TO TRADE POLICY REVIEW OF THE UNITED STATES

December 19&21, 2016, Geneva

Follow-up Questions from the P. R. China

**Part I. Questions based on Report by the Secretariat (WT/TPR/S/350)**

**Question 1**

*Page 45,para 3.40*

*The American Manufacturing Competitiveness Act of 2016 (PL 114-159) provides a new process for the consideration of temporary tariff suspensions. Enterprises seeking tariff relief are to petition the USITC, which will examine such petitions, receive comments, and issue a report to Congress providing specified findings on the requested duty suspensions and reductions. Based on such a report, Congress will consider a miscellaneous tariff bill that could authorize tariff relief.*

1. According to the American Manufacturing Competitiveness Act of 2016, which products (commodity names and tariff lines) are subject to temporary tariff suspensions? When and how was the information released?

**RESPONSE:** Currently, no such temporary measures are in effect. As noted, the American Manufacturing Competitiveness Act of 2016 (the Act) establishes a new procedure for the filing of requests for duty suspensions or reductions. Under the new procedure, likely beneficiaries of such suspensions or reductions had an opportunity to file a petition directly with the U.S. International Trade Commission between October 14, 2016, and December 12, 2016. In January 2017, the Commission is scheduled to issue a Federal Register notice soliciting public comments on accepted petitions. In August 2017, the Commission is scheduled to submit its final report on temporary tariff suspensions to Congress. Additional information about temporary tariff suspensions can be found on the Commission’s website at <http://usitc.gov>.

**Question 2**

*Page 88, para 3.211*

1. The BAA is not applicable to services. Are all the enterprises registered in the United States (local legal persons) regarded as domestic service providers and enjoy national treatment in government procurement activities?

**RESPONSE:** Subpart 25.402(a)(b) of the Federal Acquisition Regulations notes that a federal government “contracting officer shall determine the origin of services by the country in which the firm providing the service is established.”

**Question 3**

*Page 105, para 4.1&4.2*

*Page108，para4.7&Tabe 4.4*

1. Since the United States already enjoys the most competitive agriculture in the world, what is the consideration of the government in applying to many agricultural products the Price Loss Coverage programme, the Agricultural Risk Coverage programme, the Marketing Loan Programme and other price support programmes that are linked to current prices of agricultural products? Has the Federal Government evaluated how these agricultural product price support programmes have distorted the prices and markets of agricultural products in the United States and the world? If yes, what are the evaluation results?

**RESPONSE:** Price Loss Coverage (PLC), and Agriculture Risk Coverage (ARC) were authorized by the 2014 Farm Bill. They have been appropriately notified to the WTO COA in the 2014 DS:1 notification.

**Question 4**

*Page 111, para4.1.2.4*

*The USDA Commodity Credit Corporation (CCC) provides marketing assistance loans to eligible producers of the covered commodities.[[1]](#footnote-1) Marketing loans allow producers to delay sales from normal harvest time (or shearing, for wool) until market conditions are favourable. Loan rates have been set well below current market prices and current production costs in recent years, and the marketing loan programme is thus designed to provide income support at times of low commodity prices.*

1. Has the ultra-low loan rates provided by the Government of the United States to domestic agricultural production constituted a relative policy advantage compared to the relatively high interest rates provided by other developing countries to their agricultural production? Since the marketing loan programme offers a loan rate which has a proportional relationship with the market prices of agricultural products, does it mean that the marketing loan programme is a minimum purchase price policy? The marketing loan programme has been in existence since the 1930s, and the United States already realized the whole process mechanization in the farming and harvesting of staple agricultural products by and large in 1968. What was the role played by this policy in raising the incomes of American farmers and enabling them to purchase large-scale agricultural machinery and other inputs to realize agricultural modernization?

**RESPONSE:** The interest rate charged on a marketing loan is set at one percentage point above the Commodity Credit Corporation’s cost of borrowing from the U.S. Treasury at the time the loan is made. The marketing loan program does not operate as a minimum purchase price policy, as producers retain ownership of their commodities and repay loans after commodities are sold. The program’s objective is to provide a marketing tool to farmers and provide interim financing at harvest time. It is unrelated to the purchases of agricultural machinery and other inputs.

