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CHINA – DOMESTIC SUPPORT FOR AGRICULTURAL PRODUCERS

REQUEST FOR THE ESTABLISHMENT OF A PANEL BY THE UNITED STATES

The following communication, dated 5 December 2016, from the delegation of the United States to the Chairperson of the Dispute Settlement Body, is circulated pursuant to Article 6.2 of the DSU.

On 13 September 2016, the United States requested consultations with the Government of the People's Republic of China ("China") pursuant to Articles 1 and 4 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU"), Article 19 of the *Agreement on Agriculture* ("Agriculture Agreement"), and Article XXII of the *General Agreement on Tariffs and Trade 1994* ("GATT 1994") with respect to all support China provides in favor of agricultural producers. Unfortunately, those consultations did not resolve the dispute.

China provides domestic support in favor of its agricultural producers. The level of domestic support China provides is in excess of its commitment level of "nil" specified in Section I of Part IV of its Schedule CLII because, for example, China provides domestic support in excess of its product-specific *de minimis* level of 8.5 percent¹ for each of wheat, Indica rice, Japonica rice, and corn. The legal instruments through which China provides domestic support in favor of agricultural producers, including support in favor of producers of wheat, Indica rice, Japonica rice, and corn, operating collectively or separately, include but are not limited to:

1. *Communist Party of China Central Committee and State Council Several Opinions on Accelerating the Promotion of Agricultural Science and Technology Innovation and Continuing to Strengthen the Capacity to Guarantee Agricultural Product Supplies* (Communist Party of China Central Committee, State Council, Zhong Fa [2012] No. 1, issued December 31, 2011)
2. *Communist Party of China Central Committee and State Council Several Opinions on Accelerating Development of Modern Agriculture and Further Increasing Rural Development Dynamism* (Communist Party of China Central Committee, State Council, Zhong Fa [2013] No. 1, issued December 31, 2012)
3. *Communist Party of China Central Committee and State Council Publication of "Several Opinions on Comprehensively Deepening Rural Reform and Accelerating the Promotion of Agricultural Modernization"* (Communist Party of China Central Committee, State Council, Zhong Fa [2014] No. 1, issued January 19, 2014)
4. *Communist Party of China Central Committee and State Council Several Opinions on Strengthening Reform and Innovation and Accelerating Agricultural Modernization* (Communist Party of China Central Committee, State Council, Zhong Fa [2015] No. 1, issued February 1, 2015)

¹ As specified in the *Protocol on the Accession of the People's Republic of China* (WT/L/432) ("Accession Protocol"), Part I, paragraph 1.2 (incorporating commitments referenced in paragraph 342 of the *Report on the Working Party on the Accession of China* (WT/ACC/CHN/49) ("Working Party Report"), including paragraph 235).

5. *State Council Opinion on Further Deepening Reform of the Grain Distribution System* (State Council, Guo Fa [2004] No. 17, issued May 23, 2004)
6. *Regulation on the Administration of Grain Distribution* (Order of the State Council No. 407, adopted at the 50th executive meeting of the State Council on May 19, 2004, issued May 26, 2004, first amended July 18, 2013, by Order of the State Council No. 638, further amended on February 6, 2016, by Order of the State Council No. 666)

With regard to wheat, instruments 1 through 6, and:

