

Written Testimony of

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United States House of Representatives**

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

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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.”¹ At Article 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.

¹ 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 <https://www.fdd.org/analysis/2023/11/22/the-u-s-must-combat-ccp-sanctioned-overseas-spying-by-private-entities-2/>.

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,² these acquisitions have increased fivefold over the past decade and 30 percent from 2019-2020.³ Given a U.S. reporting system in need of reform (as noted by the GAO⁴), 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;⁵ a series of land acquisitions by Sun Guangxin (a billionaire from Xinjiang 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;⁶ 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).⁷

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

² 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 I**.

³ 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>.

⁴ 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”).

⁵ Jerry Dunleavy, *North Dakota rejects Chinese project near US military base after Biden administration refuses to act*, Washington Examiner (Feb. 7, 2023), available at <https://www.washingtonexaminer.com/news/justice/1062498/north-dakota-town-rejects-chinese-project-near-us-military-base-after-biden-administration-refuses-to-act/>.

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

⁷ 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>.

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.⁸ 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.⁹

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.¹⁰ 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.¹¹ 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

⁸ Grand Forks Herald, *The Fufeng Controversy*, available at <https://www.grandforksherald.com/businesses-organizations/fufeng>.

⁹ *Id.*

¹⁰ Khushboo Razdan, *Chinese agribusiness giant Fufeng gets US 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>.

¹¹ 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.

our operations in the area.”¹² This lack of CFIUS jurisdiction 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.¹³

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).¹⁴ 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.¹⁵

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

¹² 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>.

¹³ 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>.

¹⁴ 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”).

¹⁵ 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/>.

Whidbey Island, which conducts advanced weapons testing involving unmanned drones and electronic warfare aircraft.¹⁶

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."¹⁷

Electronic devices can be placed in wind towers, as well as cranes that load and unload cargo,¹⁸ 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 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.¹⁹ Such supply diversion represents potential risks to U.S. agricultural security,

¹⁶ 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/>.

¹⁷ 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>.

¹⁸ 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>.

¹⁹ *Id.*

as food security in many countries remains vulnerable to economic and geopolitical shocks, which contribute to economic strains that stoke regional conflicts and instability.²⁰

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.²¹ 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.²² It is a leading player in seed treatment and genetically modified traits.²³

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.²⁴ 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.²⁵ Larger-scale schemes have also been discovered. In 2016, Chinese scientist Robert Mo collected thousands of seed samples from Monsanto and Pioneer test fields.²⁶ Acquisitions of U.S. trade secrets, through agricultural espionage, impact the ability of U.S. companies to fund continued improvements in agricultural R&D.

²⁰ 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>.

²¹ 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%20Interests%20in%20U.S.%20Agriculture.pdf) ("USCC Report").

²² 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>.

²³ 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>.

²⁴ 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>.

²⁵ 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>.

²⁶ 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/>.

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.²⁷ Genetically engineered seeds promise new opportunities for mitigating risk of drought and pests while improving seed stock to minimize the amount of farmland required for production. The United States exported \$173.91 million of seeds to China in 2021,²⁸ 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.²⁹ Agricultural IP can potentially be weaponized as it offers an opportunity to discover vulnerabilities in U.S. crops.³⁰

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.³¹ 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.³²

The United States uses such connectivity modules in a wide variety of devices, including smart devices and domestic telecom networks.³³ 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.³⁴ 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

²⁷ USCC Report at 2.

²⁸ *Id.* at 15.

²⁹ *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 (“Woodall Testimony”).

³⁰ *Id.*

³¹ *Id.* at 13.

³² 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”).

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

³⁴ CCP Select Committee Letter at 2.

will increasingly use IoT devices to plant and monitor their crops.³⁵ 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.³⁶ 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.³⁷

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.

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.

³⁵ 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>.

³⁶ 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>.

³⁷ CCP Select Committee Letter at 1.

i. Glyphosate

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

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.⁴⁰ Atrazine was invented by and primarily produced by Sygenta Corporation.⁴¹ Sygenta Corporation is owned by Chinese state-owned company ChemChina.⁴²

iii. Paraquat

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

³⁸ 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=29bf0f43-e3cd-4b16-8f34-76a69ce2ed48#:~:text=Glyphosate%2C%20known%20by%20many%20trade,the%20United%20States%20since%202001>.

³⁹ 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>.

⁴⁰ Environmental Protection Agency, *Indicators: Atrazine*, available at <https://www.epa.gov/national-aquatic-resource-surveys/indicators-atrazine#:~:text=Atrazine%20is%20an%20herbicide%20widely,can%20be%20used%20and%20applied>.

⁴¹ 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://usrtk.org/pesticides/atrazine/#:~:text=Atrazine%20is%20among%20the%20most,Chinese%20state%20Downed%20company%20ChemChina>.

⁴² *Id.*

⁴³ University of Tennessee Institute of Agriculture, *PARAQUAT HERBICIDE INFORMATION*, available at <https://psep.tennessee.edu/paraquat/#:~:text=%E2%80%8B%20Paraquat%20is%20the%20active,for%20use%20by%20certified%20applicators>.