**Question 5**

*Page 111, para4.15*

*Today, the federal crop insurance programme allows participants to insure against losses on some 130 crops, including the five major crops (maize, cotton, grain/sorghum, soybeans, and wheat), minor crops, and specialty crops (fruit, vegetables, nursery crops, and tree nuts). Premium rates and other contract provisions are determined by the USDA Risk Management Agency (RMA), but sold to farmers by private insurance companies and private insurance agents.*

1. The United States is a market economy. As a measure for farmers to prevent natural and price risks, crop insurance is supposed to be provided through the market. The Government of the United States let one of its institutions the USDA Risk Management Agency to determine premium rates and other contract provisions. Is this against market rules? And Should adjustments be made according to market situations?

**RESPONSE:** The Risk Management Agency (RMA) manages the Federal Crop Insurance Corporation (FCIC) to provide crop insurance products that are actuarially sound and reflect market conditions. The crop insurance program also allows for private parties to develop new crop insurance products to be offered through the program.

**Question 6**

*Page 111, para4.16*

*In general, farmers may choose between catastrophic coverage, insuring 50% of the normal yield and 55% of the estimated market price of the crop, and additional ("buy-up") coverage (50%-85% of normal yield and up to 100% of the estimated market price of the crop).*

1. According to the stipulations of the Federal Government, , participants under the catastrophic coverage pay an annual US$300 administrative fee for each crop insured in each county, while the Federal Government pays the entire premium for catastrophic coverage. Will ultra-large-scale farmers benefit more from such a policy design than small-scale farmers? Why did not the Federal Government ask participants under catastrophic coverage to pay premiums that are linked to current areas or outputs, or areas or outputs in base periods?

**RESPONSE:** The crop insurance program provides the same coverage per acre, regardless of the size of the producer.

The premium for catastrophic coverage is based on the expected production for the acres a farmer actually plants.

**Question 7**

*Page 112, table 4.5*

Table 4.5 Crop insurance fiscal costs, by crop year, 2008-14 shows that, during the 7 years from 2008 to 2014, the total government cost of crop insurance amounted to US$57.7 billion, and the a&o costs paid by the government to insurance companies during the same period reached US$10.5 billion. A&o costs accounted for 18% of the total government cost. The a&o costs paid by the Federal Government of the United States to subsidize crop premiums dropped from US$2 billion in 2008 to US$1.6 billion in 2009, and maintained at US$1.4 billion from 2010 to 2014. However, it is not hard to see that the US$1.4 billion of a&o costs in 2010 accounted for 30% of the US$4.7 billion of total government cost in the same year, and the proportion in 2014 still reached 20%.

1. Why did the proportion of a&o costs in total government cost stay at a high level during the implementation of the Federal Government’s crop insurance subsidy policy? Since the total government cost of crop insurance was different in each year, why did the Federal Government provide a fixed sum of US$1.4 billion of financial support to insurance companies from 2010 to 2014 instead of offering financial support to insurance companies in light of the actual a&o costs of each year?

**RESPONSE:** Administration and operating (A&O) expenditures reimburse private insurance companies for certain administrative and operating expenses for the delivery of Federal crop insurance policies. Before 2011, the A&O paid to insurance companies was based on a percent of total premium. For 2011 and later, RMA renegotiated the Standard Reinsurance agreement to limit the A&O such that is does not exceed a maximum level of around $1.4 billion. It is not practical for RMA to monitor the insurance companies’ actual costs each year. Instead, A&O is based on a percent of premium, subject to a limit, as negotiated between RMA and the insurance companies.

**Question 8**

*Page 112, para 4.18*

*Moreover, the GAO released a study in March 2015, concluding that a reduction in premium subsidies for the highest income participants could lead to significant savings while leaving 99% of the participants unaffected. Earlier studies have argued that the crop insurance programme is inefficient compared with other forms of government support, such as decoupled payments.*

1. Does the Federal Government have any plans on reforming and perfecting the policy on premium subsidies to agricultural products in order to improve the efficiency of the policy and reduce unnecessary waste of financial funds?

**RESPONSE:** Current U.S. farm programs are governed by the 2014 Farm Act for the period 2014-18. We remind Members that TPRs are retrospective reviews. We look forward to keeping the Membership informed of any changes that may occur in a future Farm Bill.

