerns for U.S. economic competitiveness as Chinese firms illicitly acquire U.S. IP. China relies heavily on grain imports from the United States to feed its growing livestock inventory. Because season-to-season grain yields can be volatile and grain sales have small profit margins, advanced seed lines are an invaluable commodity.<sup>143</sup> Genetically engineered seeds promise new opportunities for mitigating risk of drought, pests, and diseases. Improved seed stock can also minimize the amount of land required for planting. Innovation in seed development has generated billions of dollars in revenue for U.S. companies, like Monsanto. In 2020, the U.S. exported \$1.62 billion worth of seeds, primarily vegetables, corn, soybeans, and grasses.<sup>144</sup> The United States exported \$173.91 million of seeds to China in 2021, which is about 15 percent of its total exports.<sup>\*</sup><sup>145</sup> China's government recognizes that increasing crop yields means improving seed quality and advancing domestic innovations in synthetic biology. In March 2021, MARA announced that over the next three years it plans to conduct a survey of seed and animal genetic resources. As the Chinese state publication *Global Times* reports, the survey is "the first concrete step in a broad effort to break through the bottleneck of foreign-controlled resources and ensure China's food security."<sup>146</sup>

Chinese scientists have in certain cases chosen to simply steal U.S. agriculture IP and technology rather than try to research and develop them themselves.<sup>147</sup> Acquiring U.S. trade secrets through agricultural espionage has become a convenient way for China to improve its agricultural output and become more competitive in global markets. China's GM crop research, including seed breeding, is still underdeveloped relative to the United States, which is the largest exporter of GM crops. The growing GM crop industry in China would greatly benefit from access to protected U.S. seed lines that take many years and resources to develop. Agricultural IP theft could enable Chinese agribusinesses to undercut U.S. competitors on international seed markets. For instance, in January 2022, the U.S. Department of Justice announced that Xiang Haitao, a Chinese national, had pleaded guilty to economic espionage conspiracy.<sup>148</sup> In April 2022, he was sentenced to 29 months in prison, three years of supervised release, and a \$150,000 fine.<sup>149</sup> Xiang resided in Chesterfield, Missouri, where he worked at agricultural biotechnology company Monsanto and its subsidiary The Climate Corporation as an imaging scientist from 2008 to 2017. Assistant Attorney General Matthew Olsen explained that "despite Xiang's agreements to protect Monsanto's IP and repeated training on his obligations to do so, Xiang has now admitted that he stole a valuable algorithm from Monsanto, transferred it to a memory card and attempted to take it to the People's Republic of China for the benefit of Chinese government."<sup>150</sup> Monsanto and The Climate Corporation developed online farming software to help farmers collect, store, and visualize field data to improve their production efficiency. Powering the software is the stolen algorithm referred to as the Nutrient Optimizer. This algorithm is

\* In 2021, the United States exported \$231.12 million of seeds to Mexico, or 20.3 percent of total exports globally, and \$191.71 million to Canada, 16.8 percent of the total.

a particularly valuable piece of the company's IP, which would help accelerate technological advancements for the Chinese government and affiliated corporations.<sup>151</sup>

Law enforcement has also discovered larger-scale schemes to steal critical IP. Robert Mo, a Chinese scientist who came to the United States as a graduate student, was convicted of stealing GM seeds from Iowa cornfields to send back to China in 2016.<sup>152</sup> At the time, he worked for Dabeinong (DBN) Technology Group, a company manufacturing and distributing feed products.<sup>153</sup> DBN is closely integrated with the Chinese government as its top leadership has also held key positions at the China Academy of Agricultural Sciences (CAAS), which falls under MARA's jurisdiction.<sup>154</sup> After several years with the company, Mo's boss suggested he "help find a shortcut" to ease China's food security concerns.<sup>155</sup> He sent Mo to Iowa, where he collected thousands of seed samples from Monsanto and Pioneer test fields and subsequently shipped them to China where they could be studied and made into a new hybrid seed for Beijing's use.<sup>156</sup> He was eventually caught in 2011 when someone spotted him with two colleagues leaving a corn field.<sup>157</sup>

