MEMORANDUM OF UNDERSTANDING
BETWEEN
THE ENVIRONMENTAL PROTECTION AGENCY
OF THE UNITED STATES OF AMERICA
AND
THE GENERAL ADMINISTRATION OF QUALITY SUPERVISION, INSPECTION AND QUARANTINE OF THE PEOPLE' S REPUBLIC OF CHINA
ON

COOPERATION TO PROTECT HUMAN HEALTH AND THE ENVIRONMENT IN THE FIELD OF IMPORTED AND EXPORTED PRODUCTS

The Environmental Protection Agency (EPA) of the United States of America and the General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ) of the People's Republic of China, hereafter referred to individually as a "Participant" and collectively as the "Participants",

Recognizing that EPA is the federal agency of the United States of America (United States) charged with protecting human health and the environment, setting mandatory environmental rules, regulations, and other measures and enforcing the environmental laws of the United States in cooperation with other federal agencies and state, local and tribal governments of the United States;

Recognizing that the General Administration of Quality Supervision, Inspection and Quarantine of the People's Republic of China is a ministerial administrative organ directly under the State Council of the People's Republic of China in charge of national quality, metrology, entry-exit commodity inspection, entry-exit health quarantine, entry-exit animal and plant quarantine, import-export food safety, certification and accreditation, standardization, as well as administrative law-enforcement;

Affirming that collaboration between the Participants can improve human health and environment in the United States and China and enhance the effectiveness of environmental protection laws, rules, regulations, and other relevant measures with respect to the importation and exportation of products, (hereafter referred to as the "environmental protection requirements") of the United States and China;

Desiring to strengthen bilateral cooperation to advance sound environmental management practices and to enhance compliance with the respective environmental protection requirements of the United States and China, including with respect to the importation and exportation of products;

Recalling and respecting the commitments the United States and China undertook in the Agreement Between the Government of the United States of America and the Government of the People's Republic of China on Cooperation in Science and Technology, dated January 31, 1979, as extended and amended (S&T Agreement); and

Striving to promote scientific and technical cooperation and collaboration in the field of environmental protection related to imported and exported products;

Share the following understandings:

Article 1
Basis of Cooperation

1. The Participants intend to conduct cooperative activities under this MOU on the basis of equality, reciprocity, and mutual benefit.

2. Each Participant intends to cooperate within the scope of its authority in accordance with the laws, rules, regulations, mandatory standards and other relevant measures applicable to it.

Article 2
Scope of Cooperation

The Participants intend this MOU to serve as a framework for cooperation between the Participants on matters of mutual interest, with the aim of facilitating the performance of the responsibilities common to the Participants, advancing sound environmental management practices in the field of imported and exported products in the United States and China, enabling trade that respects the respective environmental protection and human health requirements of the United States and China, and seeking facilitation of bilateral trade of products without compromising compliance. Except as specified in any Annex developed pursuant to Article 5, this MOU is not intended to affect any on-going undertakings in which both Participants are involved that arise under cooperative relationships between other institutions or agencies of the United States and China.

Article 3
Forms of Cooperation

For purposes of this MOU, the Participants, by mutual consent, may engage in, but are not limited to, the following activities:

(a) Making requests for information from the other Participant and providing responses to requests for such information from the other Participant;

(b) Participating in symposia, seminars, workshops, and training;

(c) Organizing study tours, exchanges, and temporary assignments of personnel from one Participant to the other;

(d) Developing testing programs, including testing that implements environmental requirements, certification, and conformity assessment programs on imported and exported products;

(e) Preparing joint publications;

(f) Providing demonstrations of environmental management approaches and technologies on import and export products;

(g) Conducting cooperative research on subjects of mutual interest;

(h) Sharing samples, reagents, materials, data, instruments and components for testing, evaluation and other purposes; and

(i) Engaging in other forms of cooperation as may be mutually determined by the Participants.

Article 4

Implementation Modalities

The Participants intend to establish working groups to facilitate cooperation, as specified in the Annex. The Participants may work with other relevant government agencies, environmental and scientific groups, research institutions, business and industry, universities, certification bodies and other entities in their respective territories, in conducting activities under this MOU, as appropriate.

Article 5

Annexes to the MOU

The Participants may develop annexes to this MOU that outline the subject and form of environmental cooperation between the Participants. Specific cooperative activities under this MOU, and the terms under which those activities are to be conducted, including financial arrangements, may be described by the Participants in work plans, which should include, wherever possible, measures to evaluate the performance and results of such activities.

Article 6

High Level Exchange and Priority Setting

The Administrator of EPA and the Minister of AQSIQ, or their designees, intend to meet, as necessary and as mutually determined by the Participants, to review the progress, priorities and plans of activities under this MOU. Such meetings may be held alternately in the United States and China. Prior to each meeting, the Participants should determine an agenda for that meeting.

Article 7

Non-Interference with Statutory Authorities

Nothing in this MOU precludes either Participant from exercising its statutory authorities to protect human health and the environment. The Participants are to resolve all disputes about the implementation or interpretation of this MOU solely through amicable and timely consultations.

Article 8

Applicable Law and Funding

All activities under this MOU are subject to the applicable laws, rules, regulations, and other measures of the United States and China, as well as to the availability of appropriated funds, personnel, and other resources of each Participant.

Article 9

Intellectual Property

The treatment of intellectual property created or furnished in the course of activities under this MOU and business-confidential information obtained or exchanged pursuant to this MOU is to be governed by the provisions of Annex I - Intellectual Property of the S&T Agreement.

