December 1, 2021

Ambassador Katherine Tai
U.S. Trade Representative
Office of the United States Trade Representative
600 17th Street NW
Washington, DC 20006

Submitted electronically via Federal eRulemaking Portal

Re: Docket No. USTR-2021-0019-0001 – *Request for Comments Concerning Notice of Product Exclusion Extensions: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 86 Fed. Reg. 56,345 (Office of the United States Trade Representative October 8, 2021)

Dear Ambassador Tai:

CropLife America (CLA) is providing this submission in response to 86 FR 56345. CLA, established in 1933, represents the developers, manufacturers, formulators and distributors of plant science solutions for agriculture and pest management in the United States. CLA's member companies produce, sell, and distribute virtually all the pesticide products used by American farmers, ranchers, and landowners to ensure healthy crops and strong yields. Together with its members, CLA works to ensure that their member companies can provide the agricultural products that support the United States' safe food supply, as well as the beautiful public and private spaces that characterize our country, reducing the risks posed by destructive pests and plant diseases.

Pesticidal chemicals are crucial to many American industries. American farmers depend on them to grow healthy and safe grains, fruits, and vegetables that are used as food, as well as other farm products, including fibers, lumber, and fuel for Americans and consumers around the world. Without modern pesticide technology, insect pests, weeds, and crop diseases would reduce crop yields and quality and substantially reduce the availability of American-grown farm and food products. Similarly, without pesticide products, American plant nurseries would suffer, as would turf protection for areas such as sports fields, golf courses, and even everyday Americans' lawns. Pesticidal chemicals also prevent public health problems by controlling harmful insects such as mosquitos and ticks.

In addition, pesticide technology plays a vital role in achieving the Biden Administration's goals for sustainable productivity growth for U.S. agriculture. Increasing production while minimizing environmental impacts and preserving natural resources is the great challenge for today's farmers, especially in the face of a changing climate and the pressures on agriculture that come with it. Farmers carefully track which pests and diseases are affecting their crops and which parts of their fields are affected. If they must use pesticides, they carefully select the right pesticide for each pest and crop at issue. Of course, pricing also factors into farmers' decision making and high costs can prevent selection of better tools in favor of cheaper alternatives. Tariff-driven cost increases force farmers to give greater weight to input costs in their decision processes and constrain their capabilities of choosing the right tool at the right time.

CLA welcomes the decision by the Office of the U.S. Trade Representative (USTR) to consider reinstating previous exclusions. The Section 301 tariffs have raised costs and squeezed margins for many CLA member companies. Tariffs on pesticide inputs force companies to confront the difficult choice between raising prices for farmers – who already face tight margins – and other customers or reducing income that could be used to better compensate their workers, invest in supply chains, and engage in other important activities.

Previous Exclusions for Pesticides

The primary tariff code previously excluded from the Section 301 action related to the pesticide industry is 3808.93.15, specifically "herbicide consisting of 1,1'-dimethyl-4,4'-bipyridinium dichloride (CAS No. 1910-42-5) (Paraquat concentrate in liquid form) up to 45 percent concentration with application adjuvants." Two-thirds of the needs of the U.S. market for paraquat is imported from China, which is responsible for about 80 percent of global production.

Paraquat is one of the most widely used herbicides in the United States. It is an important part of farmers' herbicide rotation because its mode of action is different from other common herbicides, and therefore helps prevent establishment of resistant weeds. Weed resistance primarily occurs when a single mode of action is overused on a weed population. An individual in that population that is resistant to that mode of action will survive and reproduce while non-resistant plants die, allowing the resistant variety to become dominant in a population. The availability of alternative modes of action through pesticides like paraquat makes it much more difficult for plants to develop resistance. U.S. producers need to have as many herbicides available as possible to prevent growth in resistance.

The precise value and quantity of Chinese-origin product covered by the exclusion request is difficult to determine.

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There are 377 companies on the global market with valid registrations for paraquat-based formulations. It is a generic product and CLA cannot provide comprehensive market details that would shed more light on the import situation with China. It is further complicated by the fact that paraquat and paraquat ingredients are also imported under different tariff codes (e.g. 2933.39.23), than the one previously excluded. Regardless, CLA's position is that pesticide products that are vital for U.S. food production, public health, and numerous other uses should not be subject to Section 301 tariffs.

