

***CHINA – DOMESTIC SUPPORT FOR
AGRICULTURAL PRODUCERS***

(DS511)

**FIRST WRITTEN SUBMISSION OF
THE UNITED STATES OF AMERICA**

September 19, 2017

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TABLE OF ACRONYMS AND SHORT FORMS

ACRONYM	FULL NAME
AAP	Applied Administered Price
ADBC	Agricultural Development Bank of China
AMS	Aggregate Measure of Support
AVIC	Aviation Industry Corporation of China
CBRC	China Banking Regulatory Commission
CIF	Cost, Insurance and Freight
COFCO	China National Cereals, Oils and Foodstuffs Corporation
DSB	Dispute Settlement Body
DSU	<i>Understanding on the Rules and Procedures Governing the Settlement of Dispute</i>
EP	Eligible Production
FERP	Fixed External Reference Price
FOB	Free On Board
GATT 1994	General Agreement on Tariffs and Trade 1994
MoA	Ministry of Agriculture
MoF	Ministry of Finance
MPS	Market Price Support
MT	Metric Tons
NDRC	National Development and Reform Commission
RMB	Chinese Renminbi
Sinograin	China Grain Reserves Corporation

USD	United States Dollar
USDA	U.S. Department of Agriculture
VOP	Value of Production

TABLE OF EXHIBITS

Exhibit No.	Description	Abbreviated Title
US-1	<i>China's Notification (1999-2001) G/AG/N/CHN/8 (March 31, 2006).</i>	<i>China's Notification (1999-2001)</i>
US-2	<i>China's Notification (2002-2004) G/AG/N/CHN/17 (March 24, 2010).</i>	<i>China's Notification (2002-2004)</i>
US-3	<i>China's Notification (2005-2008) G/AG/N/CHN/21 (October 13, 2011).</i>	<i>China's Notification (2005-2008)</i>
US-4	<i>China's Notification (2009-2010) G/AG/N/CHN/28 (May 6, 2015).</i>	<i>China's Notification (2009-2010)</i>
US-5	<i>Protocol on the Accession of the People's Republic of China WT/L/432 (November 23, 2001).</i>	<i>Accession Protocol</i>
US-6	Schedule CLII – People's Republic of China, Part IV – Agricultural Products: Commitments Limiting Subsidization: Section I – Domestic Support: Total AMS Commitment.	China's Schedule CLII
US-7	<i>Report on the Working Party on the Accession of China WT/ACC/CHN/49 (October 1, 2001).</i>	<i>Working Party Report</i>
US-8	<i>Request for Consultations by the United States, WT/DS511/1, circulated September 20, 2016.</i>	<i>Consultations Request</i>
US-9	<i>Request for Establishment of a Panel by the United States, WT/DS511/8, circulated December 16, 2016.</i>	<i>Panel Request</i>
US-10	<i>State Council Opinion on the Further Deepening the Reform of Grain Circulation, (State Council Guo Fa [2004] No. 17, issued May 23, 2004).</i>	<i>2004 Grain Opinion</i>
US-11	<i>State Council Organizational Chart, State Council website (August 14, 2014), available:</i>	<i>State Council Organizational Chart</i>

	http://english.gov.cn/state_council/2014/09/03/content_281474985533579.htm .	
US-12	<i>Regulation on the Administration of Grain Distribution</i> (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).	<i>2004 Grain Distribution Regulation</i>
US-13	<i>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</i> (Communist Party of China Central Committee, State Council, Zhong Fa [2012] No. 1, issued December 31, 2011).	<i>2012 Document Number 1</i>
US-14	<i>Communist Party of China Central Committee and State Council Several Opinions on Accelerating Development of Modern Agriculture and Further Increasing Rural Development Dynamism</i> (Communist Party of China Central Committee, State Council, Zhong Fa [2013] No. 1, issued December 31, 2012).	<i>2013 Document Number 1</i>
US-15	<i>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”</i> (Communist Party of China Central Committee, State Council, Zhong Fa [2014] No. 1, issued January 19, 2014).	<i>2014 Document Number 1</i>
US-16	<i>Communist Party of China Central Committee and State Council Several Opinions on Strengthening Reform and Innovation and Accelerating Agricultural Modernization</i> (Communist Party of China Central Committee, State Council, Zhong Fa [2015] No. 1, issued February 1, 2015).	<i>2015 Document Number 1</i>
US-17	U.S. Department of Agriculture (USDA), <i>World Agriculture Supply and Demand Estimates</i> (September 12, 2017), available: http://www.usda.gov/oce/commodity/wasde/latest.pdf .	<i>World Agriculture Supply and Demand Estimates (2017)</i>
US-18	National Bureau of Statistics of China, <i>China’s Statistical Yearbook</i> (2016), Table 12-10: Output of Major Farm Products (publishing 2015 data), available: http://www.stats.gov.cn/tjsj/ndsj/2016/indexeh.htm .	<i>China’s Statistical Yearbook (2016)</i>
US-19	USDA, <i>China Wheat Map</i> , available: http://www.usda.gov/oce/weather/pubs/Other/MWCACP/Graphs/China/China_Wheat.pdf .	<i>China Wheat Map</i>

US-20	<i>Notice on Raising the Wheat Minimum Purchase Price for 2012</i> (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).	<i>2012 Wheat MPS Notice</i>
US-21	<i>Notice on Raising the Wheat Minimum Purchase Price for 2013</i> (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).	<i>2013 Wheat MPS Notice</i>
US-22	<i>Notice on Raising the Wheat Minimum Purchase Price for 2014</i> (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).	<i>2014 Wheat MPS Notice</i>
US-23	<i>Notice on Announcing the Wheat Minimum Purchase Price for 2015</i> (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).	<i>2015 Wheat MPS Notice</i>
US-24	<i>Notice on Issuing the Wheat Minimum Purchase Price Implementation Plan for 2012</i> (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).	<i>2012 Wheat MPS Implementation Plan</i>
US-25	<i>Notice on Issuing the Wheat Minimum Purchase Price Implementation Plan for 2013</i> (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).	<i>2013 Wheat MPS Implementation Plan</i>
US-26	<i>Notice on Issuing the Wheat and Early-Season Indica Rice Minimum Purchase Price Implementation Plan for 2014</i> (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).	<i>2014 Wheat MPS Implementation Plan/2013 Indica Rice MPS Implementation Plan</i>

US-27	<i>Notice on Issuing the Wheat and Rice Minimum Purchase Price Implementation Plan for 2015</i> (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).	<i>2015 Wheat MPS Implementation Plan/2015 Indica Rice and Japonica Rice MPS Implementation Plan</i>
US-28	<i>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</i> (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).	<i>2015 Temporary Reserve Wheat Purchase Plan</i>
US-29	<i>National Standard of the People's Republic of China, Wheat, GB 1351-2008</i> , issued January 1, 2008.	<i>National Wheat Standard of China</i>
US-30	USDA, <i>China Rice Map</i> , available: https://www.usda.gov/oce/weather/pubs/Other/MWCACP/Graphs/China/China_Rice.pdf .	<i>USDA Rice Map</i>
US-31	Ricepedia.com, <i>Cultivated Rice Species</i> , available: http://ricepedia.org/rice-as-a-plant/rice-species/cultivated-rice-species .	<i>Ricepedia, Cultivated Rice Species</i>
US-32	U.S. International Trade Commission Report, <i>Rice: Global Competitiveness of the U.S. Industry</i> , ITC Inv. No. 332-549 (April 2015), available: https://www.usitc.gov/publications/332/pub4530.pdf .	<i>USITC, Rice Report (2015)</i>
US-33	Concepcion Calpe, <i>Rice International Commodity Profile</i> , Food and Agriculture Organization of the United Nations: Markets and Trade Division (December 2006), available: http://www.fao.org/fileadmin/templates/est/COMM_MARKETS_MONITORING/Rice/Documents/Rice_Profile_Dec-06.pdf .	<i>Calpe, Rice Commodity Profile (2006)</i>
US-34	James Hansen, Frank Fuller, Frederick Gales, Frederick Crook Eric Wailes, and Michelle Moore, <i>China's Japonica Rice Market</i> , ERS/USDA 32 (November 2002).	<i>Hansen, et al., China's Japonica Rice Market (2002)</i>
US-35	Zhong Funing, Xu Zhigang, Fu Longbo, <i>An Alternative Approach to Measure Regional Comparative Advantage in China's Grain Sector</i> ,	<i>Funing, et al., Alternative</i>

	Conference of Australian Agricultural and Resource Economics Society (January 22-25, 2001).	<i>Approach to Measure Comparative Advantage in China's Grain Sector</i> (2001)
US-36	Chen Wen-fu, Pan Wen-bo, Xu Zheng-jin, <i>Current Situation and Trends in Production of Japonica Rice in China</i> , Journal of Shenyang Agricultural University, 2006-12, 37(6): 801-805.	Chen, <i>Current Situation and Trends in Production of Japonica Rice in China</i> (2006)
US-37	Nathan Childs, <i>Rice Situation and Outlook Yearbook</i> , USDA Economic Research Service Report (November 2004), available: http://usda.mannlib.cornell.edu/usda/ers/RCS-yearbook//2000s/2004/RCS-yearbook-11-30-2004.pdf .	Childs, <i>Rice Situation and Outlook Yearbook</i> (2004)
US-38	FAO, <i>International Year of Rice: China</i> (2004), available: http://www.fao.org/rice2004/en/p2.htm .	FAO Rice Report (2004)
US-39	<i>Notice on Raising the Rice Minimum Purchase Prices for 2012</i> (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).	<i>2012 Rice MPS Notice</i>
US-40	<i>Notice on Raising the Rice Minimum Purchase Prices for 2013</i> (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).	<i>2013 Rice MPS Notice</i>
US-41	<i>Notice on Raising the Rice Minimum Purchase Prices for 2014</i> (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).	<i>2014 Rice MPS Notice</i>
US-42	<i>Notice on Announcing the Rice Minimum Purchase Prices for 2015</i> (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).	<i>2015 Rice MPS Notice</i>

US-43	Communication From China, WT/AC/CHN/38/Rev.3 (July 19, 2001).	Communication from China (July 19, 2001)
US-44	<i>Notice on Issuing the Early-Season Indica Rice Minimum Purchase Price Implementation Plan for 2012</i> (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).	<i>2012 Indica Rice and Japonica Rice MPS Implementation Plan</i>
US-45	<i>Notice on Issuing the Mid- to Late-Season Rice Minimum Purchase Price Implementation Plan for 2012</i> (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).	
US-46	<i>Notice on Issuing the Early-Season Indica Rice Minimum Purchase Price Implementation Plan for 2013</i> (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).	<i>2013 Indica Rice and Japonica Rice MPS Implementation Plan</i>
US-47	<i>Notice on Issuing the Mid- to Late-Season Rice Minimum Purchase Price Implementation Plan for 2013</i> (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).	
US-48	<i>Notice on Issuing the Mid- to Late-Season Rice Minimum Purchase Price Implementation Plan for 2014</i> (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).	<i>2014 Indica Rice and Japonica Rice MPS Implementation Plan</i>
US-49	National Standard of the People’s Republic of China, <i>Paddy</i> , GB 1350-2009, issued March 28, 2009.	<i>National Paddy Rice Standard of China</i>
US-50	Kelsey Nowakowski, <i>Why Corn – Not Rice – Is King in China</i> , National Geographic (May 18, 2015).	Nowakowski, <i>Why Corn – Not</i>

		<i>Rice – Is King in China</i>
US-51	USDA, <i>China Corn Map</i> , available: https://www.usda.gov/oce/weather/pubs/Other/MWCACP/Graphs/China/China_Corn.pdf .	<i>China Corn Map</i>
US-52	<i>Notice on Issues Relating to National Temporary Reserve Purchases of Corn for 2012</i> (State Administration of Grain and Other Departments, Guo Liang Tiao [2012] No. 212, issued November 15, 2012).	<i>2012 Notice on Corn Purchases</i>
US-53	<i>Notice on Issues Relating to National Temporary Reserve Purchases of Corn and Soybeans in the Northeast Region for 2013</i> (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).	<i>2013 Notice on Corn Purchases</i>
US-54	<i>Notice on Issues Relating to National Temporary Reserve Purchases of Corn in the Northeast Region for 2014</i> (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).	<i>2014 Notice on Corn Purchases</i>
US-55	<i>Notice on Issues Relating to National Temporary Reserve Purchases of Corn in the Northeast Region for 2015</i> (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).	<i>2015 Notice on Corn Purchases</i>
US-56	National Standard of the People’s Republic of China, <i>Corn</i> , GB 1353-2009, issued March 28, 2009.	<i>National Corn Standard of China</i>
US-57	<i>Notice on Proper Handling of National Temporary Reserve Corn Purchases Work for 2012</i> (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).	<i>2012 Notice on Corn Purchases, Jilin Province</i>
US-58	<i>Heilongjiang Province Notice on Issuing the “Heilongjiang Outline for Promoting the National Temporary Reserve Soybean and Corn Purchase Policy for 2012”</i> (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).	<i>2012 Notice on Corn Purchases, Heilongjiang Province</i>

US-59	<i>Notice on Proper Handling of Issues Relating to National Temporary Reserve Purchases of Corn and Soybeans for 2013</i> (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).	<i>2013 Notice on Corn Purchases, Heilongjiang Province</i>
US-60	<i>Notice on Proper Handling of National Temporary Reserve Corn Purchases Work for 2014</i> (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).	<i>2014 Notice on Corn Purchases, Jilin Province</i>
US-61	<i>Notice on Issues Relating to Proper Handling of National Temporary Reserve Purchases of Corn for 2014</i> (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).	<i>2014 Notice on Corn Purchases, Heilongjiang Province</i>
US-62	<i>Notice on Proper Handling of National Temporary Reserve Corn Purchases Work for 2015</i> (Jilin Province Grain Bureau, China Grain Reserves Corporation Jilin Branch, Agricultural Development Bank of China Jilin Branch, Zhong Chu Liang Ji Li55an [2015] No. 198, issued October 30, 2015).	<i>2015 Notice on Corn Purchases Work, Jilin Province</i>
US-63	<i>Notice on Proper Handling of National Temporary Reserve Corn Purchases Work for 2015</i> (China 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).	<i>2015 Notice on Corn Purchases, Heilongjiang Province</i>
US-64	<i>Shorter Oxford English Dictionary</i> , (ed. 1993).	<i>Shorter Oxford English Dictionary</i>
US-65	Calculation of Fixed External Reference Price 1986-88.	FERP Calculation
US-66	Calculation based on Communication From China, WT/AC/CHN/38/Rev.3.	Calculation based on Communication From China

US-67	Customs General Administration of P.R. China, <i>Summary Surveys of China's Customs Statistics</i> (1986-1998).	<i>Summary Surveys of China's Customs Statistics</i>
US-68	Calculation of Rice Price Conversion.	Calculation of Rice Price Conversion
US-69	China National Bureau of Statistics, <i>China Yearbook of Agricultural Price Survey</i> (2006).	<i>China Yearbook of Agricultural Price Survey</i> (2006)
US-70	China National Bureau of Statistics, <i>China Yearbook of Agricultural Price Survey</i> (2008).	<i>China Yearbook of Agricultural Price Survey</i> (2008)
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US-73	National Bureau of Statistics of China, <i>China's Statistical Yearbook</i> (2015), Table 12-10: Output of Major Farm Products (publishing 2014 data), available: http://www.stats.gov.cn/tjsj/ndsj/2015/indexeh.htm .	<i>China's Statistical Yearbook</i> (2015)
US-74	National Bureau of Statistics of China, <i>China's Statistical Yearbook</i> (2014), Table 12-10: Output of Major Farm Products (publishing 2013 data), available: http://www.stats.gov.cn/tjsj/ndsj/2014/indexeh.htm .	<i>China's Statistical Yearbook</i> (2014)
US-75	National Bureau of Statistics of China, <i>China's Statistical Yearbook</i> (2013), Table 13-15: Output of Major Farm Products (publishing 2012 data), available: http://www.stats.gov.cn/tjsj/ndsj/2013/indexeh.htm .	<i>China's Statistical Yearbook</i> (2013)
US-76	National Bureau of Statistics of China, <i>China's Rural Statistical Yearbook</i> (2016).	<i>China's Rural Statistical Yearbook</i> (2016)

US-77	Ministry of Agriculture, PRC, <i>China Agricultural Statistical Reports</i> (2011-2014).	<i>China Agricultural Statistical Reports</i> (2012-2014)
US-78	Pan Yuzhu and Li Jia, <i>Basic Knowledge about Japonica Rice</i> , Research and Consulting Department, Changjiang Futures (2011).	Yuzhu, <i>Basic Knowledge about Japonica Rice</i> (2011)
US-79	Compilation of China's Farm Gate Prices 1995 to 2015.	China's Farm Gate Prices (1995 – 2015)
US-80	China National Development and Reform Commission, <i>Compilation of Materials on Agricultural Product Cost and Returns</i> (2014).	2014 <i>Compilation of Materials on Agricultural Product Cost and Returns</i>
US-81	China National Development and Reform Commission, <i>Compilation of Materials on Agricultural Product Cost and Returns</i> (2016).	2016 <i>Compilation of Materials on Agricultural Product Cost and Returns</i>
US-82	[Intentionally Omitted]	
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US-84	<i>Notice on Announcing the Wheat Minimum Purchase Price for 2017</i> (National Development and Reform Commission, Ministry of Finance, Ministry of Agriculture, State Administration of Grain, Agricultural Development Bank of China, Fa Gai Jia Ge [2017] No. 2207, issued October 21, 2016).	<i>2017 Wheat MPS Notice</i>
US-85	<i>Notice on Announcing the Rice Minimum Purchase Prices for 2016</i> (National Development and Reform Commission, Ministry of Finance,	<i>2016 Rice MPS Notice</i>

	Ministry of Agriculture, State Administration of Grain, Agricultural Development Bank of China, Fa Gai Jia Ge [2016] No. 223, issued February 2, 2016).	
US-86	<i>Notice on Announcing the Rice Minimum Purchase Prices for 2017</i> (National Development and Reform Commission, Ministry of Finance, Ministry of Agriculture, State Administration of Grain, Agricultural Development Bank of China, Fa Gai Jia Ge [2017] No. 307, issued February 17, 2017).	<i>2017 Rice MPS Notice</i>
US-87	<i>Notice on Earnestly Completing This Year’s Work of Corn Purchasing in the Northeast China Region</i> (MOF, NDRC, SAG, MOA, ADBC, CBRC, Guo Liang Diao [2016] No. 210, issued September 19, 2016).	<i>2016 Northeast Region Corn Purchase Notice</i>
US-88	<i>Central Fiscal Funding Allocation Results of Batch 1 of the 2016 Corn Producer Subsidy</i> , Ministry of Finance, [2016], published July 19, 2016.	<i>Central Fiscal Funding Allocation Results of Batch 1 of 2016 Corn Producer Subsidy</i>
US-89	<i>Central Fiscal Funding Allocation Results of Batch 2 of the 2016 Corn Producer Subsidy</i> . Ministry of Finance, [2016], published in or around November 2016.	<i>Central Fiscal Funding Allocation Results of Batch 2 of 2016 Corn Producer Subsidy</i>

I. INTRODUCTION

1. Each year, the People's Republic of China ("China") provides a significant level of domestic support to its agricultural producers through a variety of subsidy programs and other measures.¹ This dispute addresses a single means of agricultural support, "market price support," which China utilizes to support farmer incomes and increase production for basic agricultural products, including wheat, Indica rice, Japonica rice, and corn. Through this form of support alone, China has provided support far in excess of its WTO commitments. The level of domestic support China provided to its agricultural producers in 2012, 2013, 2014, and 2015² exceeded the level set out in Section I of Part IV of China's Schedule of Concessions on Goods (CLII). China's level of domestic support in favor of agricultural producers has therefore breached Articles 3.2 and 6.3 of the *Agreement on Agriculture* ("Agriculture Agreement") for the years 2012, 2013, 2014, and 2015.

2. As described in further detail below, China's market price support programs announce on an annual basis an applied administered price that will be available to farmers either immediately upon initiation of each year's program, as for corn, or when market prices drop below the applied administered price, as for wheat, Indica rice, and Japonica rice. This applied administered price is provided or furnished to farmers in the major producing provinces during the period immediately following harvest. By guaranteeing farmers an established price for their commodities, China's market price support programs for wheat, Indica rice, Japonica rice, and corn ensure that commodity prices in the relevant provinces are maintained at the Chinese government's chosen support level.

3. China may, like other Members of the WTO, maintain domestic support programs, including market price support programs, as long as the domestic support provided under those programs does not exceed the Member's fixed commitment levels.³ The Agriculture Agreement provides that each Member's "domestic support . . . commitments in Part IV of each Member's Schedule constitute commitments limiting subsidization,"⁴ and that "a Member shall not provide support in favour of domestic producers [of agricultural products] in excess of the commitment levels specified in Section I of Part IV of its Schedule."⁵ China scheduled a "Final Bound Commitment Level" of "nil" in Section I of Part IV of its Schedule of Concessions on Goods ("China's Schedule CLII").⁶

¹ See e.g., China's Notification (1999-2001), G/AG/N/CHN/8 (March 31, 2006) (Exhibit US-1); China's Notification (2002-2004), G/AG/N/CHN/17 (March 24, 2010) (Exhibit US-2); China's Notification (2005-2008), G/AG/N/CHN/21 (October 13, 2011) (Exhibit US-3); and China's Notification (2009-2010), G/AG/N/CHN/28 (May 6, 2015) (Exhibit US-4) (collectively, "China's COA Notifications (1999-2010)").

² The years for which complete data is available.

