



## FANWOOD CHEMICAL, INC.

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### June AgChem Notes

#### **Hope to see you at Specialty and Agrochemicals America in Charleston, SC June 28 - 30!**

Please accept our apology for the delayed release of this months' update. The government database that we rely on for Census data, came up on Saturday, June 11 – 3 days behind schedule.

Special Note: As you know the MTB has not yet been enacted. This means that some of the granularity that had been the norm in the census statistics is still missing which makes pulling the necessary data for this report more difficult. Please see below for a further discussion on the potential for this legislation.

Imports of Glyphosate, as acid, for the period September through May for the last 4 years are at least as much as shown below:

	21-22	20-21	19-20	18-19
May 22	12,628 MT	10,110 MT	9,029 MT	4,452 MT
April 22	16,293 MT	8,067 MT	5,584 MT	3,241 MT
March 22	12,014 MT	7,302 MT	2,927 MT	6,656 MT
February 22	9,362 MT	2,311 MT	1,636 MT	3,235 MT
January 22	8,860 MT	5,660 MT	8,950 MT	6,100 MT
December 21	7,000 MT	5,200 MT	3,800 MT	8,900 MT
November 21	9,800 MT	4,700 MT	8,000 MT	6,000 MT
October 21	8,800 MT	3,200 MT	8,000 MT	8,100 MT
September 21	10,700 MT	4,000 MT	4,700 MT	8,600 MT
Totals	95,457 MT	50,550 MT	52,626 MT	45,284 MT

Clearly, if the BCS plant in Lulling is not totally crippled, there has to be a significant inventory bubble in Glyphosate!

We continue to believe that there is also likely an abundant amount of a variety of herbicide active ingredients in inventory in the United States. The below table has details on the imports of key herbicides, with annual statistics for 2018, 2019, 2020, 2021 as well as year-to-date May figures for 2018, 2019, 2020, 2021, and 2022. In almost every instance, imports through May of 2022 are 2X or more than what would be expected.

Key Herbicide imports in MT					Jan to				
	annual	annual	annual	annual	May	May	May	May	May
product	2018 MT	2019 MT	2020 MT	2021 MT	2018	2019	2020	2021	2022
2,4 D	19,437	20,351	18,352	18,904	9,800	6,700	9,900	8,500	16,000
Atrazine	11,488	11,767	11,454	13,490	3,576	3,582	2,445	2,418	3,457
Clethodim	3,440	3,112	3,414	4,221	1,760	1,600	1,760	1,966	3,404
Clomazone	3,261	3,330	2,451	2,500	1,400	2,040	1,256	203	2,612
Dicamba	26,898	11,433	11,483	17,727	13,990	6,224	6,182	5,672	10,370
Ethephon	13,289	12,745	12,226	9,862	6,498	5,757	6,737	2,120	6,446
Glufosinate	9,960	9,558	5,969	12,632	3,986	4,865	3,341	5,230	11,486
Glyphosate	95,325	63,472	61,965	95,911	47,552	26,619	24,833	32,926	61,918
Mesotrione	3,895	3,735	4,717	6,378	1,793	2,314	2,232	2,978	2,680
Metribuzin	4,000	5,134	4,054	5,163	2,118	2,570	1,902	1,543	646
Paraquat	21,356	12,718	15,910	14,373	13,725	7,628	8,684	5,145	9,988
S-Moc	26,599	33,786	19,647	42,972	12,888	17,883	11,912	20,962	25,606
Sulfentrazone	2,875	2,061	1,823	3,101	1,196	1,056	640	891	1,346
Trifluralin	3,865	1,746	306	864	1,993	666	144	126	2,088

## Ukraine/Russia

The war in the Ukraine continues to present the world with a very difficult situation. There is no current update on this tragedy's impact on Agrochemicals at this time.

## General Update

**IPEF – Indo-Pacific Economic Framework:** This initiative is beginning to take shape. There are a total of 14 countries now involved with these talks, though all are not expected to agree to every “pillar”. The country list includes: Australia, Brunei, South Korea, and Singapore, all of which have existing free trade agreements with the U.S. In addition, Fiji, India, Indonesia, Japan, Malaysia, New Zealand, Philippines, Thailand and Vietnam have announced their intention to participate. Interestingly, there is no thought to finalizing the FTA that President Trump initiated with Japan.

Normally, USTR would be expected to lead all facets of a negotiation of this type. In this instance, the Biden Administration has chosen a different path. The Department of Commerce will be responsible for leading the discussions on:

Supply Chain Resiliency  
Clean Energy & Decarbonization  
Tax & Anti-Corruption

USTR will take the lead on the following pillars:

Digital Economy & Emerging Technologies  
Labor Commitments

Environment  
Trade Facilitation & Dispute Settlement  
Transparency and Good Regulatory Practices  
Corporate Accountability

Further, it appears that National Security Advisor Jake Sullivan will play an important role.