**Question 9**

*Page 113, para 4.19*

*Instead, a new Stacked Income Protection Plan (STAX) provides coverage for losses of up to 20% of the expected county revenue…In addition, the grower may increase (or decrease) the effective coverage under STAX by choosing a multiplier (protection factor) that may range from 80% to 120%. The premium subsidy rate, i.e. the share paid by the Federal Government, is 80%.*

*Page 113, para 4.21*

*U.S. sugar prices have been above world market levels since the early 1980s.*

*Page 113, para 4.22*

*The overall allotments equal at least 85% of estimated domestic demand for human consumption. Excess sugar may not be sold in the market for human consumption and must thus be stored at the owner's expense. Depending on market conditions, USDA may adjust allotments upwards in the course of the marketing year to release more sugar into the market.*

1. Since the Unites States has already realized scale management and mechanized production and harvest of cotton and sugar, why more special protective policies are provided by the government to cotton and sugar? Research reports in the United States called on the government to reduce the overprotection of sugar and requested to cut down on the high tariff rates on and subsidies to sugar. What is the US government’s view on this issue? What are future policy considerations on improving the market competitiveness of sugar?

**RESPONSE:** Current U.S. farm programs are governed by the 2014 Farm Act for the period 2014-18. We remind Members that TPRs are retrospective reviews. We look forward to keeping the Membership informed of any changes that may occur in a future Farm Bill.

**Question 10**

*Page 113, 4.1.2.9 Other programs*

*The Supplemental Nutrition Assistance Program (SNAP) is the dominant programme, in terms of expenditures, under the 2014 Farm Act (Title IV), accounting for US$756.4 billion or nearly 80% of all projected outlays over FY2014-FY2023…At present, around 22 million households representing some 45 million individuals participate in SNAP.[[2]](#footnote-2) The average monthly benefit is about US$125 per person.*

1. During the current implementation of the *Supplemental Nutrition Assistance Program* in the United States, the aid received by each resident is linked to the number of people in the household, incomes and expenditures. The programme also stimulates the production activities of local farms and increases farmers’ incomes and distorted the production of and the trade in agricultural products, therefore bearing the characteristics of “amber box” subsidy policies. In its domestic support notification to the WTO, the US Government listed the expenditure as “domestic food aid” in the “green box” not confined by reduction commitments. Please explain the reason why the US government listed the policy in the “green box” rather than “amber box”.

**RESPONSE:** The Supplemental Nutrition Assistance Program (SNAP) fully meets the green box criteria for exemption in paragraphs 1 and 4 of Annex 2 to the Agreement on Agriculture. It is a publicly funded program that enables eligible recipients to buy food at market prices through financial assistance.

**Part II. Other Questions**

**Question 11**

According to the 2014 Farm Act of the United States, the “reference prices” of wheat, corn and soybeans were US$5.50, US$3.70 and US$8.40 per bushel respectively. While in the 2008 Farm Act, the target prices of wheat, corn and soybeans were US$4.17, US$2.63 and US$6.00 per bushel respectively. Compared with the target prices of wheat, corn and soybeans in 2008, the “reference prices” of 2014 respectively rose by 32%,、41%、40%.

1. Since American agricultural products are highly competitive in the international market with a very big share in the world’s total exports, why has the Federal Government raised the reference prices or target prices of agricultural products? The United States has adopted target or reference prices policies for the agricultural products for a long period of time. Will they distort the market prices of agricultural products and result in the malfunctioning of the market in resource allocation? Will it put other developing countries in a disadvantageous market position in the international trade of agricultural products?

**RESPONSE:** Both the 2008 Farm Bill programs and the 2014 Farm Bill programs have been notified to the WTO. Both programs were designed and implemented consistent with WTO obligations and market conditions.

**Question 12**

Page 13 of the Statement by Thomas Vilsack, Secretary of Agriculture before the Senate Committee on Agriculture on September 21, 2016, “As for MPP-Dairy, USDA recently amended regulations to allow producers that add adult children, grandchildren or spouses to their operation to increase the established milk production history eligible for coverage under MPP-Diary”, thus the subsidy on milk was raised.

1. By amending policies, the United States increased the established milk production history of dairy farmers applying for MPP-Dairy, thus raising the subsidy on milk. How much has the subsidy increased after the amendment of the policy compared with before? In addition to the provisions on milk, has the Federal Government amended any other provisions concerning the production history of other agricultural products? If so, please give a detailed introduction to the amendments. Which agricultural products have experienced what amendments？

**RESPONSE:** MPP-Dairy is a margin insurance program that requires participating producers to pay a premium for coverage. The program will be notified in the appropriate U.S. domestic support notification.

**Question 13**

A Saudi Prince May Be Racing Away with Farm Subsidies, an article published through the website of Environmental Working Group on October 11, 2016. According to the article, “Billionaire Saudi Prince Khalid bin Abdullah could be raking in hundreds of thousands of dollars in crop insurance subsidies through farms he owns in Kentucky – but we have no way of knowing for sure as the government has not disclosed the database on all the crop insurance subsidies”, “a farm owned by the Prince in the UK received £406,826 in European Union farm subsidies in 2015”, “while foreign persons are generally prohibited from collecting commodity subsidies if they own more than a 10 percent stake in the farm business, the federal crop insurance program has no strict prohibition on eligibility for premium subsidies”, “a 2015 report by the Government Accountability Office found that more than 20 crop insurance participants in the highest income category had foreign residences”.