³ As described in China's Accession Protocol, "[u]pon accession, China accedes to the WTO Agreements," and "those obligations in the Multilateral Trade Agreements annexed to the WTO Agreements . . . shall be implemented by China." *Protocol on the Accession of the People's Republic of China* (WT/L/432) ("Accession Protocol"), Part I, paragraph 1.1 and paragraph 1.3 (Exhibit US-5).

⁴ Agriculture Agreement, Article 3.1.

⁵ Agriculture Agreement, Article 3.2.

⁶ See Schedule CLII – People's Republic of China, Part IV – Agricultural Products: Commitments Limiting Subsidization: Section I – Domestic Support: Total AMS Commitment ("China's Schedule CLII") (Exhibit US-6). China further memorialized this commitment in its *Working Party Report*, which noted that "commitments on domestic support . . . for agricultural products were contained in the Schedule of Concessions on Goods annexed to

4. China’s consistency with this commitment is measured in terms of its Current Total Aggregate Measurement of Support (Current Total AMS), which is the sum of the Aggregate Measurement of Support (AMS) provided to each basic agricultural product. Pursuant to Article 1(a) of the Agriculture Agreement, the AMS for each basic agricultural product must be “calculated in accordance with the provisions of Annex 3 of this Agreement and taking into account the constituent data and methodology used in the tables of support material incorporated by reference in Part IV of the Member’s Schedule.”⁷ Article 1(h), in turn, provides that a Member’s “Total AMS” for a given year refers to “the sum of all domestic support provided in favour of agricultural producers, calculated as the sum of all aggregate measurements of support for basic agricultural products, all non-product-specific agreement measurements of support and equivalent measurements of support for agricultural products.”⁸ Pursuant to Article 6.4 of the Agriculture Agreement, a Member’s Current Total AMS does not include product-specific AMS values that are less than or equal to the relevant *de minimis* level of support.⁹ For China, the *de minimis* level of support equals 8.5 percent of the total value of production of a basic agricultural product during the relevant year.¹⁰

5. Therefore, to determine China’s Current Total AMS for each year, the Panel first must calculate the product-specific AMS for each basic agricultural commodity, and compare that value to the total value of production for that agricultural product. To the extent that the product-specific AMS for a particular basic agricultural product exceeds China’s *de minimis* level of 8.5 percent, the full value of the product-specific AMS would be included in China’s Current Total AMS. Because China has committed to a level of domestic support of “nil” or zero, in the event the product-specific AMS for any basic agricultural product exceeds the *de minimis* level of 8.5 percent, China will have breached Articles 3.2 and 6.2 of the Agriculture Agreement.

6. Annex 3, paragraph 1 of the Agriculture Agreement sets out methodologies for calculating the value of a Member’s “product-specific” AMS “for each basic agricultural product receiving market price support, non-exempt direct payments, or any other subsidy not exempted from the reduction commitments (‘other non-exempt policies’).”¹¹

7. Paragraph 8 of Annex 3 provides the methodology for calculating the specific type of support at issue in this dispute – market price support. Paragraph 8 states that “market price support shall be calculated using the *gap* between a *fixed external reference price* and the *applied administered price* multiplied by the *quantity of production eligible* to receive the applied administered price.”¹² The paragraph goes on to provide that “[b]udgetary payments made to maintain this gap, such as buying-in or storage costs, shall not be included in the AMS.”¹³

the Draft Protocol as Annex 8.” See *Report on the Working Party on the Accession of China* (WT/ACC/CHN/49) (“*Working Party Report*”), para. 236 (Exhibit US-7).

⁷ Agriculture Agreement, Article 1(a).

⁸ Agriculture Agreement, Article 1(h).

⁹ See Agriculture Agreement, Articles 6.4, 1(h)(ii) (stating that Current Total AMS is to be “calculated in accordance with the provisions of this Agreement, including Article 6).

¹⁰ See *Working Party Report*, para. 236 (Exhibit US-7).

¹¹ Agriculture Agreement, Annex 3, paragraph 1.

¹² Agriculture Agreement, Annex 3, paragraph 8 (italics added).

¹³ Agriculture Agreement, Annex 3, paragraph 8.

8. Thus, the calculation of market price support is based on the price gap between the “applied administered price” identified in the domestic support measure and the “fixed external reference price,” multiplied by the quantity of eligible production.¹⁴ Based on the text of the Agriculture Agreement and the ordinary meaning of the terms:

- The “applied administered price” is the price the Chinese government *provides* for each of the basic agricultural products and is *identified* for each product and each year in the Chinese legal instruments implementing the program.
- The “fixed external reference price” is a *static reference value* defined by the Agriculture Agreement in Annex 3, paragraph 9. This states that the price “shall be based on the years 1986 to 1988” and “may be adjusted for quality differences as necessary.”¹⁵ These fixed external reference prices can be determined using official Chinese customs data from these years.
- Finally, the “quantity of production eligible” to receive the applied administered price is the amount of the product *fit or entitled* to receive the price, not the amount of agricultural product actually purchased.¹⁶ Because under China’s programs all production in identified provinces is fit or entitled to receive the applied administered price, the “quantity of production eligible” is drawn from China’s National Bureau of Statistic and Ministry of Agriculture official wheat, rice, and corn production volumes.

9. Based on calculations using these values, the level of domestic support China provided in 2012, 2013, 2014, and 2015, the most recent years for which full annual production and pricing data is available, is well in excess of China’s *de minimis* level of 8.5 percent for each product and thus its commitment level of “nil.” China is breaching its WTO commitments solely through its market price support programs for wheat, Indica rice, Japonica rice, and corn, when calculated in accordance with the provisions of the Agriculture Agreement. The below chart reflects China’s Current Total AMS for each year, based on the market price support provided to producers of wheat, Indica rice, Japonica rice, and corn.

Table 1: China’s Current Total AMS (2012-2015)¹⁷						
Current Total AMS 2012 (Unit: RMB/MT)						
	AAP	FERP	Gap	Eligible Production	Value of MPS	MPS as % of Total Production Value
Wheat	2,040	431.11	1,608.89	94.08	151,364.37	57.7%
Early Indica Rice	2,400	470.83	1,929.17	25.05	48,325.71	58.1%
Mid/Late Indica Rice	2,500	470.83	2,029.17	83.43	168,725.49	
Japonica Rice	2,800	546.62	2,253.38	50.87	114,629.44	60.9%

¹⁴ See *Korea – Beef* (Panel), para. 828 (describing the calculation methodology for market price support).

¹⁵ Agriculture Agreement, Annex 3, paragraph 9. See also Agriculture Agreement, Annex 3, paragraph 7 (stating that the “AMS shall be calculated as close as practicable to the point of first sale of the basic agricultural product concerned”).

¹⁶ See *Korea – Beef* (AB), para. 120 (noting that “‘production eligible’ refers to production that is ‘fit or entitled’ to be purchased rather than production that was actually purchased”).

¹⁷ AAP = Applied Administered Price; FERP = Fixed External Reference Price; MPS = Market Price Support.

Corn: Heilongjiang	2,100	366.07	1733.93	28.88	152,217.43	33.3%
Corn: Jilin	2,120		1753.93	25.79		
Corn: Liaoning	2,140		1773.93	14.24		
Corn: Inner Mongolia	2,140		1773.93	17.84		
Current Total AMS 2013						
	AAP	FERP	Gap	Eligible Production	Value of Market Price Support	MPS as % of Total Production Value
Wheat	2,240	431.11	1,808.89	96.83	175,154.82	61.0%
Early Indica Rice	2,640	470.83	2,169.17	25.97	56,333.34	65.7%
Mid/Late Indica Rice	2,700	470.83	2,229.17	82.32	183,505.27	
Japonica Rice	3,000	546.62	2,453.38	51.80	127,085.08	67.4%
Corn: Heilongjiang	2,220	366.07	1,853.93	32.16	180,449.16	38.0%
Corn: Jilin	2,240		1,873.93	27.76		
Corn: Liaoning	2,260		1,893.93	15.63		
Corn: Inner Mongolia	2,260		1,893.93	20.7		
Current Total AMS 2014						
	AAP	FERP	Gap	Eligible Production	Value of Market Price Support	MPS as % of Total Production Value
Wheat	2,360	431.11	1,928.89	99.98	192,850.42	63.4%
Early Indica Rice	2,700	470.83	2,229.17	25.85	57,624.04	66.7%
Mid/Late Indica Rice	2,760	470.83	2,289.17	84.44	193,297.51	
Japonica Rice	3,100	546.62	2,553.38	51.77	132,193.59	66.8%
Corn: Heilongjiang	2,220	366.07	1,853.93	33.43	176,770.62	36.6%
Corn: Jilin	2,240		1,873.93	27.33		
Corn: Liaoning	2,260		1,893.93	11.71		
Corn: Inner Mongolia	2,260		1,893.93	21.86		
Current Total AMS 2015						
	AAP	FERP	Gap	Eligible Production	Value of Market Price Support	MPS as % of Total Production Value
Wheat	2,360	431.11	1,928.89	102.89	198,463.49	65.5%
Early Indica Rice	2,700	470.83	2,189.17	25.61	57,089.04	68.0%
Mid/Late Indica Rice	2,760	470.83	2,289.17	85.96	196,777.05	
Japonica Rice	3,100	546.62	2,553.38	52.36	133,700.08	69.0%
Corn: Heilongjiang	2,000	366.07	1633.93	35.44	163,459.99	38.6%
Corn: Jilin				28.06		
Corn: Liaoning				14.04		
Corn: Inner Mongolia				22.51		

10. Thus, as indicated in the far right column of these tables, China has provided support in excess of its *de minimis* level for each of wheat, Indica rice, Japonica rice, and corn solely through its market price support programs. In this submission, the United States provides detailed data and calculations to support this conclusion. The United States demonstrates that China has acted inconsistently with its obligations pursuant to Articles 3.2 and 6.3 of the Agriculture Agreement on the basis of the level of domestic support provided through China's market price support measures in favor of wheat, Indica rice, Japonica rice, and corn, viewed separately or collectively. Specifically, China's domestic support in favor of agricultural

producers, expressed in terms of China’s annual Current Total AMS,¹⁸ exceeded China’s Final Bound Commitment level of “nil” specified in Section 1 of Part IV of China’s Schedule for the years 2012, 2013, 2014, and 2015.

11. The United States proceeds as follows:

- Section II sets out the procedural background of the dispute;
- Section III explains the factual background of the dispute, and in particular, describes production of wheat, Indica rice, Japonica rice, and corn in China, as well as China’s MPS Programs for these basic agricultural products;
- Section IV provides a detailed explanation of the relevant obligations and legal standards related to China’s domestic support commitments, describes the calculation methodology provided by the Agriculture Agreement for evaluating consistency with a Member’s obligations;
- Section V establishes that China’s level of domestic support is well in excess of its commitments; and
- Finally, in Section VI, we provide a brief conclusion and request that the Panel make the recommendation mandated by DSU Article 19.1.

II. PROCEDURAL BACKGROUND

12. On September 13, 2016, the United States requested consultations with China pursuant to Articles 1 and 4 of the *Understanding on the Rules and Procedures Governing the Settlement of Disputes* (“DSU”), Article XXII of the *General Agreement on Tariffs and Trade 1994* (“GATT 1994”), and Article 19 of the *Agreement on Agriculture*.¹⁹ Pursuant to this request, the United States held consultations with China in Geneva, Switzerland on October 20, 2016. The parties failed to reach a mutually satisfactory resolution to this dispute.

13. On December 5, 2016, the United States requested, pursuant to Article 6 of the DSU, the establishment of a panel.²⁰ The Dispute Settlement Body (“DSB”) considered this request at its meetings of December 16, 2016, and January 25, 2017, and established the Panel on January 25, 2017, to examine the matter raised in the U.S. panel request and to make such findings as will assist the DSB in making recommendations.

III. FACTUAL BACKGROUND

14. This dispute focuses on a single form of agricultural domestic support – market price support – which China provides to basic agricultural products including wheat, Indica rice,

¹⁸ 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.

¹⁹ Request for Consultations by the United States, WT/DS511/1, circulated September 20, 2016 (Exhibit US-8).

²⁰ Request for Establishment of a Panel by the United States, WT/DS511/8, circulated December 16, 2016 (Exhibit US-9).

Japonica rice, and corn. As described in greater detail below, pursuant to its Market Price Support (“MPS”) Programs, China’s National Development and Reform Commission (“NDRC”) sets applied administered prices for wheat, Indica rice, Japonica rice, and corn on an annual basis, in consultation with the Ministry of Agriculture (“MoA”) and other governmental institutions. The MPS Programs generally state that the applied administered prices will be available to farmers in major wheat, rice, and corn producing regions. Farmers in these provinces are thus assured the ability to sell their agricultural products for at least the applied administered price, regardless of the prevailing market price.

15. In this section, the United States provides the factual background with respect to China’s MPS Programs. Specifically:

- Section III.A describes China’s legal framework for its MPS Programs; and
- Section III.B provides details regarding China’s production of wheat, Indica rice, Japonica rice, and corn, and annual implementation of its MPS Programs for these agricultural products.

A. Legal Framework for China’s Market Price Support Programs

16. The primary legal framework and policy direction for China’s MPS Programs are established through:

- *2004 Opinion on the Further Deepening the Reform of the Grain Circulation System* (the “*2004 Grain Opinion*”),²¹ issued by the State Council,²²
- *2004 Regulation on Administration of Grain Distribution* (the “*2004 Grain Distribution Regulation*”),²³ issued by the State Council, and
- a series of annual policy directives released jointly by the State Council and Central Committee of the Communist Party of China.²⁴

²¹ *State Council Opinion on the Further Deepening the Reform of Grain Circulation*, (State Council Guo Fa [2004] No. 17, issued May 23, 2004) (“*2004 Grain Opinion*”) (Exhibit US-10).

²² China’s State Council is “the highest executive organ of State power, as well as the highest organ of State administration. The State Council is composed of a premier, vice-premiers, State councilors, ministers in charge of ministries and commissions, the auditor-general and the secretary-general.” The State Council is “is responsible for carrying out the principles and policies of the Communist Party of China as well as the regulations and laws adopted by the NPC, and dealing with such affairs as China’s internal politics, diplomacy, national defense, finance, economy, culture and education.” See *State Council Organizational Chart*, State Council website (Aug. 28, 2014), available: http://english.gov.cn/state_council/2014/09/03/content_281474985533579.htm (Exhibit US-11).

²³ *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) (“*2004 Grain Distribution Regulation*”) (Exhibit US-12).

²⁴ *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), (“*2012 Document Number 1*”) (Exhibit US-13); *Communist Party of China Central*

17. First, China's 2004 *Grain Opinion* outlines the "overall objectives, fundamental thinking and implementation steps" for reform in the grain segment of China's agricultural market.²⁵ These reforms reflect a decision to "achiev[e] marketization" by opening the grains market for purchases and sales by private entities, while continuing to "protect the interests of the main grain producing regions and grain farmers."²⁶

18. The 2004 *Grain Opinion* states that the Chinese grain market is to "[l]iberalize in an active and stable manner the grain purchasing market and grain purchase prices in the main grain-producing regions."²⁷ The State Council opines that price formation is "[u]nder general circumstances" to be "formed by market supply and demand."²⁸ However, given "the guiding role of prices," "when a major change occurs between grain supply and demand, in order to ensure market supply and to protect the interests of grain farmers, the State Council may decide, when necessary, to implement *minimum purchase prices in the main grain producing regions* for the key grain varieties that are in short supply."²⁹ The 2004 *State Council Opinion* therefore establishes the policy of implementing minimum purchase prices in main grain producing regions.

19. Second, the 2004 *Grain Distribution Regulation* establishes the regulatory framework applicable to "the purchase, sale, storage, transportation, processing, import and export" of "wheat, rice, corn, miscellaneous grains, and their finished grain products" in China.³⁰ It provides broad authority for "macro control" of the Chinese grain markets.³¹ Specifically, the 2004 *Grain Distribution Regulation* authorizes the utilization of "multiple economic measures," including "reserve grain taking in and sending out, entrusted purchasing and grain imports and exports."³² The 2004 *Grain Distribution Regulation* further directs the adoption of "necessary administrative measures, such as price intervention . . . to strengthen control of the grain market, thereby maintaining . . . basic stability of grain prices across the nation."³³

20. The 2004 *Grain Distribution Regulation* provides additional detail regarding the relationship between grain purchases and maintaining control of grain supply and demand in China. In particular, the 2004 *Grain Distribution Regulation* states that "[g]rain reserves are

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) ("2013 Document Number 1") (Exhibit US-14); *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) ("2014 Document Number 1") (Exhibit US-15); *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) ("2015 Document Number 1") (Exhibit US-16).

²⁵ 2004 *Grain Opinion*, p. 1, Section I (Exhibit US-10).

²⁶ 2004 *Grain Opinion*, p. 1, Section I(1) (Exhibit US-10).

²⁷ 2004 *Grain Opinion*, p. 2, Section II(5) (Exhibit US-10).

²⁸ 2004 *Grain Opinion*, p. 2, Section II(5) (emphasis added) (Exhibit US-10).

²⁹ 2004 *Grain Opinion*, p. 2, Section II(5) (emphasis added) (Exhibit US-10).

³⁰ 2004 *Grain Distribution Regulation*, Chapter I, Article 2 (Exhibit US-12).

³¹ See generally, 2004 *Grain Distribution Regulation*, Chapter III (Exhibit US-12).

³² 2004 *Grain Distribution Regulation*, Chapter III, Article 24 (Exhibit US-12).

³³ 2004 *Grain Distribution Regulation*, Chapter III, Article 25 (emphasis added) (Exhibit US-12).

used in order to adjust grain supply and demand, stabilize the grain market, and respond to circumstances such as major national disasters and other emergencies.”³⁴ It further states that “to ensure market supply and to protect the interests of grain farmers, the State Council may decide, when necessary, to implement minimum purchasing prices in the main grain-producing regions for priority grain varieties that are in short supply.”³⁵ Thus, the *2004 Grain Distribution Regulation* provides the authority and framework for implementing MPS Programs for certain grain products.

21. Third, in addition to the *2004 Grain Opinion* and *2004 Grain Distribution Regulation*, China announces its annual agricultural policies, including with regard to the implementation of its MPS Programs, in a document issued jointly by the Central Committee of the Communist Party of China and State Council at the beginning of each calendar year. Referred to as China’s *Document Number 1*, these documents provide guidance and direction on priorities and strategies on a wide variety of activities to “strengthen[] reform and innovation, and accelerate[] agricultural modernization,” in China.³⁶

22. *Document Number 1* consistently cites raising or maintaining domestic prices for certain agricultural commodities as a policy objective. In particular:

- The *2012 Document Number 1* directs the Chinese government to “adopt targeted control measures, ensuring the effective supply and market stability of agricultural products, and maintaining prices at a reasonable level.”³⁷ To that end, the Chinese government is to “[s]teadily increase the minimum purchase price for wheat and rice, initiate temporary purchasing and storage for [products including] corn, soybeans, rapeseed, cotton, and sugar, at an appropriate time.”³⁸
- The *2013 Document Number 1* directs the Chinese government to provide for “the incentivizing role of prices on agricultural production and increase incomes for farmers; in accordance with the principal of production cost plus reasonable profits, continue raising the minimum purchase price for wheat and rice, and initiate temporary purchasing and storage of corn, soybeans, rapeseed, cotton, and sugar at the appropriate time.”³⁹
- The *2014 Document Number 1* directs the Chinese government to “[p]erfect the price formation mechanism for grain,” including by “continu[ing] to implement rice and wheat minimum purchase price policies and the corn, rapeseed, and sugar temporary purchasing and storage policy.”⁴⁰
- Finally, the *2015 Document Number 1* states that the Chinese government must “[p]erfect the price formation mechanism” by taking action to “[i]ncrease farmers’ income,” and

³⁴ *2004 Grain Distribution Regulation*, Chapter III, Article 25 (Exhibit US-12).

³⁵ *2004 Grain Distribution Regulation*, Chapter III, Article 27 (Exhibit US-12).

³⁶ See e.g., *2015 Document Number 1*, p. 1 (Exhibit US-16).

³⁷ *2012 Document Number 1*, p. 14, Section IV, para. 23 (Exhibit US-13).

³⁸ *2012 Document Number 1*, p. 14, Section IV, para. 23 (Exhibit US-13).

³⁹ *2013 Document Number 1*, p. 4, Section I, para. 4 (Exhibit US-14).

⁴⁰ *2014 Document Number 1*, p. 3, Section I, para. 2 (Exhibit US-15).

that “agricultural prices must be maintained at a reasonable level.”⁴¹ Moreover, China must “[c]ontinue to implement the rice and wheat minimum purchase price policy, and perfect the temporary purchasing and storage policy for important agricultural products.”⁴²

23. Taken together, the *2004 Grain Opinion*, *2004 Grain Distribution Regulation*, and *Document Number 1* provide the authority and framework for implementing China’s MPS Programs for wheat, Indica rice, Japonica rice, and corn, as well as provide the annual policy direction for increasing or maintaining domestic prices on each basic agricultural product.

B. China’s Implementation of Market Price Support Programs

24. Per the annual policy direction in the *Document Number 1*⁴³ and regulatory framework provided by the *2004 Grain Distribution Regulation*,⁴⁴ China issued annual announcements of minimum prices for wheat, Indica rice (early season and mid-to-late season), and Japonica rice, and implementation plans for purchasing those grains harvested in 2012, 2013, 2014, and 2015 at the established prices. Together these instruments form the wheat, Indica rice, and Japonica rice MPS Programs. China has also maintained similar MPS Programs for corn announced through an annual notice in the years 2012, 2013, 2014, and 2015.