### Military Applications

Agricultural genetic technologies present unique dual-use potential that may attract further economic espionage. While China's main interest in obtaining GM seeds from the United States is in improving its crop yields, the potential weaponization of agricultural IP is possible.<sup>158</sup> Using the genetic code data it has obtained on U.S. crops, China can strengthen its agricultural output by replicating years of U.S. research on its own farms, or it can take a more nefarious route. As one Chinese expert from the Chinese Academy of Sciences notes, "An important feature of genetically modified technology is that reverse engineering it is very easy to accomplish."<sup>159</sup> Similar to hacking a computer code, Beijing could easily hack the code or DNA of U.S. GM seeds and conduct biowarfare by creating some type of blight that could destroy U.S. crops.<sup>160</sup> For example, biotechnology experts have recognized that fungal spores "could be used as biological warfare agents to target staple crops."<sup>161</sup> Scientists develop GM seeds to be resistant to naturally occurring diseases, but a GM blight could do grave damage to crops grown in the United States. One vulnerability of GM seeds is their limited genetic variation.<sup>162</sup> Consequently, a virus or fungus engineered to kill a GM plant could wipe out an entire crop with no genetic variation to mitigate the losses. In a natural crop, a variety of DNA traits in the field could mitigate some losses and ensure some of the plants survive the viral or fungal infection. Following the 2001 terrorist attacks in the United States, China's government began expressing concerns about bioterrorism and focusing more on biosecurity and biosafety measures. As noted earlier, the Chinese government has reservations regarding the import of GM animals and plants from the West, but it has increasingly acknowledged the strategic advantages genetically modified organisms (GMOs) may present. Defensive applications of synthetic biology may also be a motivation behind China's desire to access advanced U.S. seed lines or other agricultural IP. Perhaps indicating sentiment among Chinese scientists, Jiang Gaoming, a researcher and professor at the Chinese Academy of Sciences, wrote an article on U.S. biodefense efforts, exhorting other Chinese scientists to channel their research toward China's biological defense, commenting, "Friends, GMO experts, your wisdom should be aimed at the enemy, not your own."<sup>163</sup>

## Considerations for Congress

China has built an extensive toolkit for addressing its domestic concerns regarding food security as well as its larger goals of achieving global leadership in agricultural innovation and production. Below are areas of consideration that may present opportunities or concerns for Congress:

- *Information on Chinese ownership of U.S. agricultural land lacks transparency and remains limited.* USDA reporting requirements for foreign ownership of U.S. land lack rules and transparency related to ownership, use, and change in use. The lack of enforcement mechanisms in place regarding false reporting or no reporting at all also raises concerns. It is unclear to what extent USDA conducts field assessments or tracks changes in land use or ownership after the initial paperwork is filed. Chinese firms may easily circumvent current reporting requirements under the Agricultural Foreign Investment

\* Jiang Gaoming's column was published in 2018 on Ai Sixiang, an online academic discussion forum.

Disclosure Act and could repurpose the purchased land with little concern of repercussions from USDA due to the lack of enforcement measures in place. Without the proper collection of land data, it will be increasingly difficult for the U.S. government to monitor and consider any potential risks to national security.

- *Chinese theft of U.S. agricultural IP threatens U.S. competitive advantage in crop development and agriculture technology innovation.* The United States government, private sector businesses, and academia invest enormous amounts of time and resources into researching and developing the science that goes into these innovations. Continued theft of valuable U.S. IP will continue to disadvantage homegrown innovation necessary for the United States to stay competitive in the agriculture sector.
- *The potential weaponization of GMOs, like GM seeds, also poses a threat to U.S. economic and food security, which could be at risk if GM seed code is used to create a bioweapon.* There are currently few open source documents on cooperation between the intelligence community and USDA. As the agriculture sector continues to experience consolidations, CFIUS reviews of key agricultural mergers and acquisitions are likely to continue. USDA may provide critical information regarding trends in China's agriculture sector that could prove useful for CFIUS reviews. The extent of USDA and other related agency involvement in CFIUS actions may need clarification. Additionally, USDA may benefit from classified briefings as relevant government agencies see fit.
- *The CCP may have undue leverage over U.S. supply chains if further consolidations and Chinese purchases of U.S. agribusinesses take place.* As seen with the Smithfield case, large agribusinesses have the resources to streamline their production lines by purchasing links or companies along the chain. This may create economic distortions in the U.S. agriculture market should China have more leverage over U.S. suppliers, resulting in more closed market or intracompany trade transactions.
- *Foreign-owned land near military installations may require additional monitoring.* As more Chinese investors purchase land, including for agricultural use, CFIUS has an opportunity to safeguard vital military assets. Current U.S. law says that a purchase, lease, or concession by or to a foreign person of real estate located in proximity to sensitive government facilities could be subject to review by CFIUS. The committee has a right to refuse the transaction being considered, but it rarely conducts oversight post hoc. In some cases, threat environments may evolve and create new risks to U.S. defense infrastructures. Periodic reviews, as would be required with a security clearance, for example, could help alleviate national security concerns.