Section 301 Tariffs

Reinstating the exclusion process is an important step to provide relief for U.S. companies and consumers, including plant science companies and the customers they serve. CLA also supports taking the next steps needed to remove all the Section 301 tariffs and provide more stability for the U.S.-China trade and investment climate. USTR should work diligently towards a negotiated solution with the aim of putting an end to the Section 301 tariffs without new escalations. It should also collaborate with like-minded international partners to develop long-term approaches to reducing and mitigating the impacts of Chinese state intervention on global markets. In the meantime, USTR should allow for exclusions of additional products, including the many crop protection products impacted by actions under Section 301.

The Section 301 tariffs raise prices for American farmers, nurseries, turf protection businesses, and pest mitigation companies, as well as their customers. They negatively impact jobs across the American agrochemical, agricultural, turf protection, and pest mitigation supply chains. The burdens of the tariffs are felt disproportionately by our member companies, American growers, and consumers, inclusive of negative effects for American consumers' health. Meanwhile, although there were many welcome developments in the U.S.-China Economic and Trade Agreement (a.k.a. "Phase One"), the tariffs do not seem to have meaningfully affected the most concerning acts, practices, and policies that the current and prior administrations have sought to change.

Many of the chemicals covered by the 301 tariffs are not produced in the United States, finding new sources and establishing a new supply chain for regulated industries for these products is difficult. All new sources for pesticide active ingredients used in the U.S. market are subject to a robust Environmental Protection Agency clearance process. Due to the limited existing capacity outside of China, and the difficulties of bringing new sources online, the additional tariffs have inevitably increased the prices of critical tools for U.S. farmers.

The Federal Register Notice asked a series of questions on efforts made to expand sourcing to alternative suppliers in the U.S. or third countries. CLA member companies have been exploring alternatives and switching suppliers where possible. The political risks and the increased costs of

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tariffs have certainly had an impact, but in many cases the alternatives are limited. The chart below shows the quantity of imports of pesticide products included in List 4A from China compared to the rest of the world:

List 4A Pesticide Product Imports							
Origin	**Description**	**2017**	**2018**	**2019**	**2020**	**YTD 2020 (Jan-Sep)**	**YTD 2021 (Jan-Sep)**
China	Quantity (kg)	113,387,802	111,803,577	92,701,641	80,423,689	59,266,825	73,774,092
ROW	Quantity (kg)	69,809,957	80,999,815	85,925,121	72,935,264	59,042,297	50,993,105
Total	Quantity (kg)	183,197,759	192,803,392	178,626,762	153,358,953	118,309,122	124,767,197
China	%Total	62%	58%	52%	52%	50%	59%
ROW	%Total	38%	42%	48%	48%	50%	41%

There has been a decline in imports from China since 2017, prior to the imposition of the Section 301 tariffs, and an increase from other origins, but a large majority of imports from China continue and the year-to-date ratio of China to the rest of the world from 2021 looks similar to 2017. The January-September pace for 2021 is only slightly lower than the pace for 2017, suggesting that, while the tariffs have had some effects in changing sourcing patterns, most of the impact has fallen on importers and downstream consumers like farmers that pay the cost of the tariffs.

Given the safety and regulatory requirements for the production of pesticides, setting up new manufacturing facilities or increasing capacity requires substantial time and investment. Oftentimes, the domestic market for specific pesticides is relatively small, especially for smaller acreage crops, and new investments would not make financial sense, leaving distributors with no choice but to source products from China.

CLA member companies understand the need for diversified and resilient supply chains and recognize the pitfalls of China's state-led approach to economic management. Certainly, one result of the Section 301 tariffs is a renewed appreciation among member companies for these kinds of political risks in strategic decision-making. However, these companies have limited ability to shape policies governing the global macroeconomic environment. Distortions caused by China's economic policies affect the competitive conditions facing CLA members and they have to respond accordingly, which often means sourcing from China to stay competitive both within the United States and globally.

In conclusion, China remains an important trading partner of the United States and it is in the best interest of U.S. agriculture for that to continue, both as an input supplier and an export market. This is not to say that the United States should be overly dependent on China on either front, but continuing the damage and disruption caused by the Section 301 process must be a last resort.

Sincerely,

Chris Novak
President & CEO
CropLife America