25. For ease of reference, the chart below summarizes all of the annual announcements and implementations plans discussed in detail in Sections B.1 through B.3. In some years, information regarding the wheat and Indica rice, or wheat and all rice programs have been issued in the same document.

Table 2: China’s MPS Program Instruments by Year and Commodity					
	Wheat	Rice			Corn
		Early Season Indica Rice	Mid/Late Season Indica Rice	Japonica Rice	
2012	<i>Notice on Raising the Wheat Minimum Purchase Price for 2012</i>	<i>Notice on Raising the Rice Minimum Purchase Price for 2012</i>			<i>Notice on Issues Relating to National Temporary Reserve Purchases of Corn for 2012</i>
	<i>Notice on Issuing the Wheat Minimum Purchase Price Implementation Plan for 2012</i>	<i>Notice on Issuing the Early-Season Indica Rice Minimum Purchase Price Implementation Plan for 2012</i>	<i>Notice on Issuing the Mid- to Late-Season Rice Minimum Purchase Price Implementation Plan for 2012</i>		
2013	<i>Notice on Raising the Wheat Minimum Purchase Price for 2013</i>	<i>Notice on Raising the Rice Minimum Purchase Price for 2013</i>			<i>Notice on Issues Relating to National Temporary Reserve Purchases of Corn</i>

⁴¹ 2015 *Document Number 1*, p. 7, Section II, para. 10 (Exhibit US-16).

⁴² 2015 *Document Number 1*, p. 7, Section II, para. 10 (Exhibit US-16).

⁴³ 2012 *Document Number 1*, p. 14; 2013 *Document Number 1*, p. 4; 2014 *Document Number 1*, p. 3; 2015 *Document Number 1*, p. 7 (Exhibits US-13 – US-16).

⁴⁴ 2004 *Grain Distribution Regulation*, Article 28 (Exhibit US-12).

	<i>Notice on Issuing the Wheat Minimum Purchase Price Implementation Plan for 2013</i>	<i>Notice on Issuing the Early-Season Indica Rice Minimum Purchase Price Implementation Plan for 2013</i>	<i>Notice on Issuing the Mid- to Late-Season Rice Minimum Purchase Price Implementation Plan for 2013</i>	<i>and Soybeans in the Northeast Region for 2013</i>
2014	<i>Notice on Raising the Wheat Minimum Purchase Price for 2014</i>	<i>Notice on Raising the Rice Minimum Purchase Price for 2014</i>		<i>Notice on Issues Relating to National Temporary Reserve Purchases of Corn in the Northeast Region for 2014</i>
	<i>Notice on Issuing the Wheat and Early-Season Indica Rice Minimum Purchase Price Implementation Plan for 2014</i>	<i>Notice on Issuing the Mid- to Late-Season Rice Minimum Purchase Price Implementation Plan for 2014</i>		
2015	<i>Notice on Announcing the Wheat Minimum Purchase Price for 2015</i>	<i>Notice on Announcing the Rice Minimum Purchase Price for 2015</i>		<i>Notice on Issues Relating to National Temporary Reserve Purchases of Corn in the Northeast Region for 2015</i>
	<i>Notice on Issuing the Wheat and Rice Minimum Purchase Price Implementation Plan for 2015</i>			

1. China’s Wheat Market Price Support Program

a. China’s Wheat Production

26. Wheat is China’s second most prevalent crop, after rice, and China is one of the world’s top wheat producers.⁴⁵ Between 2005 and 2015, wheat production in China increased by 25 percent, with production in 2015 reaching 130.19 million metric tons (MT) annually.⁴⁶

27. China grows both winter and spring wheat, including red and white varieties of each. Winter wheat is planted in September through October and harvested in May and June, and spring wheat is planted in March and April and harvested in July and August.⁴⁷ Winter wheat is the predominant crop in China.

b. Implementation of the Wheat MPS Program

28. China issues two documents each harvest year to implement the MPS Program for wheat.⁴⁸ First, prior to the planting of winter wheat, China announces the annual “minimum

⁴⁵ China is the second largest producer of wheat behind the European Union. U.S. Department of Agriculture (USDA), *World Agriculture Supply and Demand Estimates* (Sept. 12, 2017), available: <http://www.usda.gov/oc/commodity/wasde/latest.pdf> (Exhibit US-17).

⁴⁶ In 2005, China’s wheat production was 97.45 million MT. See China’s Statistical Yearbook (2016) Table 12-10: Output of Major Farm Products (publishing 2015 data), available: <http://www.stats.gov.cn/tjsj/ndsj/2016/indexeh.htm> (China’s Statistical Yearbook (2016)) (Exhibit US-18).

⁴⁷ USDA, *China Wheat Map*, available: http://www.usda.gov/oc/weather/pubs/Other/MWCACP/Graphs/China/China_Wheat.pdf (Exhibit US-19).

⁴⁸ As described in Table 2 above, each year China issues an announcement of the minimum procurement price and implementation plan for wheat, Indica rice (early season and mid-to-late season), and Japonica rice. From year to

purchase price” in a *Notice on Raising the Wheat Minimum Purchase Price* or *Notice on Announcing the Wheat Minimum Purchase Price* (“*Wheat MPS Notices*”).⁴⁹ This is China’s applied administered price for wheat. China’s NDRC, MoF, MoA, State Administration of Grain, and the Agricultural Development Bank of China jointly issue the annual *Wheat MPS Notices*.

29. The *Wheat MPS Notices* are directed to China’s “development and reform commissions, price bureaus, finance departments (bureaus), agricultural departments (bureaus, commissions, offices), grain bureaus, and Agricultural Development Bank of China branches in all provinces, autonomous regions, and municipalities directly under the central government.”⁵⁰ The *Wheat MPS Notices* state that “each locality is required to earnestly and properly carry out dissemination work for the grain minimum purchase price policy.”⁵¹ The *2015 Wheat MPS Notice* states that “[i]n order to protect the interests of farmers and prevent ‘low grain prices hurting farmers,’” the *Notice* is provided to “guide farmers to plant rationally, and promote the stable development of grain production.”⁵²

30. Between 2012 and 2015, the *Wheat MPS Notices* provide the following applied administered prices for wheat:

Year	Wheat MPS Notice Price⁵³	Price⁵⁴
<i>Units</i>	<i>Yuan/ 50 kilogram</i>	<i>Yuan/ ton</i>
2012	102	2,040
2013	112	2,240
2014	118	2,360
2015	118	2,360

year, the MPS Programs described in these documents are substantively similar, but not identical. For consistency and ease of reference, all direct quotes are drawn from the 2015 measures, unless otherwise noted.

⁴⁹ See *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) (“*2012 Wheat MPS Notice*”) (Exhibit US-20); *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) (“*2013 Wheat MPS Notice*”) (Exhibit US-21); *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) (“*2014 Wheat MPS Notice*”) (Exhibit US-22); *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) (“*2015 Wheat MPS Notice*”) (Exhibit US-23) (collectively, the “*Wheat MPS Notices*”).

⁵⁰ *Wheat MPS Notice* (Exhibits US-20 – US-23).

⁵¹ *Wheat MPS Notice* (Exhibits US-20 – US-23).

⁵² *2015 Wheat MPS Notice* (Exhibits US-23); see also *2012, 2013, 2014 Wheat MPS Notices* (Exhibits US-20 – US-23) (stating that the *Notice* is intended to “mobilize farmers’ enthusiasm for growing grain”).

⁵³ *Wheat MPS Notices* (Exhibits US-20 – US-23).

⁵⁴ Converting yuan per 50 kilogram to yuan per ton by multiplying by 20.

31. Second, the NDRC, MoF, MoA, State Administration of Grain, Agricultural Development Bank, and China Grain Reserves Corporation (Sinograin) publish a *Notice on Issuing the Wheat and Rice Minimum Purchase Price Implementation Plan*, “in order to implement and fulfill the spirit of the [2015 Document Number 1].”⁵⁵ Attached to the notice is a detailed *Wheat and Rice Minimum Purchase Price Implementation Plan* (the “*Wheat MPS Implementation Plans*”) that is issued “in accordance with the relevant provisions in the [2004 Grain Distribution Regulation].”⁵⁶

32. The annual *Wheat MPS Implementation Plans* reaffirm the applied administered price initially announced in the *Wheat MPS Notices*, noting that this is “the at-depot price of direct purchases [of wheat] from farmers by the purchasing and storage depots responsible for making purchases at the minimum purchase price.”⁵⁷ The *Wheat MPS Implementation Plans* subsequently set forth the parameters of that season’s MPS Program for wheat including: (1) the geographic scope, (2) characteristics of qualifying wheat, (3) relevant timeframe, (4) the roles and responsibilities of the numerous Chinese government entities involved in implementing, and financing the MPS Program.

33. *Geographic scope:* The Wheat MPS Program covers “[t]he main wheat producing regions” of “Hebei, Jiangsu, Anhui, Shandong, Henan, and Hubei.”⁵⁸ The provinces identified by the *Wheat MPS Implementation Plans* accounted for 78 percent of China’s total wheat production in 2015.⁵⁹ According to the *Wheat MPS Implementation Plan*, “[w]hether the other grain-producing regions implement the minimum purchase price policy is decided independently by the respective province-level People’s governments.”⁶⁰

⁵⁵ Noting that in certain years the implementation plans for wheat and early-season Indica rice, or wheat and rice provided in a single document, as illustrated by Table 2. The provisions and requirements pertaining to rice are discussed in Section B.2 below.

⁵⁶ See *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) (“2012 Wheat MPS Implementation Plan”) (Exhibit US-24); *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) (“2013 Wheat MPS Implementation Plan”) (Exhibit US-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) (“2014 Wheat MPS Implementation Plan”) (Exhibit US-26); and *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) (“2015 Wheat MPS Implementation Plan”) (Exhibit US-27) (collectively, the “*Wheat MPS Implementation Plans*”).

⁵⁷ *2015 Wheat MPS Implementation Plan*, Article 4 (Exhibit US-27); 2012, 2013, and 2014 *Wheat MPS Implementation Plans*, Article 3 (Exhibits US-24 – US-26).

⁵⁸ See *Wheat MPS Implementation Plans*, Article 2 (Exhibits US-24 – US-27).

⁵⁹ See *China’s Statistical Yearbook* (2016), Table 12-10 (Exhibit US-18).

⁶⁰ See *Wheat MPS Implementation Plans*, Article 2 (Exhibits US-24 – US-27); see e.g., *National Development and Reform Commission, State Administration of Grain, Ministry of Finance, and Agricultural Development Bank of*

34. *Qualifying wheat:* In the identified “main wheat producing regions,” the applied administered price is “for white wheat, red wheat, and mixed wheat.”⁶¹ Further, the *Wheat MPS Implementation Plans* clarify that the applied administered price is applicable to wheat qualifying as “National Standard Grade 3” grown in that year.”⁶² Wheat meeting other lower or higher grading standards may also be purchased and the “price difference between adjacent grades will be 0.02 yuan per *jin* [half kilogram].”⁶³

35. *Timeframe:* Wheat purchases under the Wheat MPS Program may take place between May 21 and September 30 of each year.⁶⁴ “When” wheat market prices fall below the applied administered price during this period, the relevant authorities must “promptly put forward a proposal to activate this Plan” consistent with Article 4 of the *Wheat MPS Implementation Plan*.⁶⁵ The proposal must be submitted “through [Sinograin] . . . to the State Administration of Grain for approval to activate this Plan in the relevant region.”⁶⁶

36. *Chinese government entities:* Sinograin broadly is “entrusted by the state as the primary entity responsible for implementing the minimum purchase price policy, being responsible for organizing and guiding depots that participate in minimum purchase price purchasing to undertake work, including purchasing and proper handling of storage administration, according to the provisions in this Plan.”⁶⁷ Further, Agricultural Development Bank of China is tasked with “arranging and disbursing promptly and in full the loans needed to implement the grain minimum purchase price purchasing and storage tasks.”⁶⁸ In addition to Sinograin and the Agricultural Development Bank of China, several other entities are tasked with “implementing minimum purchase prices,” including the China National Cereals, Oils and Foodstuffs Corporation (“COFCO”) (if cosigned by Sinograin), provincial grain reserve management companies in the affected provinces, and grain reserve management corporations of the main consuming regions, including the municipalities of Beijing, Tianjin, and Shanghai, and the provinces of Zhejiang, Fujian, Guangdong, and Hainan.⁶⁹ Other entities such as NDRC, MoA,

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) (Exhibit US-28).

⁶¹ *2015 Wheat MPS Implementation Plans*, Article 4 (Exhibit US-27); *2012, 2013, and 2014 Wheat MPS Implementation Plans*, Article 3 (Exhibits US-24 – US-26).

⁶² The Wheat MPS Programs note that the “specific quality standards are implemented according to the National Standard for Wheat (GB1351-2008).” *2015 Wheat MPS Implementation Plans*, Article 4 (Exhibit US-27); *2012, 2013, and 2014 Wheat MPS Implementation Plans*, Article 3 (Exhibits US-23 – US-26). China’s national wheat grading standard, GB 1351-2008, provides criteria for wheat Grades 1 through 5, and Grade “other.” *National Standard of the People’s Republic of China, Wheat, GB 1351-2008*, issued January 1, 2008 (Exhibit US-29)

⁶³ See *2015 Wheat MPS Implementation Plans*, Article 4 (Exhibit US-27); *2012, 2013, and 2014 Wheat MPS Implementation Plans*, Article 3 (Exhibits US-23 – US-26). *Jin* is a Chinese unit of measure. Two *jin* are equivalent to one kilogram.

⁶⁴ See *Wheat MPS Implementation Plans*, Article 6 (Exhibits US-23 – US-27).

⁶⁵ See *Wheat MPS Implementation Plans*, Article 6 (noting that in 2012 the *Wheat MPS Implementation Plan*, provided more specifically that this decision would be made on a county-by-county basis in instances where wheat prices dropped below the minimum price for three consecutive days) (Exhibits US-23 – US-27).

⁶⁶ See *Wheat MPS Implementation Plans*, Article 6 (Exhibits US-23 – US-27).

⁶⁷ *Wheat MPS Implementation Plans*, Article 17 (Exhibits US-23 – US-27).

⁶⁸ *2015, 2013 Wheat MPS Implementation Plans*, Article 17 (Exhibits US-25, US-27); *2012, 2014 Wheat MPS Implementation Plans*, Article 16 (Exhibits US-23, US-26).

⁶⁹ See *2015 Wheat MPS Implementation Plans*, Article 3 (Exhibit US-27); *2012, 2013, and 2014 Wheat MPS Implementation Plans*, Article 4 (Exhibits US-23 – US-26).

MoF, and the State Grain Administration are further required to coordinate, guide, or monitor various aspects of the MPS Program.⁷⁰

37. Each year to implement the Wheat MPS Program, local offices of Sinograin and the Agricultural Development Bank of China must identify and authorize “entrusted purchasing and storage depots” in each affected province.⁷¹ These depots or warehouses must satisfy a number of specific criteria to be eligible to participate in the program. Further, “the total depot storage capacity volume of the entrusted purchasing and storage depots within each county shall be linked to the forecast volume of grain purchases at minimum purchase prices in that locality.”⁷²

38. Under the Wheat MPS Program, “entrusted purchasing and storage depots . . . are required to announce, on a board in a prominent location at the purchasing site, policy information relating to the implementation of the minimum purchase price for each grain variety, . . . including the purchase price, quality standards, deduction methods for weight increase of moisture and impurities, the purchase settlement method, and the implementation period, so that farmers can transact in ‘grain with peace of mind.’”⁷³

39. The *Wheat MPS Implementations Plans* clarify that entrusted purchasing and storage depots “must not” “refuse grain sold by farmers that meets the standard;”⁷⁴ “will promptly settle the grain sales price with the farmer, and must not issue IOUs to the farmers.”⁷⁵ Further, entities charged with making purchases “shall actively enter the market to purchase new grain.”⁷⁶

40. Purchase and administration costs under the MPS Program for wheat are financed through loans “secured by a directly affiliated enterprise of [Sinograin], [in the form of] a loan uniformly from the Agricultural Development Bank of China, at the locality [of the depots].”⁷⁷ Further, ownership “rights belong to the State Council, and the grain must not be put to use nor mortgaged without approval by the state.”⁷⁸ The wheat held by the entrusted purchasing and storage depots will eventually be sold “according to the principle of selling at profitable prices, rationally formulate base sales prices, and auction [the grain] at public auctions on grain wholesale markets or online.”⁷⁹

41. As described above, the Chinese instruments setting out the MPS Programs for wheat instruct central and provincial government officials to initiate a program of wheat purchases on an annual basis. The MPS Programs ensure that farmers in the six major wheat producing provinces are able to make sales of qualifying wheat at the announced applied administered price, if the prevailing domestic market price falls below the applied administered price. As

⁷⁰ *Wheat MPS Implementation Plans*, Article 17 (Exhibits US-23 – US-27).

⁷¹ *Wheat MPS Implementation Plans*, Article 5 (Exhibits US-23 – US-27).

⁷² *Wheat MPS Implementation Plans*, Article 5 (Exhibits US-23 – US-27).

⁷³ *Wheat MPS Implementation Plans*, Article 7 (Exhibits US-23 – US-27).

⁷⁴ *Wheat MPS Implementation Plans*, Article 8 (Exhibits US-23 – US-27).

⁷⁵ *Wheat MPS Implementation Plans*, Article 8 (Exhibits US-23 – US-27).

⁷⁶ *Wheat MPS Implementation Plans*, Article 8 (Exhibits US-23 – US-27).

⁷⁷ *Wheat MPS Implementation Plans*, Article 10 (Exhibits US-23 – US-27).

⁷⁸ *Wheat MPS Implementation Plans*, Article 13 (Exhibits US-23 – US-27).

⁷⁹ *2015 Wheat MPS Implementation Plans*, Article 15 (Exhibit US-27); *2012, 2013, and 2014 Wheat MPS Implementation Plans*, Article 16 (Exhibit US-23 – US-26).

described below, the MPS Programs for Indica rice and Japonica rice operates in a similar manner.

2. China's Indica Rice and Japonica Rice Market Price Support Measures

a. China's Indica Rice and Japonica Rice Production

42. China is the world's largest rice market, accounting for nearly a third of global production and consumption.⁸⁰ Between 2005 and 2015, total rice production in China increased by 15 percent, with production in 2015 reaching 208.23 million metric tons (MT) annually.⁸¹

43. China primarily produces two subspecies of rice: Indica rice, a long grain rice, and Japonica rice, a short to medium grain rice.⁸² Indica rice has an early growing season and a mid-to-late growing season in China, while Japonica rice has a single growing season.⁸³ The share of Japonica rice in China's annual harvest has increased slowly over the years and now represents approximately one third of total rice production in China.⁸⁴

44. Early season Indica rice is planted from February to March and harvested in July through August. This rice commands a lower price than mid-to-late season Indica rice.⁸⁵ Mid-to-late

⁸⁰ USDA, *World Agriculture Supply and Demand Estimates* (Sept. 12, 2017), available: <http://www.usda.gov/oce/commodity/wasde/latest.pdf> (Exhibit US-17); see also USDA, *China Rice Map*, available, https://www.usda.gov/oce/weather/pubs/Other/MWCACP/Graphs/China/China_Rice.pdf (Exhibit US-30).

⁸¹ In 2005, China's rice production was 180.59 million MT. See China's Statistical Yearbook (2016) (Exhibit US-18).

⁸² *Oryza sativa* has two major subspecies: the sticky, short-grained japonica or sinica, and the non-sticky, long-grained indica. See Ricepedia.com, *Cultivated Rice Species*, available: <http://ricepedia.org/rice-as-a-plant/rice-species/cultivated-rice-species> (Exhibit US-31). See also U.S. International Trade Commission Report, *Rice: Global Competitiveness of the U.S. Industry*, ITC Inv. No. 332-549 (April 2015), p. 33, available: <https://www.usitc.gov/publications/332/pub4530.pdf> (Exhibit US-32); Concepcion Calpe, *Rice International Commodity Profile*, Food and Agriculture Organization of the United Nations: Markets and Trade Division (Dec. 2006), p. 3, available: http://www.fao.org/fileadmin/templates/est/COMM_MARKETS_MONITORING/Rice/Documents/Rice_Profile_Dec-06.pdf (Exhibit US-33).

⁸³ See generally, James Hansen, Frank Fuller, Frederick Gales, Frederick Crook Eric Wailes, and Michelle Moore, *China's Japonica Rice Market*, ERS/USDA 32 (Nov. 2002) (noting growing seasons) (Exhibit US-34). See also Zhong Funing, Xu Zhigang, Fu Longbo, *An Alternative Approach to Measure Regional Comparative Advantage in China's Grain Sector*, Conference of Australian Agricultural and Resource Economics Society, Jan. 22-25, (2001), p. 7 (describing early rice as Indica, middle rice as Indica, late rice as Indica, and Japonica rice as Japonica) (Exhibit US-35); Calpe, *Rice Commodity Profile* (2006), pp. 3, 11 (Exhibit US-33).

⁸⁴ Hansen, et. al, *China's Japonica Rice Market* (2002) (Exhibit US-34); Chen Wen-fu, Pan Wen-bo, Xu Zheng-jin, *Current Situation and Trends in Production of Japonica Rice in China*, Journal of Shenyang Agricultural University, 2006-12, 37(6): 801-805 (Exhibit US-36); compare with *China's Statistical Yearbook* (2016) (Exhibit US-18). China's notifications to the COA state that with respect to the external reference price for rice "the weighted average of the prices of Japonica and Indica rice with the ratio of 1:2." See China's Notification 1999-2001, G/AG/N/CHN/8 (Exhibit US-1).