1. Can farms invested by foreigners in the United States apply for crop premium subsidies? If so, what are the conditions and requirements?

**RESPONSE:** Persons who operate farms invested by foreigners in the United States may only apply for crop premium subsidies under certain conditions.  To be eligible for crop premium subsidies for a crop or livestock policy reinsured under the Federal Crop Insurance Act, you must be a person who has an insurable interest in an agricultural commodity, who has not been determined ineligible to participate in the Federal crop insurance program, and who possesses a United States issued Social Security Number (SSN) or Employer Identification Number (EIN).

Persons who do not possess a United States issued SSN or EIN may still be eligible to participate in policies reinsured under the Federal Crop Insurance Act if they can demonstrate that they are entitled to Federal benefits in accordance with the Personal Responsibility and Work Opportunity Act of 1996 (PRWORA).  The USDA Risk Management Agency (RMA) may issue a RMA Assigned Number (RAN) allowing participation for its programs to an individual who is considered a qualified alien as determined by the PRWORA, 8 U.S.C. §1611; or, to a trust administered by the Bureau of Indian Affairs, and Indian Tribal Ventures that does not have an EIN.

**Question 14**

On December 19, 2015, the Nairobi Ministerial Declaration and 9 ministerial decisions were adopted at the 10th Ministerial Conference of the WTO. The 162 member states promised for the first time to eliminate all export subsidies to agricultural products and export credits on agricultural products will be brought under control. As stipulated, developed countries must immediately eliminate policies on the export subsidies to agricultural products.

1. As an advocator of free trade and a major founder of the WTO, why has the United States maintained export credit guarantees in its 2014 Farm Act, which is in violation of the WTO’s requirements for “eliminating export subsidies of agricultural products?”

**RESPONSE:** The Farm Act of 2014 does not affect the ability of the United States to comply with the Nairobi Ministerial Decision dealing with export competition such as export credits (i.e. the GSM-102 program). The United States has followed the elements of the Nairobi decision since prior to December 2015 and will continue to do so.

**Questions 15-17**

Information from the Farm Subsidy Database of the website of Environmental Working Group

（1）About the Biomass Crop Assistance Program (BCAP). From 2011 to 2014, the Federal Government of the United States invested US$7.666 billion, US$7.090, US$7.426 billion and US$ 6.208 billion in the programme respectively every year. A significant part of the money was used to support the production of corn. Many international researches show that this American subsidy policy has distorted the prices in the corn markets.

（2）Crop premium subsidy. From 2008 to 2014, the annual crop premium subsidy on wheat in the United States amounted to US$0.937 billion, US$1.093 billion, US$0.686 billion, US$1.125 billion, US$1.121 billion, US$ 1.253 billion and US$0.918 billion respectively. During the same periods, the annual output values of wheat in the United States were US$16.701 billion, US$10.607 billion, US$12.579 billion, US$14.269 billion, US$17.383 billion, US$14.604 billion and US$11.924 billion respectively. Thus, the proportions of the premium subsidies on wheat of the Federal Government of the United States in annual outputs from 2008 to 2014 were 5.61%, 10.30%, 5.45%, 7.88%, 6.45%, 8.58% and 7.70% respectively. All of them were beyond the upper limit of 5% promised by the United States for the proportions of specific agricultural products in their annual outputs. In addition to wheat, other agricultural products with crop premium subsidies provided by the Federal Government in 2014 accounting for more than 5% of their annual outputs included sorghum (5.72%), cotton (9.51%), sunflower seed (7.39%), camellia seed (8.82%) and flax seed (5.51%).

（3）The livestock disaster/emergency payment subsidy. In 2014, the livestock disaster/emergency payment subsidy in the United States reached US$4.432 billion. In addition to 2014, the highest amount of this subsidy during the period from 1995 to 2014 was US$ 0.434 billion in 2001. In 2011 and 2012, the subsidy only amounted to US$ 0.267 billion and US$44.92 million respectively. The subsidy in 2013 was even a minus. According to the information from the website of USDA, “livestock compensation” is a major item of the current disaster subsidy in the United States, and the livestock enjoying the highest subsidy is adult Buffalo/Beefalo. On average, each head of Buffalo/Beefalo that has died of disaster may receive a compensation of US$2,523.82. Even if calculating based on this data, the disaster subsidy of the United States in 2014 was equivalent to compensation for 175,610 heads of Buffalo/Beefalo.