## Appendix

U.S. law requires foreign investors to report their purchases of U.S. agricultural land to USDA. Each year, USDA's Farm Service Agency (FSA) publishes a report on foreign holdings of U.S. agricultural land. This report is required under AFIDA, which then President Jimmy Carter signed into law in 1978, and it is based on data provided by farmers registered with USDA that participate in agency programs.<sup>\* 164</sup> The *2020 AFIDA Annual Report* notes that 2.9 percent of all privately held agricultural land in the United States is under foreign ownership. The report also shows an increase of more than 2.4 million foreign-owned acres in the United States from 2019 to 2020.<sup>165</sup>

Currently, Canadian investors own the largest amount of reported foreign-held land in the United States, which accounts for 32 percent of total foreign-owned agricultural land. Investors from four other countries make up another 31 percent, including the Netherlands, Italy, the United Kingdom, and Germany. The other 36 percent of foreign-held land is owned by various countries, including China.<sup>166</sup> FSA's *2020 AFIDA Annual Report* has just 352,140 acres listed under Chinese ownership, which is less than 1 percent of the overall foreign-held acres.<sup>167</sup>

While foreign investment stretches across the country, Texas and Maine have the largest percentage of foreign-owned land in the country, mainly from Canadian investments. Texas along with Oklahoma and Colorado saw a significant increase in foreign-held land, mostly cropland, in 2020.<sup>168</sup>

<sup>\*</sup> About 75 to 80 percent of U.S. farms are registered with USDA.

**Appendix Table 1: Comparison of World Bank/FAO and MNR Findings on China's Arable Land, 2009 and 2018/2019**

Source	2009	2018 (World Bank/FAO) 2019 (Third National Land Survey)
World Bank/FAO	299.8 million acres (1.82 billion mu)	294.8 million acres (1.79 billion mu)
Third National Land Survey	334.4 million acres (2.03 billion mu)	314.6 million acres (1.91 billion mu)

Source: World Bank and UN Food and Agriculture Organization, "Arable Land – China," 2018; *Xinhua*, "The Third National Land Survey Data Was Released 第三次全国国土调查主要数据成果发布," August 26, 2021. Translation.

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**Response from Hon. Kip Tom, Managing Member and Chief Executive Officer, Tom Farms LLC; former United States Ambassador to the United Nations Agencies Food and Agriculture**

*Questions Submitted by Hon. Derrick Van Orden a Representative in Congress from Wisconsin*

*Question 1.* China is stealing our technology and trade secrets. How do you think we can remain a leader in the global production and supply of food while protecting our intellectual property and national security?

*Answer.* The U.S. need to accelerate investments in the private- and public-sector for food and agriculture to counter the investment that China is making which is 10X the U.S. budgets currently. Next, anyone in the private- or public-sector needs to amplify their current means of protecting all intellectual property, trade secrets, data and other records from any form of theft. It starts at the genetic level to the farm gate to the processor to the retailer onto the consumer.

*Question 2.* What strategies do you think we can adopt to become less reliant on China and diversify our agriculture export markets?

*Answer.* USDA. Foreign Agricultural Service (FAS) needs to be more aggressive in promoting U.S. ag products to new global markets. There will be a day that China could be a net exporter of some commodities great than today so we need to be proactive in growing our global customer base. In the meanwhile we could look for new value add opportunities here in the U.S. to [attract] new [markets] globally and develop our internal demand further.

*Question 3.* Rural WI communities are concerned with foreign investment in U.S. agriculture-related business. How can we ensure that capital is reinvested in local communities and that these foreign-owned companies adhere to fair business practices?

*Answer.* I am not aware of the laws of the State of Wisconsin but seems like the state legislature should monitor. I will add there are many good companies that come to the U.S. from allied nations that invest capital, create jobs and lift up the standard of life in rural communities. I have seen this first hand in Indiana and the state and local community thrives with these new investments.

*Question 4.* Are we tracking land purchases from one foreign owner to another?

*Answer.* USDA has been required to collect this information but it can be complicated with the structures of the [entity] designs that can be created to disguise a maligned actors investment in land. Today we are seeing increased interest and purchases in foreign ownership of U.S. farmland from many places around the world. There is a significant difference in the reason for purchasing U.S. farmland from a nation such as China to say for instance an investor from Argentina or the UK.

*Question 5.* Is USDA tracking the amount of agriculture incentives going to foreign land investors?

*Answer.* Most all USDA subsidies go to the operator of the land or the one that is taking the risk. That is not to say a portion does not indirectly make it to the foreign land owner. There are however conservation reserve and other conservation payments that can go directly to the landowner. USDA should have all of that information. Again it could be more difficult given the ability to mask the actual ownership. State and Federal Economic Development Incentives could be a significant issue that needs monitored also.