⁸⁵ See e.g., Nathan Childs, *Rice Situation and Outlook Yearbook*, USDA Economic Research Service Report (November 2004), p. 38, available: <http://usda.mannlib.cornell.edu/usda/ers/RCS-yearbook//2000s/2004/RCS-yearbook-11-30-2004.pdf> (describing China's production of high quality Japonica rice, and noting that Japonica sells for more than Indica rice in China and most other global markets) (Exhibit US-37). See also Calpe, *Rice Commodity Profile* (2006), pp. 3, 11 (Exhibit US-33) and USDA, *China Rice Map*, (Exhibit US-30).

season Indica is planted from March to May and harvested August through October. Japonica rice is planted in June and July and harvested in October and November.⁸⁶

45. At harvest, rice is known as “paddy” or “rough rice.” Typically, paddy rice must be processed or milled for human consumption.⁸⁷ The first stage of milling (cleaning/shelling) creates “brown rice,” and the rice may be subsequently further polished (removing the bran) into white rice.⁸⁸ Agricultural production statistics typically report rice production on a paddy or rough basis, since this accounts for the entire weight of the grain, but milled and polished rice accounts for the majority of international rice exports and imports.

b. Implementation of China’s Indica Rice and Japonica Rice MPS Program

46. China issues two documents each harvest year to implement the MPS Programs for Indica rice and Japonica rice.⁸⁹ China first issues an annual *Notice on Raising the Rice Minimum Purchase Price* or *Notice on Announcing the Rice Minimum Purchase Price* (“*Rice MPS Notices*”)⁹⁰ each year, which defines the “minimum purchase price” or applied administered price for three products: early-season Indica rice, mid-to-late season Indica rice, and Japonica rice.⁹¹ NDRC, MoF, MoA, State Administration of Grain, and the Agricultural Development Bank jointly issue the annual *Rice MPS Notices*.

47. The *Rice MPS Notices* are directed to China’s “development and reform commissions, price bureaus, finance departments (bureaus), agriculture departments (bureaus, commissions, and offices), grain bureaus, and Agricultural Development Bank of China branches of all

⁸⁶ See also FAO, *International Year of Rice: China* (2004), available: <http://www.fao.org/rice2004/en/p2.htm> (Exhibit US-38).

⁸⁷ USITC, *Rice Report* (2015), p. 28 (noting that after harvesting rice is threshed to remove other plant materials and then dried to lower its moisture content from about 20 percent to 12.5–14 percent for storage) (Exhibit US-32).

⁸⁸ USITC, *Rice Report* (2015), pp. 28-30 (Exhibit US-32).

⁸⁹ As described in Table 2 above, each year China issues an announcement of the minimum procurement price and implementation plan for wheat, Indica rice (early season and mid-to-late season), and Japonica rice. From year to year, the MPS Programs described in these documents are substantively similar, but not identical. For consistency and ease of reference, all direct quotes are drawn from the 2015 documents, unless otherwise noted.

⁹⁰ See *Notice on Raising the Rice 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 [2012] No. 17, issued February 2, 2012) (“*2012 Rice MPS Notice*”) (Exhibit US-39); *Notice on Raising the Rice 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 [2013] No. 193, issued January 30, 2013) (“*2013 Rice MPS Notice*”) (Exhibit US-40); *Notice on Raising the Rice 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 [2014] No. 34, issued February 11, 2014) (“*2014 Rice MPS Notice*”) (Exhibit US-41); and *Notice on Announcing the Rice 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 [2015] No. 225, issued February 3, 2015) (“*2015 Rice MPS Notice*”) (Exhibit US-42) (collectively, the “*Rice MPS Notices*”).

⁹¹ While the measures describe the products by season, China has identified “Indica rice” and “Japonica rice” as separate “basic agricultural products.” See Communication From China, WT/AC/CHN/38/Rev.3 (July 19, 2001) (Exhibit US-43); see also Agriculture Agreement, Article 1(b) (noting that basic agricultural products are “as specified in Member’s Schedule and in related Supporting Material”). That distinction has therefore been maintained.

provinces, autonomous regions, and municipalities directly under the central government.”⁹² The *Rice MPS Notices* are issued in January or February, which is well in advance of planting.⁹³ The *Rice MPS Notices* state that “[a]s it is currently the middle of the preparatory spring plowing period, all localities are required to earnestly and properly carry out dissemination work for the grain minimum purchase price policy.”⁹⁴ The *Rice MPS Notices* continue that the announced price is to “guide farmers to plant rationally, and promote the stable development of grain production.”⁹⁵

48. Between 2012 and 2015, the *Rice MPS Notices* provided the following applied administered prices:

Table 4: Applied Administered Price for Indica Rice or Japonica Rice			
Year	Type	Rice MPS Notice Price⁹⁶	Price⁹⁷
<i>Unit</i>		<i>yuan/50 kilogram</i>	<i>yuan/ton</i>
2012	Early Indica	120	2,400
2012	Mid/Late Indica	125	2,500
2012	Japonica	140	2,800
2013	Early Indica	132	2,640
2013	Mid/Late Indica	135	2,700
2013	Japonica	150	3,000
2014	Early Indica	135	2,700
2014	Mid/Late Indica	138	2,760
2014	Japonica	155	3,100
2015	Early Indica	135	2,700
2015	Mid/Late Indica	138	2,760
2015	Japonica	155	3,100

49. Second, the NDRC, in conjunction with the MoF, MoA, State Administration of Grain, Agricultural Development Bank of China, and Sinograin, publish an annual *Notice on Issuing the Wheat and Rice Minimum Purchase Price Implementation Plan*, “in order to implement and fulfill the spirit of the [2015 Document Number 1].” Attached to the notice is a detailed *Wheat and Rice Minimum Purchase Price Implementation Plan* (the “*Indica Rice and Japonica Rice MPS Implementation Plans*”) that is issued “in accordance with the relevant provisions in the [2004 Grain Distribution Regulation].”⁹⁸

⁹² *Rice MPS Notices* (Exhibits US-39 – US-42).

⁹³ *Rice MPS Notices* (Exhibits US-39 – US-42).

⁹⁴ *Rice MPS Notices*, (Exhibits US-39 – US-42).

⁹⁵ *Rice MPS Notices* (Exhibits US-39 – US-42).

⁹⁶ *Rice MPS Notices* (Exhibits US-39 – US-42).

⁹⁷ Converting yuan per 50 kilogram to yuan per ton by multiplying by 20.

⁹⁸ *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) (Exhibit US-44); *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

50. Typically, the early Indica rice Implementation Plan is released first, and a joint mid-to-late Indica rice and Japonica rice plan follows during the later planting season. In other instances, the *Indica Rice and Japonica Rice MPS Implementation Plans* are announced in the same document as the *Wheat MPS Implementation Plan*, as was the case for 2015.⁹⁹

51. The annual *Indica Rice and Japonica Rice MPS Implementation Plans* reaffirm the applied administered price initially announced in the *Rice MPS Notices*, noting that this is “the at-depot price of direct purchases [of rice] from farmers by the purchasing and storage depots responsible for making purchases at the minimum purchase price.”¹⁰⁰ The *Indica Rice and Japonica Rice MPS Implementation Plans* subsequently set forth the parameters of that season’s MPS Program for wheat including: (1) the geographic scope, (2) characteristics of qualifying Indica rice or Japonica rice, (3) relevant timeframe, and (4) the roles and responsibilities of the numerous Chinese government entities involved in implementing, and financing the MPS Program.

52. *Geographic Scope:* The Indica Rice and Japonica Rice MPS Programs cover “the main early-season Indica rice producing regions comprise the five provinces (regions) Anhui, Jiangxi, Hubei, Hunan, and Guangxi;” and “the main mid- to late-season rice (including mid- to late-season Indica rice and Japonica rice) producing regions comprise the 11 provinces (regions) Liaoning, Jilin, Heilongjiang, Jiangsu, Anhui, Jiangxi, Henan, Hubei, Hunan, Guangxi, and Sichuan.”¹⁰¹ According to the *Indica Rice and Japonica Rice MPS Implementation Plans*,

Corporation, Fa Gai Jing Mao [2012] No. 2726, issued August 28, 2012) (collectively, “2012 Indica Rice and Japonica Rice MPS Implementation Plan”) (Exhibit US-45); *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) (Exhibit US-46); *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) (collectively, “2013 Indica Rice and Japonica Rice MPS Implementation Plan”) (Exhibit US-47); *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) (Exhibit US-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) (“2014 Indica Rice and Japonica Rice MPS Implementation Plan”) (Exhibit US-48); *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) (for the purposes of this section, “2015 Indica Rice and Japonica Rice MPS Implementation Plan”) (Exhibit US-27) (collectively, “*Indica Rice and Japonica Rice MPS Implementation Plans*”).

⁹⁹ *Indica Rice and Japonica Rice MPS Implementation Plans* (Exhibits US-26 – US-27, and US-44 – US-48).

¹⁰⁰ *2015 Indica Rice and Japonica Rice MPS Implementation Plan*, Article 4 (Exhibit US-27); *2012, 2013, and 2014 Indica Rice and Japonica Rice MPS Implementation Plans*, Article 3 (Exhibits US-26, and US-44 – US-48).

¹⁰¹ See *Indica Rice and Japonica Rice MPS Implementation Plans*, Article 2 (Exhibits US-26 – US-27, and US-44 – US-48).

“[w]hether the other grain-producing regions implement the minimum purchase price policy is decided independently by the respective province-level People’s governments.”¹⁰²

53. *Qualifying Rice:* In the identified early season and mid-to-late season “producing regions,” the applied administered price is for “national standard Grade 3” early-season Indica rice, mid-to-late season Indica rice, and Japonica rice “produced in the current year.”¹⁰³ Indica rice or Japonica rice meeting other lower or higher grading standards may also be purchased and the “price difference between adjacent grades will be 0.02 yuan per *jin* [half kilogram].”¹⁰⁴

54. *Timeframe:* Early season Indica rice purchases under the Indica Rice MPS Program may take place between mid-July and September 30 of each year.¹⁰⁵ Mid-to late-season Indica rice and Japonica rice may be purchased between mid-September and January 31 for the eight provinces (regions) Jiangsu, Anhui, Jiangxi, Henan, Hubei, Hunan, Guangxi Zhuang Autonomous Region, and Sichuan,¹⁰⁶ and between October or November and the end of February or March for the three provinces Liaoning, Jilin, and Heilongjiang.¹⁰⁷ There is some variation of start and end dates for the mid-to-late season Indica and Japonica rice programs stated in the Implementation Plans, but they generally correspond to the period immediately following the annual harvest in the selected provinces. “When” during this period, market prices fall below the applied administered price, the relevant authorities must “promptly put forward a proposal to activate this Plan” consistent with Article 4 of the *Indica Rice and Japonica Rice MPS Implementation Plan*.¹⁰⁸ This proposal must be submitted “through [Sinograin] . . . to the State Administration of Grain for approval to activate this Plan in the relevant region.”¹⁰⁹

55. *Chinese government entities:* As with the Wheat MPS Program, Sinograin is “entrusted by the state as the primary entity responsible for implementing the minimum purchase price policy [for rice], being responsible for organizing and guiding depots that participate in

¹⁰² *Indica Rice and Japonica Rice MPS Implementation Plans*, Article 2 (Exhibits US-26 – US-27, and US-44 – US-48).

¹⁰³ *2015 Indica Rice and Japonica Rice MPS Implementation Plan*, Article 4 (Exhibit US-27); *2012, 2013, and 2014 Indica Rice and Japonica Rice MPS Implementation Plans*, Article 3 (Exhibits US-26, and US-44 – US-48).

¹⁰⁴ China’s Paddy Rice Grading Standard, GB 1350-2009, provides criteria for rice Grades 1 through 5, and Grade “other.” National Standard of the People’s Republic of China, Paddy, GB 1350-2009, issued March 28, 2009 (Exhibit US-49).

¹⁰⁵ See *Indica Rice and Japonica Rice MPS Implementation Plans*, Article 6 (Exhibits US-26 – US-27, and US-44, US-47). The early season Indica rice validity periods for 2012-2015 were as follows: 2012 Harvest: July 16 – September 30; 2013 Harvest: July 16 – September 30; 2014 Harvest: July 16 – September 30; and 2015 Harvest: July 6 – September 30.

¹⁰⁶ See *Indica Rice and Japonica Rice MPS Implementation Plans*, Article 6 (Exhibits US-27, and US-45, US-47 – US-48). The mid-to-late season Indica rice validity periods for 2012-2015 for the provinces of Jiangsu, Anhui, Jiangxi, Henan, Hubei, Hunan, Guangxi Zhuang Autonomous Region, and Sichuan were as follows: 2012 Harvest: September 16 – December 31; 2013 Harvest: September 18 – January 31; 2014 Harvest: September 16 – January 31; and 2015 Harvest: September 16 – January 31.

¹⁰⁷ See *Indica Rice and Japonica Rice MPS Implementation Plans*, Article 6 (Exhibits US-27, and US-45, US-47 – US-48). The mid-to-late season Indica rice validity periods for 2012-2015 for the provinces of Liaoning, Jilin, and Heilongjiang were as follows: 2012 Harvest: November 16 – March 31; 2013 Harvest: November 16 – March 31; 2014 Harvest: November 1 – March 31; and 2015 Harvest: October 10 – February 29.

¹⁰⁸ See *Indica Rice and Japonica Rice MPS Implementation Plans*, Article 6 (Exhibits US-26 – US-27, and US-44 – US-48).

¹⁰⁹ See *Indica Rice and Japonica Rice MPS Implementation Plans*, Article 6 (Exhibits US-26 – US-27, and US-44 – US-48).

minimum purchase price purchasing to undertake work, including purchasing and proper handling of storage administration, according to the provisions in this Plan.”¹¹⁰ Further, Agricultural Development Bank of China is tasked with “arranging and disbursing promptly and in full the loans needed to implement the grain minimum purchase price purchasing and storage tasks.”¹¹¹ In addition to Sinograin and the Agricultural Development Bank of China, several other entities including COFCO (if cosigned by Sinograin), provincial grain reserve management companies in the affected provinces, and grain reserve management corporations of the main consuming region including the municipalities of Beijing, Tianjin, and Shanghai, and the provinces of Zhejiang, Fujian, Guangdong, and Hainan are tasked with “implementing the minimum purchase prices.”¹¹² Other entities such as NDRC, MoA, MoF, and the State Grain Administration are required to coordinate, guide, or monitor various aspects of the MPS Program.¹¹³

56. Each year to implement the Indica Rice and Japonica Rice MPS Programs, local offices of Sinograin and the Agricultural Development Bank of China must identify and authorize “entrusted purchasing and storage depots.”¹¹⁴ These depots or warehouses must satisfy a number of specific criteria to be eligible to participate in the program. Further, “the total depot storage capacity volume of the entrusted purchasing and storage depots within each county shall be linked to the forecast volume of grain purchases at minimum purchase prices in that locality.”¹¹⁵

57. When the Indica Rice and Japonica Rice MPS Programs are activated, “entrusted purchasing and storage depots . . . are required to announce, on a board in a prominent location at the purchasing site, policy information relating to the implementation of the minimum purchase price for each grain variety, [this information] will include the purchase price, quality standards, deduction methods for weight increase of moisture and impurities, the purchase settlement method, and the implementation period, so that farmers can transact in ‘grain with peace of mind.’”¹¹⁶

58. The *Indica Rice and Japonica Rice MPS Implementation Plans* clarify that entrusted purchasing and storage depots “must not” “refuse grain sold by farmers that meets the standard,” “will promptly settle the grain sales price with the farmer, and must not issue IOUs to the

¹¹⁰ See 2013, 2015 *Indica Rice and Japonica Rice MPS Implementation Plans*, Article 17 (Exhibits US-27, US-48 – US-47); 2012, 2014 *Indica Rice and Japonica Rice MPS Implementation Plans*, Article 16 (Exhibit US-44 - US-45, US-26, US-48).

¹¹¹ See *Indica Rice and Japonica Rice MPS Implementation Plans*, Article 6 (Exhibits US-26 – US-27, and US-44 – US-48).

¹¹² See 2012, 2013, and 2014 *Indica Rice and Japonica Rice MPS Implementation Plans*, Article 4 (Exhibits US-26, and US-44 – US-48); 2015 *Indica Rice and Japonica Rice MPS Implementation Plans*, Article 3 (Exhibits US-27).

¹¹³ See *Indica Rice and Japonica Rice MPS Implementation Plans*, Article 17 (Exhibits US-26 – US-27, and US-44 – US-48).

¹¹⁴ See *Indica Rice and Japonica Rice MPS Implementation Plans*, Article 5 (Exhibits US-26 – US-27, and US-44 – US-48).

¹¹⁵ *Indica Rice and Japonica Rice MPS Implementation Plans*, Article 5 (Exhibits US-26 – US-27, and US-44 – US-48).

¹¹⁶ *Indica Rice and Japonica Rice MPS Implementation Plans*, Article 7 (Exhibits US-26 – US-27, and US-44 – US-48).

farmers.”¹¹⁷ Further, entities charged with making purchases “shall actively enter the market to purchase new grain.”¹¹⁸

59. Purchase and administration costs under the MPS Program for rice are financed through loans “secured by a directly affiliated enterprise of [Sinograin], [in the form of] a loan uniformly from the Agricultural Development Bank of China, at the locality [of the depots].”¹¹⁹ Ownership “rights belong to the State Council, and the grain must not be put to use nor mortgaged without approval by the state.”¹²⁰ The Indica rice and Japonica rice held by the entrusted purchasing and storage depots, will eventually be sold “according to the principle of selling at profitable prices, rationally formulate base sales prices, and auction [the grain] at public auctions on grain wholesale markets or online.”¹²¹

60. As described above, the Chinese instruments setting out the MPS Programs for Indica rice and Japonica rice instruct central and provincial government officials to initiate a program of Indica rice or Japonica rice purchases on an annual basis. The MPS Programs ensure that farmers in the identified major rice producing provinces are able to make sales of qualifying rice at the announced applied administered price, if the prevailing domestic market price falls below the applied administered price. As described below, the MPS Program for corn operates in a similar manner.

3. China’s Corn Market Price Support Measures

a. China’s Corn Production

61. China is the world’s second largest producer of corn.¹²² Since 2005, China’s corn production has increased 38 percent.¹²³ Corn is primarily grown in northern and northeastern China. Corn is planted in the summer months and harvested in the late fall.¹²⁴

b. Implementation of China’s Corn MPS Program

¹¹⁷ *Indica Rice and Japonica Rice MPS Implementation Plans*, Article 7 (Exhibits US-26 – US-27, and US-44 – US-48).

¹¹⁸ *Indica Rice and Japonica Rice MPS Implementation Plans*, Article 8 (Exhibits US-26 – US-27, and US-44 – US-48).

¹¹⁹ *Indica Rice and Japonica Rice MPS Implementation Plans*, Article 10 (Exhibits US-26 – US-27, and US-44 – US-48).

¹²⁰ *Indica Rice and Japonica Rice MPS Implementation Plans*, Article 13 (Exhibits US-26 – US-27, and US-44 – US-48).

¹²¹ *2012, 2013, and 2014 Indica Rice and Japonica Rice Implementation Plans*, Article 16 (Exhibits US-26, and US-44 - US-48); *2015 Indica Rice and Japonica Rice Implementation Plan*, Article 15 (Exhibits US-27).

¹²² USDA, *World Agriculture Supply and Demand Estimates* (Sept 12, 2017), available: <http://www.usda.gov/oce/commodity/wasde/latest.pdf> (Exhibit US-17).

¹²³ See China’s Statistical Yearbook 2016, Table 12-10 (Exhibit US-18); see also Kelsey Nowakowski, *Why Corn – Not Rice – Is King in China*, National Geographic (May 18, 2015) available: <http://theplate.nationalgeographic.com/2015/05/18/why-corn-not-rice-is-king-in-china/> (Exhibit US-50).

¹²⁴ USDA, *China Corn Map*, available: https://www.usda.gov/oce/weather/pubs/Other/MWCACP/Graphs/China/China_Corn.pdf (Exhibit US-51).

62. As described in China’s *Document Number 1*, the measures related to corn procurement are part of a “temporary” program to procure and store corn.¹²⁵ To implement market price support for corn, China issues a single document titled the *Notice on Issues Relating to National Temporary Reserve Purchases of Corn in the Northeast Region* (the “*Notice on Purchases of Corn*”).¹²⁶ The *Notices on Purchases of Corn* are issued jointly by NDRC, the State Administration of Grain, MoF, and Agricultural Development Bank of China, and provide details on the available applied administered price, geographic scope, timing, and requirements of the Corn MPS Program.

63. The Corn MPS Programs provide that the applied administered price is to be available in three Northeast provinces – Liaoning, Jilin, and Heilongjiang – and the Inner Mongolia Autonomous Region.¹²⁷ The *Notices on Purchases of Corn* for 2012 through 2015 provide the following applied administered prices in the referenced provinces and autonomous region:

Table 5: Announced Applied Administered Price for Corn					
	2012	2013	2014	2015	Units
<i>Notice on Purchases of Corn Price</i> ¹²⁸					
Inner Mongolia	1.07	1.13	1.13	1.00	yuan/half kilogram
Liaoning	1.07	1.13	1.13	1.00	yuan/half kilogram
Jilin	1.06	1.12	1.12	1.00	yuan/half kilogram
Heilongjiang	1.05	1.11	1.11	1.00	yuan/half kilogram
<i>Applied Administered Price Converted to Yuan per Ton</i> ¹²⁹					
Inner Mongolia	2,140	2,260	2,260	2,000	yuan/ton
Liaoning	2,140	2,260	2,260	2,000	yuan/ton
Jilin	2,120	2,240	2,240	2,000	yuan/ton
Heilongjiang	2,100	2,220	2,220	2,000	yuan/ton

This price is “the at-depot purchase price of direct purchases from farmers by the purchasing and storage depots.”¹³⁰

¹²⁵ See e.g., 2015 *Document Number 1* (Exhibit US-16).