⁴⁴ 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://usrtk.org/pesticides/atrazine/#:~:text=Atrazine%20is%20among%20the%20most,Chinese%20state%20Downed%20company%20ChemChina>.

iv. Imidacloprid

Imidacloprid is the world's most used insecticide and has been in the U.S. market since 1994.⁴⁵ The PRC is the largest producing and exporting country of imidacloprid.⁴⁶

v. Acephate

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

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.⁴⁹ Increased urbanization and industrial growth have covered what was once productive agricultural land.⁵⁰ 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.⁵¹ Overgrazing and deforestation have resulted in increased desertification in China's Western and Central provinces, further limiting the availability of arable land.⁵² 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

⁴⁵ 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#:~:text=Imidacloprid%20is%20not%20only%20the,use%20on%20turfgrass%20and%20ornamentals>.

⁴⁶ 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#:~:text=China%20is%20the%20largest%20producing,14%2C000%20and%208000%20tons%2C%20respectively.

⁴⁷ 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.

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

⁴⁹ People's Daily Online, *China becomes world's largest food importer* (Dec. 4, 2023), available at [https://www.uscc.gov/sites/default/files/2022-05/Chinas_Interests_in_U.S._Agriculture.pdf](http://en.people.cn/n3/2023/1204/c90000-20105550.html#:~:text=China%20has%20become%20the%20world's,Produce%20and%20Animal%20By%2DProducts; see U.S.-China Economic and Security Review Commission, <i>China's Interests in U.S. Agriculture: Augmenting Food Security through Investment Abroad</i> (May 26, 2022), available at <a href=) ("USCC Chinese Agriculture Report").

⁵⁰ *Id.*

⁵¹ *Id.*

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

continued challenge to Chinese crop production.⁵³ Rising global temperatures have also resulted in more extreme weather events in China, damaging Chinese agricultural output.⁵⁴

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.⁵⁵ 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.⁵⁶ 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.⁵⁷

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 2005.⁵⁸ 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.⁵⁹ 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 2035.⁶⁰ Given China’s agricultural dependencies, its farm and food production acquisitions tend to be export oriented.⁶¹

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.

⁵³ USCC Chinese Agriculture Report.

⁵⁴ *Id.*

⁵⁵ 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#:~:text=From%202012%20to%202022%2C%20Xi,how%20to%20manage%20agricultural%20productio>.

⁵⁶ 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>.

⁵⁷ USCC Chinese Agriculture Report.

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

⁵⁹ 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>.

⁶⁰ 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/>.

⁶¹ See Woodall [Testimony](#) at 12.

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 longstanding 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.⁶² 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.⁶³ 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 C.F.R. § 802 lists these facilities for use in determining whether a real estate transaction is a covered investment pursuant to 31 C.F.R. § 802.211. Under the current regulatory framework, to designate additional

⁶² *Consolidated Appropriations Act, 2024*, available at <https://www.congress.gov/bill/118th-congress/house-resolution/1061/text?s=4&r=2&q=%7B%22search%22%3A%22cfius%22%7D>

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

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 C.F.R. § 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 transaction⁶⁴ 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 catchall 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 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.”⁶⁵

Under the current CFIUS regulations governing certain transactions by foreign persons involving real estate in the United States, 31 C.F.R. part 802, real estate transactions are excepted from CFIUS review when they are within an urbanized area or urban cluster⁶⁶ 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.⁶⁷ Close proximity is defined as the area extending outward one mile from the boundary of a military installation, government facility, or government property.⁶⁸ 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.⁶⁹

⁶⁴ 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).

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

⁶⁶ 31 C.F.R. § 802.216(c).

⁶⁷ *See id.*, referencing 31 C.F.R. § 802.211(a), 31 C.F.R. § 802.211(b)(1).

⁶⁸ 31 C.F.R. § 802.203.

⁶⁹ 31 C.F.R. § 802.211(b)(2); 31 C.F.R. § 802.217.

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.⁷⁰ 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.⁷¹ 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.⁷²

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.⁷³ 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,⁷⁴ the Meat and Poultry Processing Expansion Program,⁷⁵ and the Meat and Poultry Intermediary Lending Program.⁷⁶ Unfortunately, Congress rescinded the funding for these critical programs as part of the Fiscal Responsibility Act of 2023.

⁷⁰ GAO Report at 1.

⁷¹ 7 U.S.C. § 3502.

⁷² GAO Report at 2.

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

⁷⁴ 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>.

⁷⁵ 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>.

⁷⁶ 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>.

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 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.

Lastly, 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,⁷⁷ 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.⁷⁸ 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.⁷⁹

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.⁸⁰ 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

⁷⁷ 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/#:~:text=Currently%2C>.

⁷⁸ 323 F.Supp. 1321, 1136 (D. Neb. 1971).

⁷⁹ See <https://nationalaglawcenter.org/eleventh-circuit-narrowly-blocks-florida-from-enforcing-foreign-ownership-law/#:~:text=On%20February%201%2C%202024%2C%20the,foreign%20investments%20in%20real%20property>.

⁸⁰ 212 P.3d 62, 72 (Ariz. Ct. App. 2009).

that would make land qualify as agricultural⁸¹ while the definition under North Dakota's statute does not.⁸²

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.

⁸¹ 68 PA. STAT. § 41 (West 1980).

⁸² *See* 68 P.S.C.S. § 47.