Since they do not have Trade Promotion Authority, there are significant limits on what can be accomplished. Therefore, there will not be a market access component to these talks. Such access is important to farmers and ranchers as well as many other sectors of the U.S. economy.

However, the transparency and good regulatory practices pillar should provide an excellent forum to discuss market access issues involving GMOs and also MRLs.

The Corporate Accountability pillar will very likely include a heavy emphasis on State Owned Enterprises (SOE) which could have a significant impact on Syngenta's ability to continue to grow by acquisition.

Since this is not an "all-encompassing free trade agreement", it is likely that some parts of these negotiations with individual participants will go at their own pace, making it conceivable that there might be opportunities for "early harvest" with some partners on some pillars.

**Taiwan:** USTR continues to engage with Taiwan on an investment deal. Much to the consternation of China, this initiative has been expanded to include most if not all of the pillars that are part of the IPEF. While it is highly unlikely that Taiwan will be invited to join the IPEF, this would not be an impediment since it is not envisioned that the IPEF will include "a grand signing ceremony" where all of the participants will accept the agreement.

**China 301 Surtaxes:** The law that allowed the Trump Administration to impose these surtaxes requires that they expire four years after implementation, unless the USTR does a study to show that they are accomplishing their stated objective and then take an affirmative action to keep them in place. The Administration published a Federal Register Notice on May 3, 2022, requesting comments from those impacted by these tariffs. This input will determine how they proceed. It could easily be imagined that all or some of these tariffs (those that impact the price of consumer goods?) could be abruptly sunsetted to fight inflation, as some senior officials, including the Treasury Secretary have suggested. Clearly, while the list 1 & 2 tariffs are nearing the 4-year deadline for comments, list 3 and 4a are not there yet, but they are included in this federal register notice.

China has not yet incentivized the U.S. to remove the surtaxes.

However, it is hard to imagine that these same officials want to see a headline, above the fold, in every major newspaper around the world, that reads "Biden Administration caves to China"!

Hopefully, over the next couple of weeks, we will begin to understand where all of this is headed. In the meantime, the only way to protect yourself from holding expensive, surtax paid inventory is to store materials in a bonded warehouse until they are needed for sale or production.

**China Surtax Lawsuit:** Even if they sunset the tariffs, this lawsuit does not "go away" until there is some sort of a settlement on previously paid surtaxes. As you will recall from last

month, the Court of International Trade produced a split decision, partially in favor of USTR and partially in favor of the plaintiffs. USTR has until the end of June to respond to the court with requested details. Clearly, a petition to sunset would have an impact on such a response, so this needs to be handled very carefully.

Once USTR completes this task, both sides will present their further arguments to the court. Whatever this court decides, it is then highly likely that whoever loses will appeal the decision to a higher court. We continue to believe that it is highly likely that the Administration will continue to defend the Trump Administration's actions in this area, all the way up to the U.S. Supreme Court, if necessary, to avoid the need to pay refunds. It is likely that next month's report will provide more details on this lawsuit as USTR needs to respond to the Court by the end of June.

**There is no update on the following three topics, though speaker Pelosi has publically stated that this legislation will be voted on before the July 4<sup>th</sup> recess. Therefore, the following needs to be repeated. You are strongly urged to contact your legislators if you have an interest in these three subjects.**

**MTB (duty suspensions), GSP (Generalized System of Preferences) & 301 Exceptions:**

These initiatives remain bundled into "the China Chips Acts". Congress has now formed a conference committee that includes more than 100 Members. It is hard to believe that a committee of this size can effectively accomplish anything! While there is general agreement on language for the MTB as well as renewal of GSP, there is no agreement on pressing to re-open the China exclusions portal. The Administration has directly asked the Democrats in the Senate to drop any language forcing the re-opening of the China surtax exceptions procedures. The Senate Republicans continue to push hard for inclusion of this provision.

If this process does not produce a result, the only remaining hope to enact GSP and MTB would be in the "lame duck" congressional session that is customarily held after the election in November and/or December.

**U.S./China Trade relationship:** It is important to repeat the following, especially because USTR is in process of reviewing this entire subject.

The U.S./China phase one deal that was signed in January 2020 has now expired. Clearly, China did not meet, and in fact was significantly below, its purchase commitments under this deal. Ambassador Tai has publicly stated her dismay over the significant shortfalls and pledged to push China to keep its commitments. So far, no plan has been announced to try to make this happen. Technically, since this part of the agreement has expired, China no-longer has any remaining purchase commitments to the U.S.