¹²⁶ *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) (“2012 *Notice on Corn Purchases*”) (Exhibit US-52); *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) (“2013 *Notice on Corn Purchases*”) (Exhibit US-53); *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) (“2014 *Notice on Corn Purchases*”) (Exhibit US-54); *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) (“2015 *Notice on Corn Purchases*”) (Exhibit US-55) (collectively, the “*Notices on Corn Purchases*”).

¹²⁷ See *Notices on Corn Purchases*, Preamble (Exhibits US-52 – US-55).

¹²⁸ *Notices on Corn Purchases*, Article I(ii) (Exhibits US-52 – US-55).

¹²⁹ Converting yuan per 50 kilogram, to yuan per ton, by multiplying by 20.

¹³⁰ *Notices on Corn Purchases*, Article I.

64. The Corn MPS Program operates from when the *Notice on Purchases of Corn* is issued typically between the date the *Notice on Purchases of Corn* is issued in late November or early December until April 30 of the following calendar year.¹³¹ This is the period immediately following the corn harvest in northeastern China.¹³²

65. The Corn MPS Program provides that the applied administered price is for “domestically produced corn produced in 2015, meeting the quality standards for national at-grade product,”¹³³ or “Grade 3” corn.¹³⁴ The applied administered price is “the at-depot purchase price of direct purchases from farmers by the purchasing and storage depots.”¹³⁵ Corn that meets a lower or higher grade may also be purchased and “[p]rice differences between adjacent grades will be controlled at 0.02 yuan per *jin* [half kilogram].”¹³⁶

66. Sinograin is “entrusted by the state to act as the primary policy implementation entity,” and will in particular “will make open purchases of farmers’ surplus grain and prevent the occurrence of farmers’ ‘difficulty selling grain.’”¹³⁷ Aspects of the work are also delegated to the provincial governments who may issue their own implementing measures.¹³⁸

¹³¹ 2014 and 2015 *Notices on Corn Purchases*, Article I(i) (Exhibits US-54 – US-55); 2012 and 2013 *Notices on Corn Purchases*, Article IV (Exhibit US-52 – US-53). The Corn MPS Program was in effect as follows: 2012 harvest: November 14, 2012 – April 30, 2013; 2013 harvest: November 22, 2013 – April 30, 2014; 2014 harvest: November 25, 2014 – April 30, 2015; and 2015 harvest: November 1, 2015 – April, 30, 2016.

¹³² USDA, *China Corn Map*, available:

https://www.usda.gov/oce/weather/pubs/Other/MWCACP/Graphs/China/China_Corn.pdf (Exhibit US-50).

¹³³ *Notice on Corn Purchases*, Article I (Exhibits US-52 – US-55).

¹³⁴ China’s Corn Grading Standard, GB 1353-2009, provides criteria for rice Grades 1 through 5, and Grade “off-grade.” National Standard of the People’s Republic of China, *Corn*, GB 1353-2009, issued March 28, 2009 (Exhibit US-56).

¹³⁵ *Notice on Corn Purchases*, Article I (Exhibits US-52 – US-55).

¹³⁶ *Notice on Corn Purchases*, Article I (Exhibits US-52 – US-55).

¹³⁷ 2012, 2014, 2015 *Notice on Corn Purchases*, Article II (Exhibits US-52, US-54 – US-55); 2013 *Notice on Corn Purchases*, Article III (Exhibit US-53).

¹³⁸ See e.g., *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) (Exhibit US-57); *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) (Exhibit US-58); *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) (Exhibit US-59); *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) (Exhibit US-60); *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) (Exhibit US-61); *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) (Exhibit US-62); and *Notice on Proper Handling of National Temporary Reserve Corn Purchase Work for 2015* (China Grain Reserves Corporation Heilongjiang Branch, China Grain

67. The *Notices on Purchases of Corn* further provide that “COFCO, Chinatex, and [Aviation Industry Corporation of China (AVIC)], as the supplemental forces for [Sinograin], are entrusted by [Sinograin] to undertake purchasing and storage tasks, and will independently take on loans from the Agricultural Development Bank of China.”¹³⁹ Other warehouses and granaries may be designated as “purchasing and warehouse sites” by joint decision of local subsidiaries of Sinograin, and the Agricultural Development Bank of China, as well as local grain administration authorities.¹⁴⁰ Further, permanent and temporary storage facilities may be built by Sinograin and provincial officials where there is determined to be a need for additional storage.¹⁴¹

68. Each identified “purchasing and warehouse site” throughout the Northeast region is “required to openly post and purchase in accordance with stipulated prices.”¹⁴² Further, they must “ensur[e] that grain standards and quality and price policies are posted and standard sample products are displayed.”¹⁴³ While assuring that these requirements are followed, the sites will also “make open purchases of farmers’ surplus grain and will prevent the occurrence of ‘difficulty selling grain’ among farmers.”¹⁴⁴

69. As described above, the Chinese instruments setting out the MPS Programs for corn instruct central and provincial government officials to initiate a program of corn purchases on an annual basis. The MPS Programs ensure that farmers in the northeast provinces are able to make sales of qualifying rice at the announced applied administered price, once notice of the program has been issued.

IV. CHINA MUST MAINTAIN DOMESTIC SUPPORT EXPRESSED AS CURRENT TOTAL AMS AT LEVELS BELOW CHINA’S FINAL BOUND COMMITMENT LEVEL WHEN CALCULATED IN ACCORDANCE WITH THE AGRICULTURE AGREEMENT

70. Under Article 3.2 of the Agriculture Agreement, China “shall not provide support in favour of domestic producers in excess of the commitment levels specified in Section I of Part IV of its Schedule.”¹⁴⁵ China set forth its “Final Bound Commitment Level” of “nil” in Section I

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) (Exhibit US-63).

¹³⁹ 2012, 2014, 2015 *Notice on Corn Purchases*, Article II (Exhibits US-52, US-54 – US-55); 2013 *Notice on Corn Purchases*, Article III (Exhibit US-53) (noting that earlier notices did not include AVIC).

¹⁴⁰ 2012, 2014, 2015 *Notice on Corn Purchases*, Article II (Exhibits US-52, US-54 – US-55); 2013 *Notice on Corn Purchases*, Article III (Exhibit US-53).

¹⁴¹ 2012, 2014, 2015 *Notice on Corn Purchases*, Article II (Exhibits US-52, US-54 – US-55); 2013 *Notice on Corn Purchases*, Article III (Exhibit US-53).

¹⁴² 2014, 2015 *Notice on Corn Purchases*, Article IV (Exhibits US-54 – US-55); 2012 *Notice on Corn Purchases*, Article I (Exhibit US-52); 2013 *Notice on Corn Purchases*, Article X (Exhibit US-53).

¹⁴³ 2014, 2015 *Notice on Corn Purchases*, Article IV (Exhibits US-54 – US-55); 2012 *Notice on Corn Purchases*, Article I (Exhibit US-52); 2013 *Notice on Corn Purchases*, Article X (Exhibit US-53).

¹⁴⁴ *Notice on Corn Purchases*, Article II, (Exhibits US-52 – US-55); 2012 *Notice on Corn Purchases*, Article I (stating that “[c]orn that is sold by farmers is required to be purchased when it should be purchased, without limiting purchases or rejecting purchases, for unrestricted purchasing”) (Exhibit US-52).

¹⁴⁵ Agriculture Agreement, Articles 3.2, 6.3, and 7.2(b). In particular, Article 6.3 provides that a “Member shall be considered to be in compliance with its domestic support reduction commitments in any year in which its domestic support in favour of agricultural producers expressed in terms of Current Total AMS does not exceed the corresponding annual or final bound commitment level specified in Part IV of the Member’s Schedule.”

of Part IV of China’s Schedule CLII.¹⁴⁶ Thus, to evaluate China’s compliance with its domestic support obligations in 2012, 2013, 2014 and 2015, it is necessary to determine whether China’s Current Total AMS for each year exceeded “nil.”

71. Article 1(a) of the Agriculture Agreement defines “Aggregate Measure of Support” and “AMS” as, in relevant part, “the annual level of support, expressed in monetary terms, provided for an agricultural product in favour of [domestic] producers... other than support provided under programmes that qualify as exempt from reduction under Annex 2.”¹⁴⁷ Article 1(a)(ii) goes on to provide that AMS (either product-specific or non-product specific) is “calculated in accordance with the provisions of Annex 3 of this Agreement and taking into account the constituent data and methodology used in the tables of supporting material incorporated by reference in Part IV of the Member’s Schedule.”¹⁴⁸

72. Current Total AMS, as defined by Article 1(h) of the Agriculture Agreement, is the sum of (1) all product-specific AMS provided to basic agricultural products, (2) any non-product-specific AMS, and (3) all equivalent measurements of support for agricultural products.¹⁴⁹ Current Total AMS is calculated according to the Agriculture Agreement, including Article 6.4(a)(i), which states that Members need not include product-specific AMS in their Current Total AMS, if it does not exceed a *de minimis* level of the Member’s total value of production of that basic agricultural product.¹⁵⁰ Paragraph 235 of China’s Working Party Report indicates that, for purposes of Article 6.4, China’s *de minimis* level will be “8.5 per cent of the total value of production of a basic agricultural product during the relevant year.”¹⁵¹

73. Because China has committed to a level of domestic support of “nil” or zero, in the event the product-specific AMS for any of the basic agricultural products exceeds the *de minimis* level of 8.5 percent, the full product-specific AMS shall be included in China’s Current Total AMS and China will as a consequence have breached Article 3.2 of the Agriculture Agreement. As demonstrated below, China exceeded the *de minimis* level of support for each basic agricultural product in each year examined.

74. Annex 3, paragraph 1 of the Agriculture Agreement provides that AMS “shall be calculated on a product-specific basis for each basic agricultural product receiving market price support, non-exempt direct payments, or any other subsidy not exempt from the reduction

¹⁴⁶ See China’s Schedule CLII (Exhibit US-6).

¹⁴⁷ Agriculture Agreement, Article 1(a).

¹⁴⁸ Agriculture Agreement, Article 1(a)(ii).

¹⁴⁹ Agriculture Agreement, Article 1(h); see also *Korea – Beef* (Panel), para. 810 (noting that “Current Total AMS is a composite or aggregate of calculations of non-exempt support in respect of individual basic products and, if any, of non-exempt non-product-specific support under Article 6.4(a)(ii). In other words, the calculation of Current Total AMS is a ‘bottom-up’ process”).

¹⁵⁰ Agriculture Agreement, Article 1(h) (stating that Current Total AMS is “calculated in accordance with the provisions of this Agreement, including Article 6”); see also Agriculture Agreement, Article 6.4.

¹⁵¹ *Working Party Report*, para. 235 (Exhibit US-7) (stating that China “confirmed that China would have recourse to a *de minimis* exemption for product-specific support equivalent to 8.5 per cent of the total value of production of a basic agricultural product during the relevant year).

commitments.”¹⁵² Annex 3 further provides a specific calculation methodology for determining the value of “market price support.”

75. Pursuant to Annex 3, paragraph 8 of the Agriculture Agreement:

[M]arket price support shall be calculated using the gap between a fixed external reference price and the applied administered price multiplied by the quantity of production eligible to receive the applied administered price.

Thus, for each market price support measure and each year, it is necessary to identify the “applied administered price,” the “fixed external reference price,” and the “quantity of production eligible to receive the applied administered price” to calculate the contribution of market price support to the product-specific AMS. The “fixed external reference price” is defined in Annex 3, paragraph 9, and states that this price “shall be based on the years 1986 to 1988” and “may be adjusted for quality differences as necessary.”¹⁵³

76. In this section, the United States sets out the legal obligations applicable to the Panel’s analysis of China’s Current Total AMS, including the calculation of domestic support provided by China’s market price support programs for wheat, Indica rice, Japonica rice, and corn, in the years 2012, 2013, 2014, and 2015. The United States will proceed with this analysis by addressing:

- the relevant legal standard under the Agriculture Agreement, China’s Accession Protocol and Working Party Report, and Part IV of China’s Schedule CLII;
- the methodology for calculating China’s Current Total AMS as set out in Articles 1(a), 1(h), 6.4, and Annex 3 of the Agriculture Agreement; and
- the methodology for calculating “market price support” as a component of product-specific AMS and subsequently Total Current AMS, provided in Annex 3, paragraph 8.

A. China’s Domestic Support Obligations Under the Agriculture Agreement and Part IV of China’s Schedules of Concessions on Goods (CLII)

77. In the Agriculture Agreement, WTO Members committed to disciplines on domestic support, market access, and export competition for agricultural products. In particular, the Agriculture Agreement provides a framework for committing to specified limits on domestic support provided to producers of agricultural products and a framework for assessing compliance with these limits. The domestic support obligations are contained principally in Articles 3, 6, and 7, as well as Annexes 2 and 3, of the Agriculture Agreement. The domestic support obligations set forth in Articles 3 and 6 are specifically tied to commitments made by each Member in Part IV of their Schedule of Concessions on Goods.

¹⁵² Agriculture Agreement, Annex 3, paragraph 1.

¹⁵³ Agriculture Agreement, Annex 3, paragraph 9. *See also* Agriculture Agreement, Annex 3, paragraph 7 (stating that the “AMS shall be calculated as close as practicable to the point of first sale of the basic agricultural product concerned”).

78. The basic obligations in the Agriculture Agreement regarding domestic support are set forth as follows:

- Article 3.2 states that: “[s]ubject to the provisions of Article 6, a Member shall not provide support in favour of domestic producers in excess of the commitment levels specified in Section I of Part IV of its Schedule.”¹⁵⁴
- Article 6.3 states that: “[a] Member shall be considered to be in compliance with its domestic support reduction commitments in any year in which its domestic support in favour of agricultural producers expressed in terms of Current Total AMS does not exceed the corresponding annual or final bound commitment level specified in Part IV of the Member’s Schedule.”¹⁵⁵
- Finally, Article 7.2(b) states that: “[w]here no Total AMS commitment exists in Part IV of a Member’s Schedule, the Member shall not provide support to agricultural producers in excess of the relevant *de minimis* level set out in paragraph 4 of Article 6.”¹⁵⁶

79. The Agriculture Agreement thus frames a WTO Member’s obligation to limit domestic support: first, the Member’s individual commitment recorded in Section I of Part IV of the Member’s Schedule, and second, the *de minimis* level of support that may be provided by a Member to its producers of basic agricultural products, without including the value of that product-specific AMS in the calculation of Current Total AMS.

80. First, pursuant to the Articles 3 and 6 of the Agriculture Agreement, the each Member commits to limit its domestic support to the “commitment levels specified in Section I of Part IV of [the Member’s] Schedule.”¹⁵⁷ Members individually specify their commitments in the form of “Annual and Final Bound Commitment Levels” in Part IV of their Schedules of Concessions on Goods.¹⁵⁸ This commitment is an annual limit or series of reduction commitments set by the Member and recorded in their Schedule.¹⁵⁹ Thus, each WTO Member has the opportunity to

¹⁵⁴ Agriculture Agreement, Article 3.2.

¹⁵⁵ Agriculture Agreement, Article 6.3.

¹⁵⁶ Agriculture Agreement, Article 7.2(b) (noting that Article 7.2(b) is relevant in instances where a Member does not provide a commitment in Part IV of their Schedule).

¹⁵⁷ Agriculture Agreement, Article 3.2. *See also* Agriculture Agreement, Article 6.1 (states that “[t]he domestic support reduction commitments of each Member contained in Part IV of its Schedule shall apply to all of its domestic support measures in favour of agricultural producers with the exception of domestic measures which are not subject to reduction in terms of the criteria set out in this Article and in Annex 2 to this Agreement. The commitments are expressed in terms of Total Aggregate Measurement of Support and Annual and ‘Final Bound Commitment Levels’”).

¹⁵⁸ *See* Agriculture Agreement, Article 1(h)(i) (stating that “Total Aggregate Measurement of Support” and “Total AMS” mean the sum of all domestic support provided in favour of agricultural producers . . . which is . . . with respect to support provided during the base period (i.e. the “Base Total AMS”) and the maximum support permitted to be provided during any year of the implementation period or thereafter (i.e. the “Annual and Final Bound Commitment Levels”), as specified in Part IV of a Member’s Schedule”).

¹⁵⁹ Agriculture Agreement, Article 6.1 (stating that “[t]he domestic support reduction commitments of each Member contained in Part IV of its Schedule shall apply to all of its domestic support measures in favour of agricultural producers with the exception of domestic measures which are not subject to reduction in terms of the criteria set out

individually specify their monetary limit on the provision of total annual domestic support.¹⁶⁰ It is to this commitment that a Member’s Current Total AMS is compared for a given year to determine whether the Member’s level of domestic support is consistent with its WTO commitments.¹⁶¹

81. China’s Schedule of Concessions on Goods (Schedule CLII) states in Section I of Part IV that China has a “Final Bound Commitment Level” of “nil.”¹⁶²

Schedule CLII - People's Republic of China

PART IV - AGRICULTURAL PRODUCTS: COMMITMENTS LIMITING SUBSIDIZATION

(Article 3 of the Agreement on Agriculture)

SECTION I - Domestic Support: Total AMS Commitments

<u>BASE TOTAL AMS</u>	<u>Final bound commitment levels</u>	<u>Relevant Support Tables and document</u>
- 0 -	Nil	WT/ACC/CHN/38/Rev.3

82. Second, under Articles 1(h) and 3.2 of the Agriculture Agreement, Current Total AMS (*i.e.*, “the sum of all domestic support in favor of agricultural producers”) is to be calculated “in accordance with the provisions of Article 6” and “subject to Article 6”.¹⁶³ Of relevance, Article 6.4 directs Members to exclude *de minimis* levels of support from the calculation of Total Current AMS.¹⁶⁴ Specifically, Article 6.4(a)(i) states that a “Member shall not be required to include in the calculation of its Current Total AMS . . . product-specific domestic support . . . where such support does not exceed 5 per cent of that Member’s total value of production of a basic agricultural product during the relevant year,”¹⁶⁵ and Article 6.4(b) states that “the *de minimis* percentage under this paragraph shall be 10 per cent” for developing country Members. Thus, product-specific domestic support¹⁶⁶ that is less than or equal to the *de minimis* level is

in this Article and in Annex 2 to this Agreement. The commitments are expressed in terms of Total Aggregate Measurement of Support and ‘Annual and Final Bound Commitment Levels’”).

¹⁶⁰ Article 7.2(b) of the Agriculture Agreement addresses the situation “[w]here no Total AMS commitment exists in Part IV of a Member’s Schedule,” and provides that “the Member shall not provide support to agricultural producers in excess of the relevant *de minimis* level set out in paragraph 4 of Article 6.”

¹⁶¹ Agriculture Agreement, Article 6.3.

¹⁶² China’s Schedule CLII, Part IV, Section I – Domestic Support: Total AMS Commitment (Exhibit US-6). “Nil” is defined in legal terms as “nichil,” Latin for “nothing” or “naught.” “Nil” is further defined as “[n]othing, no number or amount,” *Shorter Oxford English Dictionary*, “nil” (ed. 1993), pp. 1922-23 (Exhibit US-76). “Nil” is thus typically understood to mean zero or none.

¹⁶³ See Agriculture Agreement, Article 1(h), and 3.2, respectively. Additionally, Article 7.2(b) provides Members with no domestic support obligation “shall not provide support to agricultural producers in excess of the relevant *de minimis* level set out in paragraph 4 of Article 6.”

¹⁶⁴ See Agriculture Agreement, Articles 3.2, 7.2, and 1(h)(ii).

¹⁶⁵ Agriculture Agreement, Article 6.4(a)(i). Article 6.4(a)(ii) provides a similar *de minimis* threshold for non-product-specific support.

¹⁶⁶ Product-specific domestic support is support “provided for an agricultural product in favour of the producers of the basic agricultural product.” Agriculture Agreement, Article 1(a).

excluded from the calculation of a Member’s Current Total AMS.¹⁶⁷ Conversely, when a Member’s product-specific support for a basic agricultural product exceeds the *de minimis* level, then the total value of that support must be included in the Member’s Current Total AMS calculation.

83. As part of its Working Party Report, China agreed to a *de minimis* level of 8.5 percent. Specifically, the Working Party Report states that, in implementing Article 6.4 of the Agriculture Agreement, China will “have recourse to a *de minimis* exemption for product-specific support equivalent to 8.5 per cent of the total value of production of a basic agricultural product during the relevant year.”¹⁶⁸ Thus, consistent with its accession commitment, China may provide support up to a *de minimis* level for each basic agricultural product of 8.5 percent of the respective value of production in each year without counting that product-specific support towards its Current Total AMS.

84. As described above, a Member’s provision of domestic support is inconsistent with its WTO obligations if the Member’s Current Total AMS is in excess of the Member’s Final Bound Commitment level.¹⁶⁹ China’s Final Bound Commitment level, as specified in Part IV of its Schedule, is “nil.” Given China’s *de minimis* level of 8.5 percent, China is therefore obligated to maintain each product-specific domestic support level at or below 8.5 percent the total value of production of each basic agricultural product. This is because, if China’s domestic support for any basic agricultural product exceeds 8.5 percent the total value of China’s production of that product, then the value of that domestic support must be included in China’s Current Total AMS. Any such support will, by definition, cause China to exceed its Final Bound Commitment level of “nil.”¹⁷⁰

B. Compliance with a Member’s Domestic Support Obligations is Evaluated by Calculating the Member’s Current Total AMS

85. WTO Member are required to ensure that their “Current Total AMS does not exceed the corresponding annual or final bound commitment level specified in Part IV of the Member’s Schedule.”¹⁷¹ Current Total AMS is defined by Article 1(h) of the Agriculture Agreement as the

¹⁶⁷ Pursuant to Article 6.4, a similar calculation is completed for non-product specific domestic support. In the event that non-product specific domestic support is less than or equal to a Member’s *de minimis* level when compared to the total value of agricultural production, it may be excluded.