7. *Notice on Raising the Wheat Minimum Purchase Price for 2012* (National Development and Reform Commission, Ministry of Finance, Ministry of Agriculture, State Administration of Grain, Agricultural Development Bank of China, Fa Gai Dian [2011] No. 250, issued September 28, 2011)
8. *Notice on Issuing the Wheat Minimum Purchase Price Implementation Plan for 2012* (National Development and Reform Commission, Ministry of Finance, Ministry of Agriculture, State Administration of Grain, Agricultural Development Bank of China, China Grain Reserves Corporation, Fa Gai Jing Mao [2012] No. 1494, issued May 21, 2012)
9. *Notice on Raising the Wheat Minimum Purchase Price for 2013* (National Development and Reform Commission, Ministry of Finance, Ministry of Agriculture, State Administration of Grain, Agricultural Development Bank of China, Fa Gai Jia Ge [2012] No. 3171, issued October 16, 2012)
10. *Notice on Issuing the Wheat Minimum Purchase Price Implementation Plan for 2013* (National Development and Reform Commission, Ministry of Finance, Ministry of Agriculture, State Administration of Grain, Agricultural Development Bank of China, China Grain Reserves Corporation, Fa Gai Jing Mao [2013] No. 947, issued May 20, 2013)
11. *Notice on Raising the Wheat Minimum Purchase Price for 2014* (National Development and Reform Commission, Ministry of Finance, Ministry of Agriculture, State Administration of Grain, Agricultural Development Bank of China, Fa Gai Dian [2013] No. 205, issued October 12, 2013)
12. *Notice on Issuing the Wheat and Early-Season Indica Rice Minimum Purchase Price Implementation Plan for 2014* (National Development and Reform Commission, Ministry of Finance, Ministry of Agriculture, State Administration of Grain, Agricultural Development Bank of China, China Grain Reserves Corporation, Fa Gai Jing Mao [2014] No. 1026, issued May 20, 2014)
13. *Notice on Announcing the Wheat Minimum Purchase Price for 2015* (National Development and Reform Commission, Ministry of Finance, Ministry of Agriculture, State Administration of Grain, Agricultural Development Bank of China, Fa Gai Jia Ge [2014] No. 2302, issued October 16, 2014)
14. *Notice on Issuing the Wheat and Rice Minimum Purchase Price Implementation Plan for 2015* (National Development and Reform Commission, Ministry of Finance, Ministry of Agriculture, State Administration of Grain, Agricultural Development Bank of China, China Grain Reserves Corporation, Guo Liang Tiao [2015] No. 80, issued May 18, 2015)
15. *Notice on Announcing the Wheat Minimum Purchase Price for 2016* (National Development and Reform Commission, Ministry of Finance, Ministry of Agriculture, State Administration of Grain, Agricultural Development Bank of China, Fa Gai Jia Ge [2015] No. 2301, issued October 10, 2015)
16. *Notice on Issuing the Wheat and Rice Minimum Purchase Price Implementation Plan* (National Development and Reform Commission, Ministry of Finance, Ministry of Agriculture, State Administration of Grain, Agricultural Development Bank of China, China Grain Reserves Corporation, Guo Liang Tiao [2016] No. 55, issued April 5, 2016)

17. *National Development and Reform Commission, State Administration of Grain, Ministry of Finance, and Agricultural Development Bank of China Notice on Issuing the Xinjiang Uyghur Autonomous Region National Temporary Reserve Wheat Purchase Plan for 2015* (National Development and Reform Commission, State Administration of Grain, Ministry of Finance, Agricultural Development Bank of China, Guo Liang Tiao [2015] No. 93, issued June 6, 2015)

With regard to Indica rice, instruments 1 through 6, and:

18. *Notice on Raising the Rice Minimum Purchase Prices for 2012* (National Development and Reform Commission, Ministry of Finance, Ministry of Agriculture, State Administration of Grain, Agricultural Development Bank of China, Fa Gai Dian [2012] No. 17, issued February 2, 2012)
19. *Notice on Issuing the Early-Season Indica Rice Minimum Purchase Price Implementation Plan for 2012* (National Development and Reform Commission, Ministry of Finance, Ministry of Agriculture, State Administration of Grain, Agricultural Development Bank of China, China Grain Reserves Corporation, Fa Gai Jing Mao [2012] No. 1943, issued July 2, 2012)
20. *Notice on Issuing the Mid- to Late-Season Rice Minimum Purchase Price Implementation Plan for 2012* (National Development and Reform Commission, Ministry of Finance, Ministry of Agriculture, State Administration of Grain, Agricultural Development Bank of China, China Grain Reserves Corporation, Fa Gai Jing Mao [2012] No. 2726, issued August 28, 2012)
21. *Notice on Raising the Rice Minimum Purchase Prices for 2013* (National Development and Reform Commission, Ministry of Finance, Ministry of Agriculture, State Administration of Grain, Agricultural Development Bank of China, Fa Gai Jia Ge [2013] No. 193, issued January 30, 2013)
22. *Notice on Issuing the Early-Season Indica Rice Minimum Purchase Price Implementation Plan for 2013* (National Development and Reform Commission, Ministry of Finance, Ministry of Agriculture, State Administration of Grain, Agricultural Development Bank of China, China Grain Reserves Corporation, Fa Gai Jing Mao [2013] No. 1281, issued July 2, 2013)
23. *Notice on Issuing the Mid- to Late-Season Rice Minimum Purchase Price Implementation Plan for 2013* (National Development and Reform Commission, Ministry of Finance, Ministry of Agriculture, State Administration of Grain, Agricultural Development Bank of China, China Grain Reserves Corporation, Fa Gai Jing Mao [2013] No. 1836, issued September 18, 2013)
24. *Notice on Raising the Rice Minimum Purchase Prices for 2014* (National Development and Reform Commission, Ministry of Finance, Ministry of Agriculture, State Administration of Grain, Agricultural Development Bank of China, Fa Gai Dian [2014] No. 34, issued February 11, 2014)
25. *Notice on Issuing the Wheat and Early-Season Indica Rice Minimum Purchase Price Implementation Plan for 2014* (National Development and Reform Commission, Ministry of Finance, Ministry of Agriculture, State Administration of Grain, Agricultural Development Bank of China, China Grain Reserves Corporation, Fa Gai Jing Mao [2014] No. 1026, issued May 20, 2014)
26. *Notice on Issuing the Mid- to Late-Season Rice Minimum Purchase Price Implementation Plan for 2014* (National Development and Reform Commission, Ministry of Finance, Ministry of Agriculture, State Administration of Grain, Agricultural Development Bank of China, China Grain Reserves Corporation, Fa Gai Jing Mao [2014] No. 2104, issued September 15, 2014)
27. *Notice on Announcing the Rice Minimum Purchase Prices for 2015* (National Development and Reform Commission, Ministry of Finance, Ministry of Agriculture, State

Administration of Grain, Agricultural Development Bank of China, Fa Gai Jia Ge [2015] No. 225, issued February 3, 2015)

28. *Notice on Issuing the Wheat and Rice Minimum Purchase Price Implementation Plan for 2015* (National Development and Reform Commission, Ministry of Finance, Ministry of Agriculture, State Administration of Grain, Agricultural Development Bank of China, China Grain Reserves Corporation, Guo Liang Tiao [2015] No. 80, issued May 18, 2015)
29. *Notice on Announcing the Rice Minimum Purchase Prices for 2016* (National Development and Reform Commission, Ministry of Finance, Ministry of Agriculture, State Administration of Grain, Agricultural Development Bank of China, Fa Gai Jia Ge [2016] No. 223, issued February 2, 2016)
30. *Notice on Issuing the Wheat and Rice Minimum Purchase Price Implementation Plan* (National Development and Reform Commission, Ministry of Finance, Ministry of Agriculture, State Administration of Grain, Agricultural Development Bank of China, China Grain Reserves Corporation, Guo Liang Tiao [2016] No. 55, issued April 5, 2016)

With regard to Japonica rice, instruments 1 through 6, and:

31. *Notice on Raising the Rice Minimum Purchase Prices for 2012* (National Development and Reform Commission, Ministry of Finance, Ministry of Agriculture, State Administration of Grain, Agricultural Development Bank of China, Fa Gai Dian [2012] No. 17, issued February 2, 2012)
32. *Notice on Issuing the Mid- to Late-Season Rice Minimum Purchase Price Implementation Plan for 2012* (National Development and Reform Commission, Ministry of Finance, Ministry of Agriculture, State Administration of Grain, Agricultural Development Bank of China, China Grain Reserves Corporation, Fa Gai Jing Mao [2012] No. 2726, issued August 28, 2012)
33. *Notice on Raising the Rice Minimum Purchase Prices for 2013* (National Development and Reform Commission, Ministry of Finance, Ministry of Agriculture, State Administration of Grain, Agricultural Development Bank of China, Fa Gai Jia Ge [2013] No. 193, issued January 30, 2013)
34. *Notice on Issuing the Mid- to Late-Season Rice Minimum Purchase Price Implementation Plan for 2013* (National Development and Reform Commission, Ministry of Finance, Ministry of Agriculture, State Administration of Grain, Agricultural Development Bank of China, China Grain Reserves Corporation, Fa Gai Jing Mao [2013] No. 1836, issued September 18, 2013)
35. *Notice on Raising the Rice Minimum Purchase Prices for 2014* (National Development and Reform Commission, Ministry of Finance, Ministry of Agriculture, State Administration of Grain, Agricultural Development Bank of China, Fa Gai Dian [2014] No. 34, issued February 11, 2014)
36. *Notice on Issuing the Mid- to Late-Season Rice Minimum Purchase Price Implementation Plan for 2014* (National Development and Reform Commission, Ministry of Finance, Ministry of Agriculture, State Administration of Grain, Agricultural Development Bank of China, China Grain Reserves Corporation, Fa Gai Jing Mao [2014] No. 2104, issued September 15, 2014)
37. *Notice on Announcing the Rice Minimum Purchase Prices for 2015* (National Development and Reform Commission, Ministry of Finance, Ministry of Agriculture, State Administration of Grain, Agricultural Development Bank of China, Fa Gai Jia Ge [2015] No. 225, issued February 3, 2015)
38. *Notice on Issuing the Wheat and Rice Minimum Purchase Price Implementation Plan for 2015* (National Development and Reform Commission, Ministry of Finance, Ministry of Agriculture, State Administration of Grain, Agricultural Development Bank of China, China Grain Reserves Corporation, Guo Liang Tiao [2015] No. 80, issued May 18, 2015)

39. *Notice on Announcing the Rice Minimum Purchase Prices for 2016* (National Development and Reform Commission, Ministry of Finance, Ministry of Agriculture, State Administration of Grain, Agricultural Development Bank of China, Fa Gai Jia Ge [2016] No. 223, issued February 2, 2016)
40. *Notice on Issuing the Wheat and Rice Minimum Purchase Price Implementation Plan* (National Development and Reform Commission, Ministry of Finance, Ministry of Agriculture, State Administration of Grain, Agricultural Development Bank of China, China Grain Reserves Corporation, Guo Liang Tiao [2016] No. 55, issued April 5, 2016)

With regard to corn, instruments 1 through 6, and:

41. *Notice on Issues Relating to National Temporary Reserve Purchases of Corn for 2012* (State Administration of Grain and Other Departments, Guo Liang Tiao [2012] No. 212, issued November 15, 2012)²
42. *Notice on Issues Relating to National Temporary Reserve Purchases of Corn and Soybeans in the Northeast Region for 2013* (National Development and Reform Commission, State Administration of Grain, Ministry of Finance, Agricultural Development Bank of China, Guo Liang Tiao [2013] No. 265, issued November 22, 2013)³
43. *Notice on Proper Handling of Autumn Grains Purchase Work for 2013* (National Development and Reform Commission, Ministry of Finance, State Administration of Grain, Agricultural Development Bank of China, Fa Gai Dian [2013] No. 229, issued November 15, 2013)
44. *Notice on Issues Relating to National Temporary Reserve Purchases of Corn in the Northeast Region for 2014* (National Development and Reform Commission, State Administration of Grain, Ministry of Finance, Agricultural Development Bank of China, Guo Liang Tiao [2014] No. 254, issued November 25, 2014)⁴
45. *Notice on Issues Relating to National Temporary Reserve Purchases of Corn in the Northeast Region for 2015* (National Development and Reform Commission, State Administration of Grain, Ministry of Finance, Agricultural Development Bank of China, Guo Liang Tiao [2015] No. 169, issued September 17, 2015)⁵

² Including provincial level measures that implement the National Temporary Reserve Purchases for Corn in the Northeast Region, such as the Notice on Proper Handling of National Temporary Reserve Corn Purchases Work for 2012 (Jilin Provincial Grain Administration, Agricultural Development Bank of China Jilin Branch, China Grain Reserves Corporation Jilin Branch, Ji Liang Tiao Lian [2012] No. 127, issued November 16, 2012), and Heilongjiang Province Notice on Issuing the "Heilongjiang Outline for Promoting the National Temporary Reserve Soybean and Corn Purchase Policy for 2012" (Heilongjiang Province Grain Bureau, China Grain Reserves Corporation Heilongjiang Branch, Agricultural Development Bank of China Heilongjiang Branch, Hei Liang Nong Lian [2012] No. 112, issued November 13, 2012).