As part of the phase one deal, and in anticipation that a phase two deal could be successfully negotiated, the U.S. held off on increasing the 301 tariffs against China as described below. Clearly USTR would have the authority to immediately increase all of the tariffs in these tranches if they believed that it would help "encourage" China to agree to U.S. requests.

- Tranche 3: 25%. This rate was scheduled to be increased from 25% to 30% on October 15, 2019. That increase was put on hold pending the signing of the phase one deal. There are at least a hundred agricultural chemical active ingredients, as well as all formulated agrochemicals included in this tranche.

- Tranche 4a: On September 1, 2019, tariffs of 15% were imposed for products on this list. The 15% tariff in this tranche was cut to 7.5% on February 14, 2020, as part of the phase one deal. There are at least 18 active ingredients on this list, including some big volume products where China has a sizable presence, including but not limited to 2,4-D, Atrazine, Bromoxynil, Dicamba, and Metribuzin.
- Tranche 4b: On December 15, 2019, tariffs of 15% were scheduled to kick-in. These tariffs were held in abeyance because of the agreement on a phase one deal. There are at least 11 active ingredients on this list, including some of the biggest herbicides imported from China, including Chlorothalonil, Glufosinate, Glyphosate (acid and 62%), Oxyfluorfen, and PMIDA.

Once again, if you are in process of importing materials for inventory, unless they are due to be processed or sold onward shortly after they arrive, you should consider placing such imports of China surtax-able items into a bonded warehouse. Since President Trump imposed these levies by Executive Order, they can be reversed by another Executive Order on very short notice. If this were to occur, you could end up with a warehouse full of very expensive inventory, with little or no chance of receiving any refunds of surtaxes previously paid. This has happened in several instances where similar tariffs were removed against the EU, including over the Boeing/Airbus dispute.

Other issues that need to be considered, include:

- **U.S. – EU:** The Administration continues to look for ways to cooperate with the EU on trade issues. This will likely include a stronger focus on trade and investment concerns including State Owned Enterprises (SOEs), digital trade, labor, environment, and global warming.

Syngenta, the largest agrochemical company in the world, is an SOE. These actions will likely impede Syngenta's ability to continue to acquire organizations outside of China, especially such investments that involve biotechnology, since an acquisition of a U.S. biotech company would be an automatic trigger for the CFIUS process (Committee on Foreign Investment in the U.S.).

- **U.S. – UK:** Clearly, the UK wants to complete the Free Trade Agreement negotiations that were started under the previous administration. The Biden Administration has not budged on this matter. In the meantime, the UK appears to be making deals with individual U.S. States. The first such deal to be announced was with the State of Indiana. This is totally without precedent!
- **India:** USTR is again in negotiation with India under the IPEF that could lead to a further opening of their economy to imports. If an agreement is reached, it likely would include renewal of GSP benefits assuming that this program is re-instituted.
- **Kenya:** It appears as if the Administration is preparing to re-engage with Kenya on some sort of a trade agreement. However, lacking TPA, it is unlikely that any such deal could include a market access component. In the case of Kenya, this may not be an obstacle for them since they already enjoy the benefits of AGOA (African Growth and

Opportunities Act) which gives them duty free access to a large portion of the U.S. Tariff schedule.

- **Syngenta IPO**: No news to date.

**General observation**: Imports continue to arrive at a blistering pace. The update version of the “Index” which includes import details for all formulated Agrochemical imports in 3808.91, 3808.92 and 3808.93 for April is attached.

Below, please find value information for the month of April as well as annual totals for four years.

It is important to observe, that the value figures are “customs value” which would include materials entered into Free Trade Zones, but not China surtaxes

April 2022 details are as follows (000):

	4/2019	4/2020	4/2021	4/2022
3808.91 – insecticides	\$31,670	\$28,223	\$38,007	\$45,434
3808.92 – fungicides	\$44,565	\$41,607	\$87,015	\$50,541
3808.93 – herbicides	\$41,919	\$46,169	\$36,930	\$128,269

First four-month totals for the period (000) are shown below:

	2019	2020	2021	2022
3808.91 – insecticides	\$135,559	\$129,532	\$161,158	\$167,430
3808.92 – fungicides	\$119,796	\$174,736	\$248,859	\$280,500
3808.93 – herbicides	\$231,259	\$212,339	\$192,101	\$400,665

Please let us know how we can best be of service.

Very truly yours,

*Jim*

V.M. (Jim) DeLisi

VMJD: me