¹⁶⁸ China’s *Working Party Report*, paragraph 235 (Exhibit US-7) (further stating that “these percentages would constitute China’s *de minimis* exemption under Article 6.4 of the Agreement on Agriculture. The Working Party took note of these commitments.”). China further agreed to an 8.5 percent *de minimis* level for its non-product specific domestic support programs. China’s *Working Party Report*, paragraph 235 (Exhibit US-7). These commitments were incorporated into China’s *Accession Protocol* through Section 1, paragraph 3, which incorporates the commitments referred to in paragraph 342 of the *Working Party Report*.

¹⁶⁹ See also *Korea – Beef* (AB), para. 115 (stating that “for purposes of determining whether a Member has exceeded its commitment levels, Base Total AMS, and the commitment levels resulting or derived therefrom, are . . . simply absolute figures set out in the Schedule of the Member concerned. As a result, Current Total AMS[,] which is calculated according to Annex 3, is compared to the commitment level for a given year that is already specified as a given, absolute, figure in the Member’s Schedule”); see also *Korea – Beef* (Panel), para. 809.

¹⁷⁰ For the same reason, China must maintain non-product-specific domestic support at levels at or below 8.5 percent the total value of all agricultural production, or such non-product-specific support would be included in its Current Total AMS. In such case, again, China would provide support in excess of its Final Bound Commitment level of nil.

¹⁷¹ Agriculture Agreement, Article 6.3.

“level of support actually provided during any year.”¹⁷² It is calculated as the sum of all aggregate measurements of support for basic agricultural products, all non-product-specific aggregate measurements of support and all equivalent measurements of support for agricultural products.”¹⁷³ Further, Article 1(h)(ii) provides that Current Total AMS is to be “calculated in accordance with the provisions of this *Agreement*, including Article 6, and with the constituent data and methodology used in the tables of supporting material incorporated by reference in Part IV of the Member’s Schedule.”¹⁷⁴ Current Total AMS is thus “a composite or aggregate of calculations of non-exempt support in respect of individual basic products and, if any, of non-exempt non-product-specific support.”¹⁷⁵

86. To calculate Current Total AMS, the AMS for each basic agricultural product receiving support must be calculated. AMS is “the annual level of support, expressed in monetary terms, provided for an agricultural product in favour of the producers of the basic agricultural product or non-product-specific support provided in favour of agricultural producers in general.”¹⁷⁶ AMS does not include “programmes that qualify as exempt from reduction under Annex 2 to this *Agreement*.”¹⁷⁷

87. Article 1(a)(ii) of the Agriculture Agreement further specifies that AMS is to be “calculated in accordance with the provisions of Annex 3 of this *Agreement*,” and that it is to be calculated “taking into account the constituent data and methodology used in the tables of supporting material incorporated by reference in Part IV of the Member’s Schedule.”¹⁷⁸ Annex 3, paragraph 1, states that AMS “shall be calculated on a product-specific basis for each basic agricultural product receiving market price support, non-exempt direct payments, or any other subsidy not exempted from the reduction commitment.”¹⁷⁹ Annex 3 provides methodologies for calculating each of these types of domestic support, including “market price support.”¹⁸⁰ Thus, an AMS for a product is the sum or aggregate of the value of measures supporting each basic agricultural product.¹⁸¹

88. As mentioned above, Current Total AMS is calculated “in accordance with the provisions” of Article 6. Article 6.4 states that a “Member shall not be required to include in the calculation of its Current Total AMS and shall not be required to reduce” *de minimis* support. Specifically, product-specific support does not need to be included in calculating AMS “where such support does not exceed 5 per cent of that Member’s total value of production of a basic

¹⁷² Agriculture Agreement, Article 1(h).

¹⁷³ Agriculture Agreement, Article 1(h). As a corollary, Article 6.1 of the Agriculture Agreement specifies that domestic support commitments “shall apply to all of [a Member’s] domestic support measures in favour of agricultural producers with the exception of domestic measures which are not subject to reduction in terms of the criteria set out in this Article and in Annex 2 to this Agreement.

¹⁷⁴ Agriculture Agreement, Article 1(h)(ii).

¹⁷⁵ See *Korea – Beef* (Panel), para. 810.

¹⁷⁶ Agriculture Agreement, Article 1(a).

¹⁷⁷ Agriculture Agreement, Article 1(a).

¹⁷⁸ Agriculture Agreement, Article 1(a)(ii).

¹⁷⁹ Agriculture Agreement, Annex 3, para. 1.

¹⁸⁰ The inclusion of “market price support” in Annex 3 indicates that it is not a type of support exempted under Annex 2.

¹⁸¹ For instance, if a product received both market price support and non-exempt direct payments, the value of each type of domestic support would need to be calculated in accordance with Annex 3 and aggregated.

agricultural product during the relevant year.” In instances, where the product-specific AMS expressed as a percentage of total production of the basic agricultural product exceeds the *de minimis* level, which for China is 8.5 percent, the total value of the calculated AMS must be included in the Member’s Current Total AMS. Conversely, if the value of product-specific AMS expressed as a percentage of the total value of production of the basic agricultural product is equal to or below the *de minimis* threshold, the product-specific AMS can be excluded from the calculation.

C. Market Price Support Must be Calculated and Included in a Member’s Total Current AMS

1. Market Price Support Measures Provide Domestic Support By Holding Up or Maintaining the Price of Basic Agricultural Products

89. Annex 3 of the Agriculture Agreement identifies support that “shall” be included in a Member’s AMS calculation. It states that “an Aggregate Measurement of Support (AMS) shall be calculated on a product-specific basis for each basic agricultural product receiving *market price support*, non-exempt direct payments, or any other subsidy not exempted from the reduction commitment (“other non-exempt policies”).”¹⁸² Thus, the Agriculture Agreement states that “market price support” in favor of basic agricultural products is a form of non-exempt domestic support and must be included in a Member’s AMS calculation.

90. The Agriculture Agreement does not expressly define the term “market price support;” it is useful to consider the ordinary meaning of the constituent terms of “market price support” to understand the scope of domestic support programs contemplated by this term.¹⁸³ A “market” is the physical or geographic place where commercial transactions take place, or the business of buying and selling, including the rate of purchase or sale, of a particular good or commodity.¹⁸⁴ “Price” is defined as “a sum in money or goods for which a thing is or may be bought or sold.”¹⁸⁵

¹⁸² Agriculture Agreement, Annex 3, paragraph 1 (emphasis added). Further, pursuant to Article 1(a), programs other than those that “qualify as exempt from reduction under Annex 2 of this Agreement” must be included in a Member’s AMS calculation. China’s market price support, in addition to satisfying the criteria specifically identified in Annex 3, would not otherwise qualify under paragraph 1 of Annex 2, which requires exempt measures to neither “have the effect of providing price support to producers,” nor have “effects on production.” See Agriculture Agreement, Annex 2, paragraph 1.

¹⁸³ According to the *Vienna Convention on the Law of Treaties*, “[a] treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.” See *United States – Standards for Reformulated and Conventional Gasoline* (Appellate Body Report), WT/DS2/AB/R, adopted 20 May 1996 (“*US – Gasoline (AB)*”), pp. 16-17 (quoting Article 31 of the *Vienna Convention on the Law of Treaties* and stating: “That general rule of interpretation has attained the status of a rule of customary or general international law. As such, it forms part of the ‘customary rules of interpretation of public international law’ which the Appellate Body has been directed, by Article 3(2) of the *DSU*, to apply in seeking to clarify the provisions of the *General Agreement* and the other ‘covered agreements’”).

¹⁸⁴ *US – Upland Cotton* (Panel), para. 7.1236. The panel considering Article 6.3 of the SCM Agreement considering the term “market,” have indicate that this term “can be: ‘a place ... with a demand for a commodity or service;’ ‘a geographical area of demand for commodities or services;’ ‘the area of economic activity in which buyers and sellers come together and the forces of supply and demand affect prices.’” *US – Upland Cotton (Panel)*, para. 7.1236.

¹⁸⁵ *Shorter Oxford English Dictionary*, “price,” p. 2349 (ed. 1993) (Exhibit US-64). Also indicating that in the economic sense, “price” is the “actual cost of acquiring, producing, etc., something calculated according to some specific measure.” *Shorter Oxford English Dictionary*, “price” p. 2349 (ed. 1993) (Exhibit US-64). The panel in *US*

“Support” is defined as “the action of holding up, keeping from falling, or bearing the weight of something” or “the action of contributing to the success of or maintaining the value of something.”¹⁸⁶

91. Relevant to the consideration of the term “market price support,” the dictionary also supplies a number of definitions of compound terms. The *Shorter Oxford English Dictionary*, defines “market price” as “the current price which a commodity or service fetches in the market.”¹⁸⁷ Further, it defines “price support” as “assistance in maintaining the levels of prices regardless of supply and demand.”¹⁸⁸

92. Thus, the ordinary meaning of the constituent terms, as well as the compound phrases indicates that “market price support” is the provision of assistance in holding up or maintaining the price for a product in the market, regardless of supply and demand. In the context of Annex 3, paragraph 1, an AMS for “each basic agricultural product” includes the provision of assistance in holding up or maintaining a market price for that agricultural product.

2. Annex 3, Paragraph 8, Provides the Methodology to Value Domestic Support Provided Through Market Price Support Measures

93. Annex 3 provides the methodology for calculating the value “market price support,” as well as important additional guidance with respect to the meaning of the term “market price support.” In particular, Annex 3, paragraph 8, states:

Market price support: market price support shall be calculated using the gap between a fixed external reference price and the applied administered price multiplied by the quantity of production eligible to receive the applied administered price. Budgetary payments made to maintain this gap, such as buying-in or storage costs, shall not be included in the AMS.

That is, “market price support” requires a comparison between the “applied administered price” and the “fixed external reference price.” An “applied administered price” would be a price that is dispensed or provided by a governmental scheme.¹⁸⁹ The difference between these prices is then multiplied by the “quantity of production eligible to receive the applied administered price.”¹⁹⁰ The Annex 3, paragraph 8 methodology thus indicates that a “market price support” measure would include an “applied administered price” that is available to some quantity of

– *Upland Cotton* also considered this term finding that the “ordinary meaning of ‘price’ is: ‘the amount of money or goods for which a thing is bought or sold; ‘value or worth.’” *US – Upland Cotton* (Panel), para. 7.1262 (considering Article 6.3 of the SCM Agreement and “price suppression” or “price depression”).

¹⁸⁶ *Shorter Oxford English Dictionary*, “support,” p. 3153 (ed. 1993) (Exhibit US-64).

¹⁸⁷ *Shorter Oxford English Dictionary*, “market,” p. 1699 (ed. 1993) (Exhibit US-64). Further note, that the panel in *US – Upland Cotton* stated provided further commentary on “market prices” stating that they are “affected by the perception and anticipation of market participants as to current and probable future movements of production and consumption as essential determinants of demand, supply, and, consequently, price.” See *US – Upland Cotton* (Panel), para. 7.1245.

¹⁸⁸ *Shorter Oxford English Dictionary*, “price,” p. 2349 (ed. 1993) (Exhibit US-64).

¹⁸⁹ Of relevance, “administer” is defined as to “execute or dispense,” or to “furnish, supply, give (orig. something beneficial to).” *Shorter Oxford English Dictionary*, “administer,” p. 28 (ed. 1993) (Exhibit US-64).

¹⁹⁰ See e.g., *Korea – Beef* (AB), para. 116.

“eligible” production; and that such support for each unit of the product can be measured through comparison of the administered price to a fixed, external “reference” price.¹⁹¹

94. The calculation methodology provide in Annex 3, paragraph 8, for market price support is reflected in the following equation:

$$(Applied\ Administered\ Price - Fixed\ External\ Reference\ Price) * Quantity\ of\ Production\ Eligible = Value\ of\ Market\ Price\ Support$$

As described above, the value of market price support for a basic agricultural product should be summed along with any other non-exempt product-specific support in favor of that product to calculate the AMS for that product.

95. The panel in *Korea – Beef* reached the same understanding of the meaning of “market price support” under Annex 3, paragraph 8. The panel noted that the “quantification of market price support in AMS terms is not based on expenditures by government,” and that it “can exist even where there are no budgetary payments.”¹⁹² Further, it stated that “all producers of the products which are subject to the market price support mechanism enjoy the benefit of an assurance that their products can be marketed at least at the support price.”¹⁹³

3. Further Guidance Regarding Scope and Calculation Methodology is Provided by the Elements of the Market Price Support Calculation

a. Applied Administered Price

96. The Agriculture Agreement does not define the term “applied administered price”. It is therefore necessary to evaluate the ordinary meaning of the constituent terms of “applied administered price.” Specifically, “applied” is defined as to “put to practical use; having or concerned with practical application.”¹⁹⁴ This definition suggests an actual or real life action. With respect to “administered,” “administer” is defined as to “carry on or execute (as office, affairs, etc.),” to “execute or dispense,” or to “furnish, supply, give (orig. something beneficial to).”¹⁹⁵ Finally, as described above, “price” is defined as “a sum in money or goods for which a thing is or may be bought or sold” or its “value or worth.”¹⁹⁶

97. Considering these definitions, the “applied administered price” is the price a Member dispenses or furnishes to support a particular basic agricultural product. Paragraph 8 also refers to “the” applied administered price, suggesting that this price is known and discernable. The applied administered price is thus price set or established by the government and is, as such, distinguishable from a prevailing domestic market price.

¹⁹¹ Paragraph 9 of Annex 3 provides for the calculation of this Fixed External Reference Price.

¹⁹² See e.g., *Korea – Beef* (Panel), para. 827 (noting it is “worth recalling that the quantification of market price support in AMS terms is not based on expenditures by government”).

¹⁹³ See e.g., *Korea – Beef* (Panel), para. 827 (noting it is “worth recalling that the quantification of market price support in AMS terms is not based on expenditures by government”).

¹⁹⁴ *Shorter Oxford English Dictionary*, “applied,” p. 100 (ed. 1993) (Exhibit US-64).

¹⁹⁵ *Shorter Oxford English Dictionary*, “administer,” p. 28 (ed. 1993) (Exhibit US-64).

¹⁹⁶ *Shorter Oxford English Dictionary*, “price,” p. 2349 (ed. 1993) (Exhibit US-64); see also *US – Upland Cotton* (Panel), para. 7.1262.

b. Fixed External Reference Price

98. Annex 3, paragraph 8, directs Members to compare the “applied administered price” to the “fixed external reference price”. Annex 3, paragraph 9 states that the fixed external reference price “shall be based on the years 1986 to 1988 and shall generally be the average f.o.b. unit value for the basic agricultural product concerned in a net exporting country and the average c.i.f. unit value for the basic agricultural product concerned in a net importing country in the base period.” This reference to calculation of the average f.o.b. or c.i.f. unit value of the agricultural product in the period 1986 through 1988 establishes that the “fixed external reference price” is to be one, unchanging value.

99. The plain meaning of the component terms supports the understanding that the “fixed external reference price” is one, unchanging value. The term “fixed” is defined as “definitely and permanently placed or assigned; stationary or unchanging in relative position; definite, permanent, lasting.”¹⁹⁷ The term “external” is defined as “relating to foreign countries or foreign affairs,” or “of or situated on the outside or visible part of something.”¹⁹⁸ That is, the “opp[osite of] internal.”¹⁹⁹ “Reference” is “defined as an authority or standard referred to;” “an object, physical property, value, used as the basis for comparative measurement or standardization;” or “relate to a defined base or zero level.”²⁰⁰ “Price” is defined as “the sum in money or goods for which a thing is or may be bought or sold” or “something calculated according to some specific measure.”²⁰¹

100. The ordinary meaning of the terms in “fixed external reference price” suggest that this is an unchanging and definite price, relating to a foreign situation, that is used as the basis for comparative measurement.²⁰² This ordinary meaning corresponds to the elements in Annex 3, paragraph 9. The use of f.o.b. or c.i.f. values relates the reference value to prices in foreign trade, rather than internal prices; the calculation of an average unit value over a base period ensures the reference value is unchanging and definite.

c. Quantity of Production Eligible to Receive the Applied Administered Price

101. The third element of the market price support calculation methodology contained in Annex 3, paragraph 8, of the Agriculture Agreement directs that the established price gap be multiplied “by the quantity of production eligible to receive the applied administered price.”²⁰³ The ordinary meaning of the terms indicates that “eligible production” is all of the production entitled or permitted to receive the administered price.

¹⁹⁷ *Shorter Oxford English Dictionary*, “fixed,” p. 962 (ed. 1993) (Exhibit US-64).

¹⁹⁸ *Shorter Oxford English Dictionary*, “external,” p. 894 (ed. 1993) (Exhibit US-64).

¹⁹⁹ *Shorter Oxford English Dictionary*, “external,” p. 894 (ed. 1993) (Exhibit US-64).

²⁰⁰ *Shorter Oxford English Dictionary*, “reference,” p. 2520 (ed. 1993) (Exhibit US-64).

²⁰¹ *Shorter Oxford English Dictionary*, “reference,” pp. 2349, 2350 (ed. 1993) (Exhibit US-64).

²⁰² See e.g., *Korea – Beef* (Panel), para. 830 (noting that in instances where no imports or exports prices are available for a particular Member, Annex 3, paragraph 9 permits a proxy price reflecting import or export prices between 1986 and 1988 in another Member’s market).

²⁰³ Agriculture Agreement, Annex 3, paragraph 8.

102. Specifically, the ordinary meaning of “eligible” is “[f]it or entitled to be chosen for a position, award, etc.”²⁰⁴ Thus, the “quantity of production eligible” is a portion or amount of the commodity produced that is entitled to receive the applied administered price. It is the amount of agricultural production that has the rightful claim to receive the applied administered price, whether or not that amount of production actually received the specified applied administered price.²⁰⁵

103. The Appellate Body in *Korea – Beef* considered the meaning of the phrase “quantity of production eligible to receive the applied administered price” and reached a similar understanding.²⁰⁶ The Appellate Body stated that “production eligible to receive the applied administered price” has “a different meaning in ordinary usage from ‘production actually purchased.’”²⁰⁷ The Appellate Body further defined “eligible” as that which is “fit or entitled to be chosen.”²⁰⁸ It noted that “a government is able to define and limit ‘eligible’ production,” and that “[p]roduction actually purchased may often be less than eligible production.”²⁰⁹ Thus, “eligible production” within the meaning of Annex 3, paragraph 8 of the Agriculture Agreement is production, which is fit or entitled to receive the administered price, whether or not the production was actually purchased.²¹⁰

V. CHINA’S MPS PROGRAMS FOR WHEAT, INDICA RICE, JAPONICA RICE, AND CORN PROVIDE GREATER THAN DE MINIMIS LEVELS OF DOMESTIC SUPPORT AND THUS RESULT IN CHINA EXCEEDING ITS DOMESTIC SUPPORT COMMITMENT FOR 2012, 2013, 2014, AND 2015

104. This Section applies the legal framework described above to demonstrate that the value of market price support provided by China to producers of wheat, Indica rice, Japonica rice, and corn exceeded its Final Bound Commitment Level of “nil” in the years 2012, 2013, 2014, and 2015, in breach of Articles 3.2 and 6.3 of the Agriculture Agreement. In analysis, the United States proceeds by:

- establishing that China’s MPS Programs are “market price support” measures that must be calculated in accordance with Annex 3, paragraph 8;
- providing the underlying data for each element of the “market price support” calculation;

²⁰⁴ *Shorter Oxford English Dictionary*, “eligible,” p. 799 (ed. 1993) (Exhibit US-64).

²⁰⁵ See also *Shorter Oxford English Dictionary*, “entitled,” p. 830 (ed. 1993) (“Now (chiefly of circumstances, qualities, etc.) confer on (a person or thing) a rightful claim to something or a right to do.” (emphasis original)); *Shorter Oxford English Dictionary*, “fit,” p. 960 (ed. 1993) (“Be suited to or appropriate for;” “Meet the requirements of”) (Exhibit US-64).

²⁰⁶ *Korea – Beef* (AB), para. 120.

²⁰⁷ *Korea – Beef* (AB), para. 120.

²⁰⁸ *Korea – Beef* (AB), para. 120.

²⁰⁹ *Korea – Beef* (AB), para. 120.

²¹⁰ See also *Korea – Beef* (Panel), para. 827 (noting that “eligible production for the purposes of calculating the market price support component of current support should comprise the total marketable production of all producers which is eligible to benefit from the market price support, even though the proportion of production which is actually purchased by a governmental agency may be relatively small or even nil”).

- calculating the value of China’s MPS Programs for wheat, Indica rice, Japonica rice, and corn for 2012, 2013, 2014, and 2015; and
- and finally, demonstrating that the Current AMS for each product in each year exceeded China’s *de minimis* level of 8.5 percent of total value of production, and that its Current Total AMS for 2012, 2013, 2014, and 2015 therefore exceeded its Final Bound Commitment Level of “nil.”