³ Including provincial level measures that implement the National Temporary Reserve Purchases for Corn in the Northeast Region, such as the Notice on Proper Handling of Issues Relating to National Temporary Reserve Purchases of Corn and Soybeans for 2013 (China Grain Reserves Corporation Heilongjiang Branch, China Grain Reserves Beifang Nongye Kaife Corporation, Heilongjiang Province Grain Bureau, Agricultural Development Bank of China Heilongjiang Branch, Zhong Chu Liang Hei [2013] No. 249, issued November 25, 2013).

⁴ Including provincial level measures that implement the National Temporary Reserve Purchases for Corn in the Northeast Region, such as the Notice on Proper Handling of National Temporary Reserve Corn Purchase Work for 2014 (Jilin Province Grain Bureau, China Grain Reserves Corporation Jilin Branch, Agricultural Development Bank of China Jilin Branch, Zhong Chu Liang Ji Lian [2014] No. 211, issued December 16, 2014) and Notice on Issues Relating to Proper Handling of National Temporary Reserve Purchases of Corn for 2014 (China Grain Reserves Corporation Heilongjiang Branch, Heilongjiang Province Grain Bureau, China Grain Reserves Beifang Nongye Kaifa Corporation, Agricultural Development Bank of China Heilongjiang Branch, Zhong Chu Liang Hei [2014] No. 353, issued December 17, 2014).

⁵ Including provincial level measures that implement the National Temporary Reserve Purchases for Corn in the Northeast Region, such as the Notice on Proper Handling of National Temporary Reserve Corn Purchase Work for 2015 (Jilin Province Grain Bureau, China Grain Reserves Corporation Jilin Branch, Agricultural Development Bank of China Jilin Branch, Zhong Chu Liang Ji Lian [2015] No. 198, issued October 30, 2015) and Notice on Proper Handling of National Temporary Reserve Corn Purchase Work for 2015 (China

46. *Ministry of Agriculture Guiding Opinion on Corn Structural Adjustment in the "Sickle" Regions* (Ministry of Agriculture, Nong Nong Fa [2015] No. 4, issued November 2, 2015)

as well as any amendments, or successor, replacement, or implementing measures.

The United States considers that China has acted inconsistently with its obligations pursuant to Articles 3.2 and 6.3 of the Agriculture Agreement because the level of domestic support provided by China exceeds China's commitment level of "nil" specified in Section I of Part IV of China's Schedule CLII. In particular, China's domestic support in favor of agricultural producers, expressed in terms of its current Total Aggregate Measurement of Support ("Total AMS"),⁶ exceeds China's final bound commitment level in 2012, 2013, 2014, and 2015 on the basis of domestic support provided to producers of, *inter alia*, wheat, Indica rice, Japonica rice, and corn. The United States further considers that, to the extent applicable, these measures are inconsistent with China's obligation under Article 7.2(b) of the Agriculture Agreement because, in 2012, 2013, 2014, and 2015, China provides domestic support for wheat, Indica rice, Japonica rice, and corn in excess of its product-specific *de minimis* level of 8.5 percent for each product.

Accordingly, the United States respectfully requests that, pursuant to Article 6 of the DSU, the Dispute Settlement Body establish a panel to examine this matter, with standard terms of reference as set out in Article 7.1 of the DSU.

Grain Reserves Corporation Heilongjiang Branch, China Grain Reserves Beifang Nongye Kaifa Corporation, Heilongjiang Province Grain Bureau, Agricultural Development Bank of China Heilongjiang Branch, Zhong Chu Liang Hei [2015] No. 399, issued October 30, 2015).

⁶ Calculated in accordance with Articles 1(a), 1(h), 6.1, 6.2, and 6.4, and Annex 3 of the Agriculture Agreement, and paragraph 235 of the Working Party Report as incorporated into China's Accession Protocol, pursuant to Part I, paragraph 1.2.