Article 10

Classified Information or Equipment

Nothing in this MOU should be construed as calling for the provision of information or equipment requiring protection in the interest of national defense or foreign relations that is classified in accordance with the applicable laws and regulations of the government requiring that protection. In the event of inadvertent disclosure, the Participants intend to promptly notify the appropriate officials of the Participant to which the classified information or equipment belongs and to return such information or equipment to that Participant. Where appropriate, the Participants should consult to identify appropriate security measures addressing classified information or equipment to be determined by the Participants, in writing, and applied to modify this MOU to incorporate such measures.

Article 11

Prevention of Unauthorized Transfer or Retransfer of Information or Equipment

The Participants may incorporate detailed provisions for the prevention of unauthorized transfers or retransfers of such information or equipment as necessary into the appropriate contracts of projects under this MOU. Each Participant intends to mark information or equipment that is subject to the respective export controls of the United States and China, as applicable, so as to identify it as such. The Participants intend to identify restrictions on further use or transfer of information or equipment subject to export controls.

Article 12

Limitations of MOU Applicability

This MOU is not intended to, nor does it, create any right, benefit, or trust responsibility, substantive or procedural, that is enforceable at law or equity by any person or party against the Participants, their officers, or any other person.

Article 13

Final Provisions

1. Participation under this MOU commences upon the signature of both Participants and continues for five (5) years and may be extended by the Participants in writing.

2. Either Participant may terminate its participation under this MOU upon six months' written notification, through diplomatic channels, to the other Participant, without prejudice to Annex I of the S&T Agreement. The Participants intend to consult regarding the affect of termination on the implementation of ongoing programs and activities under this MOU prior to the date on which notice of termination was given.

3. The Participants may modify this MOU in writing at any time.

Signed at Beijing on the 13th day of December , 2007, in the English and Chinese languages.

FOR THE ENVIRONMENTAL PROTECTION AGENCY OF THE UNITED STATES OF AMERICA

FOR THE GENERAL ADMINISTRATION OF QUALITY SUPERVISION, INSPECTION AND QUARANTINE OF THE PEOPLE'S REPUBLIC OF CHINA

Annex

Establishment of Working Groups to Promote EPA–AQSIQ Cooperation

Article 1

In accordance with Article 4 of the MOU, the Participants intend to establish working groups in the following areas to facilitate cooperation: 1) Promoting Compliance with Environmental Requirements for Traded Products; 2) Environmentally-Sound Management of Waste and Recyclable Materials; 3) Chemicals; and 4) Pesticides.

Article 2
Forms of Cooperation

Cooperation under this Annex may include, but is not limited to:

(a) Exchanging information, including regulatory, scientific, and technical information, as well as information on practices, protocols, methods, and equipment used for testing and certifying compliance with the respective environmental protection requirements of the United States and China;

(b) Developing, organizing, or holding symposia, seminars, exchanges and study tours, workshops and training programs for manufacturers, importers, exporters, testing laboratories, certification bodies, inspection personnel or other relevant government officials;

(c) Providing samples, reagents, materials, data, instruments and components for testing, evaluation and other purposes that are relevant to this Annex; and

(d) Other forms of cooperation as may be mutually determined by the Participants.

Article 3
Working Groups

1. Working Group on Promoting Compliance with Environmental Requirements for Traded Products

Objectives and Scope: The Participants intend to promote compliance with the respective environmental protection laws, rules, regulations, and other relevant measures (hereinafter referred to as the "environmental protection requirements") of the United States and China for the legal importation, exportation of the products traded between the United States and China.

The Participants intend to:

a. Exchange information, subject to the respective laws, rules, regulations, mandatory standards and other relevant measures applicable to each Participant, on products, manufacturers, laboratories, importers, exporters and certification bodies in the United States and China to promote compliance

with the related environmental protection requirements of the United States and China;

b. Exchange information on best practices for detecting and addressing products that fail to comply with the respective environmental protection requirements of the United States and China;

c. Develop and implement procedures for notification and review of instances of noncompliance in exported products including strategies for conducting follow-up activities.

The working group is to be coordinated by the EPA Office of Enforcement and Compliance Assurance and the Department for Supervision on Inspection of AQSIQ.

2. Working Group on Environmentally-Sound Management of Waste and Recyclable Materials

Objectives and Scope: The Participants intend to provide a forum for dialogue between China and the United States to address issues of common interest to the Participants in order to increase the understanding and awareness of the Participants' respective authorities regarding current and forthcoming policies and legislation related to the transboundary movement of waste and recyclable materials and to promote legal importation, exportation, sale or use of waste and recyclable materials in trade between the United States and China.

The working group is to be coordinated by the EPA Office of Solid Waste and Emergency Response and the Department of Supervision and Inspection of AQSIQ.

3. Working Group on Chemicals

Objectives and Scope: The Participants intend to establish a forum for dialogue between China and the United States to address issues of common interest in order to increase the understanding and awareness among the Participants' authorities and stakeholders of current and forthcoming policies and legislation with regard to chemicals.

The working group is to be coordinated by the EPA Office of Prevention, Pesticides and Toxic Substances and the Department for Supervision on Inspection of AQSIQ.

4. Working Group on Pesticides

Objectives and Scope: The Participants intend to exchange information on the assessment, residue limit and other related information on pesticides, and to explore the possibility of cooperative research in this area; to exchange the list of pesticides approved and prohibited in the course of food production; and, at the request of either participant, to provide any other information on pesticides that is available to the participant.

The working group is to be coordinated by the EPA Office of Prevention, Pesticides and Toxic Substances and the AQSIQ Bureau of Import and Export Food Safety.