A. China’s MPS Programs for Wheat, Indica Rice, Japonica Rice, and Corn are “Market Price Support” Measures as described in Annex 3

105. China’s MPS Programs for wheat, Indica rice, Japonica rice, and corn are “market price support” measures as contemplated by Annex 3 of the Agriculture Agreement.²¹¹ As a preliminary matter, China has notified its Wheat and Rice MPS Programs on the “Product Specific Aggregate Measure of Support: Market Price Support” supporting table “DS:5” of its annual notification.²¹² These programs are notified as “product-specific.” Therefore, China itself has stated that the MPS Programs for wheat, Indica rice, and Japonica rice operate as product-specific “market price support” and has characterized these programs as such to WTO Members.²¹³

106. Further, China’s MPS Programs for wheat, Indica rice, Japonica rice, and corn constitute “market price support” within the meaning of Annex 3, because each Program exhibits an “applied administered price” and “quantity of production eligible.” Specifically, China announces for each MPS Program the “minimum procurement price” at which designated state-owned enterprises will purchase wheat, Indica rice, Japonica rice, and corn.²¹⁴ This annually announced “minimum procurement price” constitutes an “applied administered price,” because it is the known or discernable price China dispenses or furnishes for each basic agricultural product, regardless of the price that would be otherwise determined by the market. This offers price support to Chinese farmers in the designated regions.

107. China’s MPS Programs also each establish a “quantity of eligible production.” The MPS Programs specify that production in designated provinces is eligible for support, and in those provinces the state-owned enterprises will purchase all proffered product.²¹⁵ Therefore, the

²¹¹ It is relevant to note that there is no argument that China’s MPS Programs could fit under Annex 2 of the Agriculture Agreement, specifically, the programs have the effect of encouraging increased production and increasing prices, and do not otherwise comply with the requirements of Annex 2.1.

²¹² See China’s Notification, G/AG/N/CHN/28 (6 May 2015) (stating that the prior system of market price support “was repealed in 2004,” and that “[s]ubsequently, the minimum procurement price system was introduced for rice and wheat”) (Exhibit US-4). Similarly, in the panel decision in *Korea – Beef*, the panel found that Korea’s notification of its measure supporting beef prices as “price support” sufficient to find that this program constituted “market price support.” See *Korea – Beef* (Panel), para. 826 and fn 431.

²¹³ Noting that while China’s Support Table reported Indica rice and Japonica rice as separate basic commodities, China has since conflated to the two products reporting them as an aggregate “rice.”

²¹⁴ See *2012-2015 Notices on Wheat Minimum Purchase Prices* (Exhibits US-20 – US-23); see *2012-2015 Notices on Rice Minimum Purchase Prices* (Exhibits US-39 – US-42); *2012-2015 Notices of Corn Purchases 2012-2015*, (Exhibits US-52 – US-55).

²¹⁵ *2012-2015 Wheat Implementation Plans*, Article 2 (Exhibits US-24 – US-28); *2012-2015 Indica Rice and Japonica Rice Implementation Plans*, Article 2 (Exhibits US-26 – US-27, and US 44 – US-48); and *2012-2015 Notices of Corn Purchases*, Preamble (Exhibits US-52 – US-55).

portion or amount of the commodity produced that is entitled to receive the administered price is identified in the MPS Programs as all production produced in the identified provinces.

108. For these reasons, China’s MPS Programs for wheat, Indica rice, Japonica rice and corn are “market price support” programs for the purposes of the Agriculture Agreement and must be evaluated per the methodology set forth in Annex 3.

B. Because China’s MPS Programs are Market Price Support, the Value of Domestic Support Provided Must be Calculated in Accordance with Annex 3, Paragraph 8 of the Agriculture Agreement

109. As described above, Annex 3, paragraph 8, of the Agriculture Agreement provides the calculation methodology for market price support as:

$$(Applied\ Administered\ Price - Fixed\ External\ Reference\ Price) * Quantity\ of\ Production\ Eligible = AMS$$

Provided below are the values for each element of the “market price support” calculation, as well as the “total value of production” data required to evaluate whether the calculated “market price support” exceeds *de minimis*.

110. As will be demonstrated below, based on data drawn from the instruments implementing the MPS Programs, as well as official Chinese government sources of production and pricing statistics, China’s MPS Programs for wheat, Indica rice, Japonica rice, and corn each provide a substantial level of domestic support in excess of the 8.5 percent *de minimis* threshold for each product in each year. Thus, market price support for each product must be included in China’s Current Total AMS. Moreover, because the value of support for each product in each year exceeds China’s 8.5 percent *de minimis* level and result in a positive Current Total AMS, China’s level of domestic support is inconsistent with its WTO obligations.

1. China’s Applied Administered Prices for Wheat, Indica Rice, Japonica Rice, and Corn

111. The applied administered prices relevant to China’s MPS Programs for wheat, Indica rice, Japonica rice, and corn are the minimum procurement prices identified in the annual *Wheat MPS Notices*, *Rice MPS Notices* and *Notice on Purchases of Corn*.²¹⁶

112. The relevant applied administered prices are as follows:

Unit: RMB/MT	2012	2013	2014	2015
Wheat	2,040	2,240	2,360	2,360
Early Indica Rice	2,400	2,640	2,700	2,700
Mid/Late Indica Rice	2,500	2,700	2,760	2,760

²¹⁶ *Wheat MPS Notices* (Exhibits US-20 –US-23); *Wheat MPS Implementation Plans* (Exhibits US-24 – US-28); *Rice MPS Notices* (Exhibits US-39 – US-42); *Indica Rice and Japonica Rice MPS Implementation Plans* (Exhibits US-26 – US-27, and Exhibits US-44 – US-48); and *Notices on Purchases of Corn* (Exhibits US-52 – US-55).

²¹⁷ China announces its applied administered prices in terms of yuan per half kilogram. These prices are converted into renminbi per metric ton by multiplying by 2 and then by 1,000.

Japonica Rice		2,800	3,000	3,100	3,100
Corn	Heilongjiang	2,100	2,220	2,220	2,000
	Jilin	2,120	2,240	2,240	2,000
	Liaoning	2,140	2,260	2,260	2,000
	Inner Mongolia	2,140	2,260	2,260	2,000

2. China’s Fixed External Reference Prices for Wheat, Indica Rice, Japonica Rice, and Corn

113. Paragraph 9 of Annex 3 states that the fixed external reference price “shall be based on the years 1986 to 1988 and shall generally be the average f.o.b. unit value for the basic agricultural product concerned in a net exporting country and the average c.i.f. unit value for the basic agricultural product concerned in a net importing country in the base period.”²¹⁸ Chinese customs data demonstrates that wheat was a net imported product, while corn and rice were a net exported product, for China during this time period.²¹⁹ Accordingly, the United States has utilized Chinese customs data providing import and export prices for the years 1986, 1987, and 1988 to calculate China’s fixed external reference prices,²²⁰ as follows:

Table 7: Fixed External Reference Price²²¹	
Unit: RMB/MT	1986-1988
Wheat	431.11
Indica - Unmilled Equivalent	470.83
Japonica – Unmilled Equivalent	546.62
Corn	366.07

114. We note the fixed external reference prices for Indica rice and Japonica rice require an additional adjustment from the available customs data. First, Chinese customs data from 1986 to 1988 is for “rice” and does not detail import or exports by subspecies. To differentiate the Indica and Japonica rice export prices, the United States has identified the countries likely to import primarily milled, semi-milled Indica rice and those likely to import primarily milled, semi-milled Japonica rice, and assigned the export values and volumes accordingly.²²²

²¹⁸ Note that Annex 3, paragraph 11 similarly provides that the fixed external reference price for non-exempt direct payments “shall be based on the years 1986 to 1988 and shall generally be the actual price used for determining payment rates.”

²¹⁹ See Calculation of 1986-88 Fixed External Reference Price (Exhibit US-65).

²²⁰ China’s Supporting Table DS:5, “Market Price Support,” uses customs data from 1996, 1997, and 1998 to calculate external prices. See Communication From China, (July 19, 2001), Table DS:5, fn 17 and 18 (Exhibit US-43). The United States notes that even if the reference price identified in China’s Support Table is utilized, China’s Current Total AMS would nonetheless exceed its Final Bound Commitment of “nil” in each relevant year. (Exhibit US-66).

²²¹ See Calculation of Fixed External Reference Price 1986 – 88 (Exhibit US-65); see also Customs General Administration of P.R. China, *Summary Surveys of China’s Customs Statistics* (1986 – 1988) (Exhibit US-67). Specifically, the 1986 to 1988 fixed external reference price has been determined by dividing export or import values of each commodity by export or import volumes for each year and then averaging the three-year period.

²²² Per China’s Agriculture Supporting Tables, China exported Indica rice to countries including Macao, Mauritius, Hong Kong, Singapore, Korea, and Indonesia. China asserted that it exported Japonica rice to countries including Japan, Australia, Canada, Korea, Turkey and Jordan. See Communication from China (July 19, 2001), Attachment

115. Second, during the reference period, China was a net exporter of rice. As reported in the customs data, China's rice exports were primarily "milled and semi-milled rice," though the customs data does reflect low levels of imports and exports of "in husk or husked" rice.²²³ Rice is typically milled prior to export. While China's imports and exports during this time were primarily milled rice, the applied administered price provided under China's MPS Programs for Indica rice and Japonica rice is for unmilled paddy rice sold by farmers.²²⁴

116. Therefore, to construct an appropriate fixed external reference price, it is necessary to convert the "milled, semi-milled" 1986 to 1988 customs data to reflect an unmilled equivalent price for those years.²²⁵ The United States has constructed China's price adjustment factor based on a comparison of available monthly pricing data for milled rice versus unmilled rice in China.²²⁶ The calculated conversion ratio of milled to unmilled rice in China is 60 percent.

3. Quantity of Production Eligible for Each Product for Wheat, Indica Rice, Japonica Rice, and Corn

117. China's *Wheat MPS Implementation Plans, Indica Rice and Japonica Rice MPS Implementation Plans*, and *Notices on Purchases of Corn* specify the provinces or autonomous regions where farmers are eligible to receive the applied administered price for their wheat, Indica rice, Japonica rice, and corn.²²⁷ China's MPS Programs do not limit the volume of wheat, Indica rice, Japonica rice, or corn that may be purchased in the relevant provinces or autonomous regions. China's quantity of production eligible to receive the applied administered price is therefore the volume of wheat, Indica rice, Japonica rice, and corn grown in eligible provinces or autonomous regions in the relevant year.

DS 5-2, notes 1 and 2 (Exhibit US-43). Where export destinations were not identified, the United States designated an exported rice species based on unit values.

²²³ See Customs General Administration of P.R. China, *Summary Surveys of China's Customs Statistics* (1986 – 1988) (Exhibit US-67). See also USITC, *Rice Report* (2015), 10, 30-35 (noting that the rice market reflect exports in a variety of market segments including paddy rice, milled rice, and broken rice, but that milling is often done to improve storage by reducing moisture content) (Exhibit US-32).

²²⁴ See Customs General Administration of P.R. China, *Summary Surveys of China's Customs Statistics* (1986 – 1988) (Exhibit US-67). At the WTO Committee on Agriculture, the United States has requested that China provide information on the appropriate conversion rate for price of milled rice to the price of unmilled rice. China has declined to provide a price conversion rate, indicating instead that there are difficulties associated with identifying a conversion rate.

²²⁵ Agriculture Agreement, Annex 3, paragraph 9. See also *Korea – Beef* (Panel), para. 828 (stating that "the fixed external reference price must be at (or converted to) the same stage in the processing chain as the applied administered price for the basic agricultural product(s) concerned").

²²⁶ The United States has compared published prices of milled rice to unmilled rice and found that the ratio of unmilled to milled rice is 60 percent on average between 2002 and 2014. The United States utilized the complete set of available pricing data. See Calculation of Rice Price Conversion, (Exhibit US-68) (utilizing data from China National Bureau of Statistics, *China Yearbook of Agricultural Price Survey* (2006) (Exhibit US-69); China National Bureau of Statistics, *China Yearbook of Agricultural Price Survey* (2008) (Exhibit US-870); China National Bureau of Statistics, *China Yearbook of Agricultural Price Survey* (2012) (Exhibit US-71); China National Bureau of Statistics, *China Yearbook of Agricultural Price Survey* (2014) (Exhibit US-72).

²²⁷ *Wheat MPS Implementation Plans* (Exhibits US-24 – US-27); *Indica Rice and Japonica Rice MPS Implementation Plans* (Exhibits US-26 – 27, and US-44 – 48); and *Notices on Purchases of Corn* (Exhibits US-52 – US-55).

118. Based on China’s annually published crop production data, the quantity of production eligible to receive the applied administered price in China is as follows:

Table 8: Wheat, Indica Rice, Japonica Rice and Corn Production in Eligible Provinces				
Unit: Million MT	2012	2013	2014	2015
Wheat Eligible Province Production ²²⁸	94.08	96.83	99.98	102.89
Hebei	13.38	13.87	14.30	14.35
Jiangsu	10.49	11.01	11.60	11.74
Anhui	12.94	13.32	13.94	14.11
Shandong	21.80	22.19	22.64	23.47
Henan	31.77	32.26	33.29	35.01
Hubei	3.71	4.17	4.22	4.21
Early Season Indica Rice Eligible Provinces ²²⁹	25.05	25.97	25.85	25.61
Anhui	1.32	1.31	1.28	1.09
Jiangxi	8.00	8.28	8.20	8.12
Hubei	2.09	2.23	2.39	2.52
Hunan	8.19	8.60	8.55	8.59
Guangxi Zhuang Autonomous Region	5.45	5.55	5.43	5.29
Mid/Late Season Indica Rice Eligible Provinces ²³⁰	83.43	82.32	84.44	85.96
Liaoning	minimal	minimal	minimal	minimal
Jilin	minimal	minimal	minimal	minimal
Heilongjiang	minimal	minimal	minimal	minimal
Jiangsu	2.66	2.69	2.68	2.73
Anhui	10.19	9.95	10.23	10.91
Jiangxi	11.76	11.76	12.05	11.95
Henan	4.93	4.86	5.29	5.32
Hubei	14.43	14.54	14.91	15.58
Hunan	18.13	17.01	17.79	17.85
Guangxi Zhuang Autonomous Region	5.97	6.01	6.23	6.09
Sichuan	15.36	15.5	15.26	15.53
Japonica Rice Eligible Provinces ²³¹	50.87	51.89	51.77	52.36

²²⁸ The annual provincial production data for wheat and corn is available in China’s Statistical Yearbooks. *China’s Statistical Yearbook* (2016) (Exhibit US-18); National Bureau of Statistics of China, *China’s Statistical Yearbook* (2015), Table 12-10: Output of Major Farm Products (publishing 2014 data), available:

<http://www.stats.gov.cn/tjsj/ndsj/2015/indexeh.htm> (“China’s Statistical Yearbook (2015)”) (Exhibit US-73);

National Bureau of Statistics of China, *China’s Statistical Yearbook* (2014), Table 12-10: Output of Major Farm Products (publishing 2013 data), available: <http://www.stats.gov.cn/tjsj/ndsj/2014/indexeh.htm> (“China’s Statistical Yearbook (2014)”) (Exhibit US-74); National Bureau of Statistics of China, *China’s Statistical Yearbook* (2013), Table 13-15: Output of Major Farm Products (publishing 2012 data), available:

<http://www.stats.gov.cn/tjsj/ndsj/2013/indexeh.htm> (“China’s Statistical Yearbook (2013)”) (Exhibit US-75).

²²⁹ See National Bureau of Statistics of China, *China’s Rural Statistical Yearbook* (2016), Table 7-18 (Exhibit US-76); Ministry of Agriculture, PRC, *China Agricultural Statistical Reports* (2012-2014), p. 21 (2012), 22 (2013), p. 21 (2014) (“China Agricultural Statistical Reports (2012-2014)”) (Exhibit US-77).

²³⁰ See *China’s Rural Statistical Yearbook* (2016), Table 7-18 (Exhibit US-76); *China Agricultural Statistical Reports* (2012-2014) pp. 22-23 (2012), 23-24 (2013), 22-23 (2014) (Exhibit-US-77). Noting that rice labeled as “mid-to-late season rice” or “late season” rice grown in Jiangxi, Henan, Hubei, Hunan, Guangxi Zhuang and Sichuan is assumed to be Indica rice. Anhui and Jiangsu both grow both Japonica and mid-to-late season Indica rice, however in different proportions. Jiangsu is a major producer of Japonica and 14 percent of its production is estimated to be mid-to-late season Indica. Anhui is a more significant producer of Indica and so 81 percent of its production is estimated to be mid-to-late season Indica. See Yuzhu et al., *Basic Knowledge about Japonica Rice* (2011), p. 7 (Exhibit US-78), compare with *China Agricultural Statistical Reports* (2011) (Exhibit US-77).

²³¹ See *China’s Rural Statistical Yearbook* (2016), Table 7-18 (Exhibit US-76); *China Agricultural Statistical Reports* (2012-2014) (Exhibit US-77). All rice labeled as “mid-to-late season rice” grown in Liaoning, Jilin, and

Liaoning	5.08	5.07	4.515	4.68
Jilin	5.32	5.63	5.876	6.3
Heilongjiang	21.71	22.21	22.51	22
Jiangsu	16.36	16.55	16.46	16.81
Anhui	2.42	2.36	2.431	2.592
Jiangxi	minimal	minimal	minimal	minimal
Henan	minimal	minimal	minimal	minimal
Hubei	minimal	minimal	minimal	minimal
Hunan	minimal	minimal	minimal	minimal
Guangxi Zhuang Autonomous Region	minimal	minimal	minimal	minimal
Sichuan	minimal	minimal	minimal	minimal
Corn Eligible Province Production	86.746	96.250	94.335	100.04
Heilongjiang	28.88	32.16	33.43	35.44
Jilin	25.79	27.76	27.33	28.06
Liaoning	14.24	15.63	11.71	14.04
Inner Mongolia	17.84	20.70	21.86	22.51

119. China annually publishes total national and provincial production by commodity in China’s *Statistical Yearbook*.²³² The wheat and corn production data is drawn directly from this source.

120. China releases data on the volume of rice production by season, its statistics do not distinguish between Indica and Japonica subspecies. China’s *Statistical Yearbook* annually provides information on total “rice” production by province.²³³ Additional information by seasons is available in China’s *Rural Statistical Yearbook* and *Agricultural Statistical Reports* regarding production volume by province for early season rice, middle-to-late or single season rice, and late season rice.²³⁴

121. To determine provincial level production of mid-to-late season Indica rice and Japonica rice, the United States first identifies those provinces that primarily or only grow Japonica or Indica rice. First, almost all of the rice reported as early season rice is Indica rice.²³⁵ Second, in the more temperate northeast provinces of Liaoning, Jilin, and Heilongjiang, farmers grow primarily Japonica rice, and the MPS Program for Japonica rice operates only in those three provinces.²³⁶ Third, the southern provinces of Jiangxi, Henan, Hubei, Hunan, Guangxi Zhuang

Heilongjiang is understood to be Japonica rice. Anhui and Jiangsu both grow both Japonica and mid-to-late season Indica rice, however in different proportions. Jiangsu is a major producer of Japonica and 86 percent of its production is estimated to be Japonica. Anhui is a lesser producer of Japonica and 19 percent of its production is estimated to be Japonica. See Yuzhu et al., *Basic Knowledge about Japonica Rice* (2011), p. 7 (Exhibit US-78), compare with China Agricultural Reports (2011) (Exhibit US-77).

²³² *China’s Statistical Yearbook* (2013-2016) (Exhibits US-18, US-73 – US-75).

²³³ *China’s Statistical Yearbook* (2013-2016) (Exhibits US-18, US-73 – US-75).

²³⁴ See *China’s Rural Statistical Yearbook* (2016), Table 7-18 (2016) (Exhibit US-76) (noting that nearly all early season and late season rice is Indica rice, while middle season single crop rice is Japonica rice); see also Funing, et al., *Alternative Approach to Measure Comparative Advantage* (2001), p. 7 (Exhibit US-35).

²³⁵ The volume of early season rice is drawn from *China’s Rural Statistical Yearbook*, at Table 7-18 (2016) (Exhibit US-76); *China Agricultural Statistical Reports* (2012-2014) p. 21 (2012), 22 (2013), p. 21 (2014) (Exhibit US-77)

²³⁶ See *China’s Rural Statistical Yearbook* (2016), Table 7-17, and 7-18 (2016) (Liaoning, Jilin, and Heilongjiang reporting no early (Indica) rice production, and only a single season of mid-to-late rice) (Exhibit US-76); see also Funing, et al., *Alternative Approach to Measure Comparative Advantage* (2001), p. 7 (Exhibit US-35) and Chen, *Current Situation and Trends in Production of Japonica Rice in China*, p. 2 (2006) (discussing three northeast provinces and Jiangsu) (Exhibit US-36).

and Sichuan primarily grow Indica rice.²³⁷ Finally, in Jiangsu and Anhui provinces grow both Indica rice and Japonica rice, and thus the share of Indica rice grown is estimated as described below. For those provinces that grow both mid-to-late season Indica and Japonica rice, the total rice volume has been subdivided to reflect the portion of production estimated to be attributed to each species.²³⁸

4. China’s Total Value of Production for Wheat, Indica Rice, Japonica Rice, and Corn

122. China’s total value of production for wheat, Indica rice, Japonica rice, and corn is calculated by multiplying the price to producers (or “farm gate price”)²³⁹ by the total volume of each basic agricultural product²⁴⁰ produced in China.²⁴¹ China’s total value of production for wheat, Indica rice, Japonica rice, and corn are as follows:

Table 9: Total Value of Production		2012	2013	2014	2015
Wheat	National Production (million MT)	121.02	121.93	126.21	130.19
	Farm Gate Prices (RMB/MT)	2,166.20	2,356.20	2,411.80	2,328.60
	Total Value of Production (million RMB) (<i>Production x Farm Gate Price</i>)	262,153.52	287,291.47	304,393.28	303,160.43
Early Indica Rice	National Production (million MT) ²⁴²	33.29	34.14	34.01	33.69
	Farm Gate Prices (RMB/MT)	2,622.00	2,603.20	2,681.60	2,687.40
	Total Value of Production (RMB) (<i>Production x Farm Gate Price</i>)	87,289.00	88,860.23	91,206.58	90,541.19
Mid/Late Indica Rice	National Production (million MT) ²⁴³	106.41	105.13	107.24	108.73
	Farm Gate Prices (RMB/MT)	2,697.40	2,627.20	2,658.00	2,601.60
	Total Value of Production (RMB) (<i>Production x Farm Gate Price</i>)	287,030.33	276,197.54	285,043.92	282,871.97
Total Indica Rice	Total Value of Production (million RMB) (<i>Early + Mid/Late Indica</i>)	374,575.59	365,325.74	376,513.64	373,725.35

²³⁷ See *China’s Rural Statistical Yearbook* (2016), Table 7-17, and 7-18 (2016) (Exhibit US-76); Chen, *Current Situation and Trends in Production of Japonica Rice in China*, 4 (2006) (noting the difficulty of the southern provinces switching to Japonica rice) (Exhibit US-36); see also Hansen, et al., *China’s Japonica Rice Market*, 32 (2002) (Exhibit US-35).