1. Has the US government notified the Biomass Crop Assistance Program in its domestic support notification. Was this program notified as the amber box measure for a specific agricultural product? If not, why?

**RESPONSE:** The United States notifies the Biomass Crop Assistance Program as non-product specific support in years during which there are expenditures. BCAP assistance is provided only to non-commodity biomass crops, including agricultural or crop residues, woody agriculture residues like orchard waste and residues removed directly that are byproducts of preventative treatments to reduce the threat of forest fires, disease, or insect infestation.

1. According to the 2014 Farm Act, in the next 10 years, the Government of the United States will continue to strengthen the implementation of policies on crop insurance subsidy. Since the subsidy already accounts for such a high proportion in the outputs of agricultural products, will agricultural production and agricultural market be seriously distorted by higher subsidies?

**RESPONSE:** Current U.S. farm programs are governed by the 2014 Farm Act for the period 2014-18. Any changes to the programs will be considered as part of a new Farm Bill.

1. Why was the US livestock disaster subsidy in 2014 so high? Which specific livestock suffered from disasters? What were the death tolls of specific varieties?

**RESPONSE:** Payments in fiscal year 2014 for livestock assistance included retroactive payments for disasters back to October 2011, which included the effects of widespread drought in 2012 and blizzard conditions in some regions in 2013. Most of the assistance was for forage loss for which species-specific data are not available. Livestock indemnity payments for death loss are reported by species as product-specific support in our DS:1 notifications.

**Questions 18-20**

Due to institutional reasons, there is a relatively big difference in the administration of the accounting sector between China and the United States. Registered public accountants in China share a unified standard on practicing qualifications across the whole country and are not subject to geographical restrictions in operations, while the management measures of the accounting industry in the United States are mainly formulated by state governments. Registered accountants need to obtain practicing qualifications by state, and the qualifications examinations and registrations for practice in a number of states have restrictions in terms of citizenship, right of residence and border control. According to the latest developments in the negotiations between China and the United States on the bilateral investment treaty, accounting and auditing has been deleted from China’s negative list, but the negative list of the United States has maintained relevant restrictions on accounting and auditing services by complete exclusion of state-level restrictive measures, leading to imbalance in the opening-up of accounting services between China and the United States.

1. Some American states (e.g. Arizona, Arkansas and North Carolina) require the right of residence in respective states as the condition for obtaining practitioner’s license of registered public accountant. Please provide the main considerations for the provisions on the right of residence, and explain the conditions for obtaining the right of residence and relevant laws and regulations.

**RESPONSE:** Residency requirements may differ among the states that maintain them, and it is recommended that each applicant consult the rules of a particular state. Links to all state-board websites may be found at <https://nasba.org/stateboards>. As a practical matter, such requirements are not the obstacle to serving the national market that China suggests; because of mobility rules, most every U.S. state and territory allows licensed CPAs from other states to practice outside of his or her principal place of business without obtaining another license. Information on mobility may be found at: <https://www.cpamobility.org/>.

1. What conditions need the foreigners who are registered public accountants in the United States to meet to become partners of American accounting firms? Are there any restrictions on the shareholding ratio or partner proportion? Please provide the common practices and provisions of the main states.

**RESPONSE:** A foreign national with a CPA license from a U.S. state enjoys all the practice rights of a U.S. national CPA, including the ability to become a partner of a firm registered in that state. Accounting firms in the United States are private enterprises that may set their own conditions for partnership, consistent with the business laws of the relevant state.

1. When issuing bonds in the American capital market, which accounting standards do foreign enterprises need to follow to compile their financial statements? What are the requirements for their auditors? May foreign accounting firms act as auditors of the foreign enterprises issuing bonds in the United States? Is examination, approval or filing for records by relevant competent departments required?

**RESPONSE:** The relevant accounting standard for foreign issuers depends on several factors, including previous filings with the SEC, home-country accounting standards, and company ownership. Details are found in Topic 6 (Foreign Private Issuers and Foreign Business) of the Financial Reporting Manual: <https://www.sec.gov/divisions/corpfin/cffinancialreportingmanual.pdf>. Requirements for foreign accounting firms are found in Section 6800 (Foreign Audit Matters) of the Manual.















1. [↑](#footnote-ref-1)
2. [↑](#footnote-ref-2)