²³⁸ See Yuzhu, *Basic Knowledge about Japonica Rice* (2011), p. 7 (Exhibit US-78), compare with *China Agricultural Reports* (2011) (Exhibit US-77).

²³⁹ See *Compilation of China’s Farm Gate Prices 1995 to 2015* (Exhibit US-79) (sourced from China National Development and Reform Commission, *Compilation of Materials on Agricultural Product Cost and Returns* (2014) (Exhibit US-80) China National Development and Reform Commission, *Compilation of Materials on Agricultural Product Cost and Returns* (2016) (Exhibit US-81)).

²⁴⁰ See *China’s Statistical Yearbook* (2016), (Exhibit US-18); *China’s Statistical Yearbook* (2015), (Exhibit US-73); *China’s Statistical Yearbook* (2014) (Exhibit US-74); *China’s Statistical Yearbook* (2013) (Exhibit US-75).

²⁴¹ Communication From China, (July 19, 2001), Attachment DS4-1: de minimis exclusions, fn 1 (stating that the “[v]alue of production for product-specific: calculation from production multiplying producer price”) (Exhibit US-43).

²⁴² See *China’s Rural Statistical Yearbook*, Table 7-17 (Exhibit US-76).

²⁴³ *China’s Statistical Yearbook* (2016) (Exhibit US-18). Total production of mid-to-late season Indica is calculated by subtracting the volume of early-season Indica and Japonica rice from the total volume of Chinese rice production identified in the Statistical Yearbooks.

Japonica Rice	National Production (million MT) ²⁴⁴	64.44	64.25	65.16	65.71
	Farm Gate Prices (RMB/MT)	2,919.60	2,936.60	3,035.20	2,951.20
	Total Value of Production (million RMB) (Production x Farm Gate Price)	188,139.02	188,661.87	197,764.53	193,908.60
Corn	National Production (million MT)	205.61	218.49	215.65	224.63
	Farm Gate Prices (RMB/MT)	2,222.60	2,176.20	2,237.00	1,884.60
	Total Value of Production (million RMB) (Production x Farm Gate Price)	456,997.68	475,477.94	482,400.10	423,337.70

C. China’s AMS Calculations for Wheat, Indica Rice, Japonica Rice and Corn Demonstrate that China’s Product Specific Domestic Support is in Excess of De Minimis Levels

123. The United States below provides the calculation of the monetary value of market price support for each year for each basic agricultural product.²⁴⁵ Additionally, market price support as a percentage of total value of production is also calculated, so as to assess whether the level of support exceeds China’s 8.5 percent *de minimis* level of support.²⁴⁶

124. As demonstrated below, China has exceeded its *de minimis* level for each basic agricultural product (wheat, Indica rice, Japonica rice, corn) for every year evaluated.²⁴⁷

1. Value of Market Price Support Provided to Wheat Producers

125. As demonstrated below, through the MPS Program for wheat, China has provided domestic support in excess of its 8.5 percent *de minimis* level in the years 2012, 2013, 2014 and 2015.

Table 10: Wheat Market Price Support Calculation		
	2012	
	Units	
Eligible Production	million tons	94.08

²⁴⁴ See *China’s Statistical Yearbook* (2016) (Exhibit US-18). Japonica rice makes up 31.6 percent of China’s production. The total volume of production of Japonica is based on multiply the total rice production by .316. While not discussed in China’s tables supporting Schedule CLII, Part IV, China’s subsequent notifications state that with respect to the external reference price for rice “the weighted average of the prices of Japonica and Indica rice with the ratio of 1:2.” See Hansen, et al., *China’s Japonica Rice Market*, p. 38 (2002) (Exhibit US-35); Chen, *Current Situation and Trends in Production of Japonica Rice in China*, p. 7 (2006) (Exhibit US-36); see also China’s Notification (2002-2004), G/AG/N/CHN/17 (24 March 2010) (Exhibit US-2); China’s Notification (2005-2008), G/AG/N/CHN/21 (13 October 2011) (Exhibit US-3); and China’s Notification (2009-2010), G/AG/N/CHN/28 (6 May 2015) (Exhibit US-4).

²⁴⁵ Noting that product-specific AMS should also include any other non-exempt, product-specific domestic support or other subsidies not exempt from reduction commitments.

²⁴⁶ China’s *Working Party Report*, paragraph 235 (Exhibit US-7).

²⁴⁷ The analysis provided below covers 2012, 2013, 2014, and 2015. Full year production and pricing data needed to conduct the analysis for 2016 is not currently available.

Applied Administered Price	RMB/ton	2,040
Fixed External Reference Price	RMB/ton	431.1
Total Value of Production	million RMB	262,153.52
MPS Calculation (AAP-FERP)*EP	million RMB	151,364.37
MPS/Total Value of Wheat Production	percent	57.7%

2013		
	Units	
Eligible Production	million tons	96.83
Applied Administered Price	RMB/ton	2,240
Fixed External Reference Price	RMB/ton	431.11
Total Value of Production	million RMB	287,291.47
MPS Calculation (AAP-FERP)*EP	million RMB	175,154.82
MPS/Total Value of Wheat Production	percent	61.0%

2014		
	Units	
Eligible Production	million tons	99.98
Applied Administered Price	RMB/ton	2,360
Fixed External Reference Price	RMB/ton	431.11
Total Value of Production	million RMB	304,393.28
MPS Calculation (AAP-FERP)*EP	million RMB	192,850.42
MPS/Total Value of Wheat Production	percent	63.4%

2015		
	Units	
Eligible Production	million tons	102.89
Applied Administered Price	RMB/ton	2,360
Fixed External Reference Price	RMB/ton	431.11

Total Value of Production	million RMB	303,160.43
MPS Calculation (AAP-FERP)*EP	million RMB	198,463.49
MPS/Total Value of Wheat Production	percent	65.5%

2. Value of Market Price Support for Indica Rice Producers

126. As demonstrated below, through the MPS Program for Indica rice, China has provided domestic support in excess of its 8.5 percent *de minimis* level in the years 2012, 2013, 2014, and 2015.

Table 11: Indica Rice Market Price Support Calculation			
		2012	
		Units	Values
Early Indica Rice	Eligible Production	million tons	25.05
	Applied Administered Price	RMB/ton	2,400.00
	FERP	RMB/ton	470.83
	MPS Calculation (AAP-FERP)*EP	million RMB	48,325.71
Mid/Late Indica Rice	Eligible Production	million tons	83.43
	Applied Administered Price	RMB/ton	2,500.00
	FERP	RMB/ton	470.83
	MPS Calculation (AAP-FERP)*EP	million RMB	169,293.65
All Indica Rice	Total Value of Production	million RMB	374,319.34
	Total MPS	million RMB	217,619.36
	MPS/ Total Value of Indica Rice Production	percent	58.1%

		2013	
		Units	Values
Early Indica Rice	Eligible Production	million tons	25.97
	Applied Administered Price	RMB/ton	2,640.00
	FERP	RMB/ton	470.83
	MPS Calculation (AAP-FERP)*EP	million RMB	56,333.34
Mid/Late Indica Rice	Eligible Production	million tons	82.32
	Applied Administered Price	RMB/ton	2,700.00
	FERP	RMB/ton	470.83

	MPS Calculation (AAP-FERP)*EP	million RMB	183,505.27
All Indica Rice	Total Value of Production	million RMB	365,057.77
	Total MPS	million RMB	239,838.62
	MPS/ Total Value of Indica Rice Production	percent	65.7%

		2014	
		Units	Values
Early Indica Rice	Eligible Production	million tons	25.85
	Applied Administered Price	RMB/ton	2,700.00
	FERP	RMB/ton	470.83
	MPS Calculation (AAP-FERP)*EP	million RMB	57,624.04
Mid/Late Indica Rice	Eligible Production	million tons	84.44
	Applied Administered Price	RMB/ton	2,760.00
	FERP	RMB/ton	470.83
	MPS Calculation (AAP-FERP)*EP	million RMB	193,297.51
All Indica Rice	Total Value of Production	million RMB	376,250.50
	Total MPS	million RMB	250,921.56
	MPS/ Total Value of Indica Rice Production	percent	66.7%

		2015	
		Units	Values
Early Indica Rice	Eligible Production	million tons	25.61
	Applied Administered Price	RMB/ton	2,700.00
	FERP	RMB/ton	470.83
	MPS Calculation (AAP-FERP)*EP	million RMB	57,089.04
Mid/Late Indica Rice	Eligible Production	million tons	85.96
	Applied Administered Price	RMB/ton	2,760.00
	FERP	RMB/ton	470.83
	MPS Calculation (AAP-FERP)*EP	million RMB	196,777.05
	Total Value of Production	million RMB	373,413.16
	Total MPS	million RMB	253,866.10

All Indica Rice	<i>MPS/ Total Value of Indica Rice Production</i>	<i>percent</i>	68.0%

3. Value of Market Price Support for Japonica Rice Producers

127. As demonstrated below, through the MPS Program for Japonica rice, China has provided domestic support in excess of its 8.5 percent *de minimis* level in the years 2012, 2013, 2014, and 2015.

Table 12: Japonica Rice Market Price Support Calculation		
2012		
	Units	
Eligible Production	million tons	50.87
Applied Administered Price	RMB/ton	2,800
FERP	RMB/ton	546.6
Total Value of Production	million RMB	188,139.02
MPS Calculation (AAP-FERP)*EP	million RMB	114,629.44
<i>MPS/Total Value Japonica Production</i>	<i>percent</i>	60.9%

2013		
	Units	
Eligible Production	million tons	51.8
Applied Administered Price	RMB/ton	3,000
FERP	RMB/ton	546.62
Total Value of Production	million RMB	188,661.87
MPS Calculation (AAP-FERP)*EP	million RMB	127,085.08
<i>MPS/Total Value Japonica Production</i>	<i>percent</i>	67.4%

2014		
	Units	
Eligible Production	million tons	51.772
Applied Administered Price	RMB/ton	3,100
FERP	RMB/ton	546.62
Total Value of Production	million RMB	197,764.53
MPS Calculation (AAP-FERP)*EP	million RMB	132,193.59
<i>MPS/Total Value Japonica Production</i>	<i>percent</i>	66.8%

2015		
	Units	
Eligible Production	million tons	52.362
Applied Administered Price	RMB/ton	3,100
FERP	RMB/ton	546.62
Total Value of Production	million RMB	193,908.60
MPS Calculation (AAP-FERP)*EP	million RMB	133,700.08
MPS/Total Value Japonica Production	<i>percent</i>	69.0%

4. Value of Market Price Support for Corn Producers

128. As demonstrated below, through the Corn MPS Program, China has provided domestic support in excess of its 8.5 percent *de minimis* level in the years 2012, 2013, 2014, and 2015.

Table 13: Corn Market Price Support Calculation		
2012		
	Units	
Eligible Production	million tons	
Heilongjiang	million tons	28.88
Jilin	million tons	25.79
Liaoning	million tons	14.24
Inner Mongolia	million tons	17.84
Applied Administered Price	RMB/ton	
Heilongjiang	RMB/ton	2,100
Jilin	RMB/ton	2,120
Liaoning	RMB/ton	2,140
Inner Mongolia	RMB/ton	2,140
FERP	RMB/ton	366.07
Total Value of Production	million RMB	456,997.68
MPS Calculation (AAP-FERP)*EP	million RMB	152,217.43
MPS/Total Value of Corn Production	<i>percent</i>	33.3%

2013		
	Units	
Eligible Production	million tons	
Heilongjiang	million tons	32.16
Jilin	million tons	27.76
Liaoning	million tons	15.63
Inner Mongolia	million tons	20.7

Applied Administered Price	RMB/ton	
Heilongjiang	RMB/ton	2,220
Jilin	RMB/ton	2,240
Liaoning	RMB/ton	2,260
Inner Mongolia	RMB/ton	2,260
FERP	RMB/ton	366.07
Total Value of Production	million RMB	475,477.94
MPS Calculation (AAP-FERP)*EP	million RMB	180,449.16
MPS/Total Value of Corn Production	percent	38.0%

2014		
	Units	
Eligible Production	million tons	
Heilongjiang	million tons	33.43
Jilin	million tons	27.33
Liaoning	million tons	11.71
Inner Mongolia	million tons	21.86
Applied Administered Price	RMB/ton	
Heilongjiang	RMB/ton	2,220
Jilin	RMB/ton	2,240
Liaoning	RMB/ton	2,260
Inner Mongolia	RMB/ton	2,260
FERP	RMB/ton	366.07
Total Value of Production	million RMB	482,400.10
MPS Calculation (AAP-FERP)*EP	million RMB	176,770.62
MPS/Total Value of Corn Production	percent	36.6%

2015		
	Units	
Eligible Production	million tons	
Heilongjiang	million tons	35.441
Jilin	million tons	28.057
Liaoning	million tons	14.035
Inner Mongolia	million tons	22.508
Applied Administered Price	RMB/ton	
Heilongjiang	RMB/ton	2,000

Jilin	RMB/ton	2,000
Liaoning	RMB/ton	2,000
Inner Mongolia	RMB/ton	2,000
FERP	RMB/ton	366.07
Total Value of Production	million RMB	423,337.70
MPS Calculation (AAP-FERP)*EP	million RMB	163,459.99
MPS/Total Value of Corn Production	percent	38.6%

D. China’s Product-Specific AMS is in Excess of *De Minimis* Levels and Thus Inconsistent with its Domestic Support Commitment of “Nil”

129. As demonstrated above and summarized in the chart below, China has exceeded the 8.5 percent *de minimis* level of support for each basic agricultural product reviewed and in each year evaluated.

	2012	2013	2014	2015
Wheat	57.7%	61.0%	63.4%	65.5%
Indica Rice	58.1%	65.7%	66.7%	68.0%
Japonica Rice	60.9%	67.4%	66.8%	69.0%
Corn	33.3%	38.0%	36.6%	38.6%

130. In each year and for each basic agricultural product for which China has exceeded its *de minimis* level, the total value of the product-specific AMS must be included in China’s Total Current AMS. China’s Total Current AMS is therefore as follows:

Unit: million RMB	2012	2013	2014	2015
Wheat	151,364.37	175,154.82	192,850.42	198,463.49
Indica Rice	217,619.36	239,838.62	250,921.56	253,866.10
Japonica Rice	114,629.44	127,085.08	132,193.59	133,700.08
Corn	152,217.43	180,449.16	176,770.62	163,459.99
China’s Current Total AMS	635,830.60	722,527.68	752,736.19	749,489.66
China’s Final Bound Commitment	-0-	-0-	-0-	-0-

131. Thus, China, through its MPS Programs for wheat, Indica rice, Japonica rice, and corn, has exceeded its domestic support commitments by billions of yuan each year. In 2015, alone China provided 747 billion yuan of domestic support to producers of wheat, rice, and corn through the MPS Programs alone.

²⁴⁸ See Tables 10-13 above.

132. The level of domestic support provided to agricultural producers in 2012, 2013, 2014, and 2015 is inconsistent with China’s Final Bound Commitment of “nil,” and thus inconsistent with China’s obligations under Articles 3.2 and 6.3 of the Agriculture Agreement. Specifically, Article 3.2 of the Agriculture Agreement states that a “Member shall not provide support in favor of domestic producers in excess of the commitment levels specified in Section I of Part IV of its Schedule.”²⁴⁹ Section I of Part IV of China’s Schedule CLII commits to a domestic support limit of “nil.” Consistency with China’s commitment level is determined by comparing their scheduled domestic support commitment to its Current Total AMS.²⁵⁰

133. China’s Current Total AMS is the aggregate of all product-specific and non-product specific support calculated in accordance with the provisions of the Agriculture Agreement. China’s MPS Programs are market price support measures as contemplated by Annex 3, paragraph 1, of the Agriculture Agreement, and thus must be evaluated pursuant to the methodology provided in Annex 3, paragraph 8. Completing this analysis requires identification of the relevant applied administered prices, fixed external prices, and quantity of production eligible to receive the applied administered price.

134. The resulting level of domestic support is not however automatically included in China’s Current Total AMS. Rather, Articles 3.2 (“[s]ubject to the provisions of Article 6”) and 1(h) (“in accordance with the provisions of this Agreement, including Article 6,”) clarify that, consistent with Article 6.4 of the Agriculture Agreement, *de minimis* levels of product-specific support need not be included in a Member’s Current Total AMS calculation. China’s *de minimis* level is 8.5 percent.

135. However, as illustrated by Table 14, the value of domestic support provided to each basic agricultural product and in each year through the MPS Programs is in excess of China’s 8.5 percent *de minimis* level. Thus, the total value of the domestic support for each basic agricultural product must be included in China’s Current Total AMS for each year. This yields a positive level of domestic support, which by definition exceeds China’s commitment level of “nil.” For these reasons, China is in breach of its WTO obligations under Articles 3.2 and 6.3 of the Agriculture Agreement.²⁵¹

VI. CONCLUSION

136. As described in detail above, the Agriculture Agreement provides both obligations and a framework for analyzing Member’s domestic support to agricultural producers. This framework allows for the comparison of the level of domestic support to the Member’s individual domestic support commitments. While a fact and data intensive exercise, particularly where Members

²⁴⁹ Agriculture Agreement, Article 3.2; *see also* Agriculture Agreement, Article 6.3.

²⁵⁰ Agriculture Agreement, Article 6.3.

²⁵¹ Because China’s Schedule contains the commitment level of “nil,” China must ensure that its support is provided consistently with Articles 3.2 and 6.3. In the alternative, to the extent China’s commitment level of “nil” were understood as not setting out any commitment, China would breach Article 7.2(b). This article provides: “Where no Total AMS commitment exists in Part IV of a Member’s Schedule, the Member shall not provide support to agricultural producers in excess of the relevant *de minimis* level set out in paragraph 4 of Article 6.” As demonstrated above, China has provided support to domestic producers in excess of its relevant *de minimis* levels in 2012, 2013, 2014, and 2015 for each of wheat, Indica rice, Japonica rice, and corn.

have not adequately or accurately notified their support programs to the Committee on Agriculture, it is possible to assess a Member’s level of domestic support.

137. The United States has demonstrated that China has exceeded its domestic support commitment of “nil” by providing support in excess of its *de minimis* threshold of 8.5 percent the value of production in 2012, 2013, 2014, and 2015 for each of four basic agricultural products – wheat, Indica rice, Japonica rice, and corn. The value of domestic support provided through the MPS Programs exceeds China’s commitments by a substantial margin, and the significant support announced for 2016 and 2017 indicate that China is likely to continue to exceed its domestic support commitments.²⁵²

138. DSU Article 19.1 provides that a panel or the Appellate Body “shall recommend that the Member concerned bring the measure into conformity with [a] covered agreement” where the panel or Appellate Body “concludes that a measure is inconsistent with a covered agreement.” The United States has demonstrated China has acted inconsistently with its obligations under Agriculture Agreement Articles 3.2 and 6.3. Therefore, the United States requests that the panel issue the mandatory recommendation for China to bring its measures into conformity with the Agriculture Agreement.

²⁵² *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) (Exhibit US-83); *Notice on Announcing the Wheat Minimum Purchase Price for 2017* (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. 2207, issued October 21, 2016) (Exhibit US-84); *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) (Exhibit US-85); *Notice on Announcing the Rice Minimum Purchase Prices for 2017* (National Development and Reform Commission, Ministry of Finance, Ministry of Agriculture, State Administration of Grain, Agricultural Development Bank of China, Fa Gai Jia Ge [2017] No. 307, issued February 17, 2017) (Exhibit US-86). While it is unclear whether China will renew its pattern of temporary corn procurement, it has initiated a number of new significant corn subsidy programs affecting the northeastern provinces. See *Notice on Earnestly Completing This Year’s Work of Corn Purchasing in the Northeast China Region* (MOF, NDRC, SAG, MOA, ADBC, CBRC, Guo Liang Diao [2016] No. 210, issued September 19, 2016) (Exhibit US-87); *Central Fiscal Funding Allocation Results of Batch 1 of the 2016 Corn Producer Subsidy*, Ministry of Finance [2016], published July 19, 2016, available: http://jjs.mof.gov.cn/zxzyzf/mbjgbt/201607/t20160719_2363803.html (Exhibit US-88); *Central Fiscal Funding Allocation Results of Batch 2 of the 2016 Corn Producer Subsidy*, Ministry of Finance, [2016] published in or around November 2016, available: http://jjs.mof.gov.cn/zxzyzf/mbjgbt/201610/t20161028_2445902.html (Exhibit US-89).