



FANWOOD CHEMICAL, INC.

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July Notes

Special note: Some of the data points in this report are only available from the US Census statistical database. Since the temporary duty suspensions/reductions expired, there will be less “granularity” to these details until this benefit is re-instituted.

General Update

As we reported last month, the Senate passed a huge piece of legislation, the American Innovation and Competition Act in June most of which is centered around various competitive issues with China. However, added to this legislation, by an overwhelming bipartisan vote was several items that are very import to our industry:

- Passage of the Miscellaneous Tariff Provisions: These provisions, better known as “the duty suspension bill” impact the duties on hundreds of agrochemicals and formulated products. While considerations from the House are not yet included, once the final package is enacted, we will carefully review the impact on individual products. If enacted as currently written, 120 days of retroactivity is included.
- GSP Renewal: The entire program would be reinstated with additional provisions related to labor rights, health, safety and the environment. While there is no specific reference to India, it certainly could re-apply for membership. As is traditional for this program, GSP renewal provides for retroactivity to 1/1/2021.
- “China Tariff Exceptions”: The legislation provides for the continuation, with retroactivity for items that were exempted to the China surtaxes as of 12/31/2020. At this point, that would only impact one agrochemical: formulated Paraquat. We suspect that there will be significant pressure to include materials that were subject to exceptions up to 8/1/2020. Again, retroactivity is included, so if passed as currently drafted, any tariffs on Paraquat paid since 1/1/2021 would be returned.
- China Exceptions: The legislation calls for re-opening the exceptions procedure in a clear and transparent way.

The House took exception to the way this was done. They are in process of breaking this legislation up into several pieces, much to the consternation of Senate Majority Leader Schumer. He has publicly stated that what the Senate passed was a carefully crafted bipartidism compromise that should not be tampered with. However, it is clear that the bill passed by the Senate is unconstitutional since all revenue measures must originate in the House. The MTB and GSP portions of this legislation are considered revenue bills.

The House has passed its version of the China technology package which is considerably different than the Senate version. They have also posted bills to allow for adoption of the Miscellaneous Tariff Bill, as well as GSP renewal, which also are not identical to the Senate versions, but do contain similar retroactive provisions.

Clearly, there will need to be a conference between the two Houses to come to a conclusion. The current calendar shows that the House is not back into session until July 18, likely for a two-week period. If it is not accomplished during that time period, it would then likely need to wait until mid-September since they will be out of session for most if not all of August.

It is gratifying to know that there are a significant number members of Congress see the importance of this legislative agenda to U.S. Industry. It remains to be seen how it will be handled in the House. The fact it passed the Senate by a large bipartisan majority is a very hopeful sign.

The promised review of the “China trade relationship” has still not been completed. The White House is also apparently doing a full review of the Trump Administrations use of sanctions in general. This too has not yet been completed. Therefore, it remains clear that the status quo, as described below will be maintained for quite a while concerning the US’s bilateral relationship with China.

Abandoning the tariffs would nullify the phase one agreement, including the purchase commitments made by the Chinese Government. While China did not meet their purchase commitments for 2020, the US is in a stronger position with these commitments being in place for 2021. Ambassador Tai has made it plain that she does not intend to give up “this leverage” without getting something substantial in return.

Therefore, unless they are due to be processed or sold onward shortly after they arrive, you should consider placing incoming 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 out 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.

The following US tariffs against Chinese imports impacting chemicals remain in place:

- Tranche 3: 25%. At this point in time, there are no exceptions in place. It is likely, based on Ms. Tai’s testimony, that some type of exceptions procedure will be announced in the near term. As soon as this announcement is made, we will update this guidance. Please plan accordingly.
- Tranche 4a: On September 1, 2019, tariffs of 15% were imposed for products on this list. The 15% tariff for products in this tranche were cut to 7.5% on February 14, 2020. As in Tranche 3, you can expect these levies to remain in place for the foreseeable future. Please plan accordingly.
- Tranche 4b: On December 15, 2019, tariffs of 15% were scheduled to kick-in. As you know, these tariffs were held in obedience because of the agreement on a phase one deal. It is now highly unlikely that these tariffs will be imposed. Please plan accordingly.

If you don't already have it, please ask for the list we prepared detailing our best efforts to sort out how this impacts individual Agrochemicals.

Other issues that need to be considered, include:

- **Trade Promotion Authority**: Appears to be dead for the foreseeable future. TPA provides the basis for USTR to negotiate free trade agreements. It strictly lays out Congressional goals and expectations for such negotiations, and in return provides for a simple up or down vote on a completed agreement, no amendments allowed. Without such authority, it would be impossible for USTR to do its job since they would then have 535 masters. The existing TPA authority expired in July of this year.
- **China Surtax Lawsuit**: There are several law firms that filed suit at the US Court of International Trade to show that the much of the 301 effort was improperly imposed by the US Government. Arguments in the Court of International Trade continue as the Biden Administration has now called for the complete dismissal of this action. Their court brief completely supports the methods and tactics used by the Trump Administration in enacting these levies.

On July 6, 2021, the Court of International Trade ordered that Customs suspend the liquidation of the 301 duties which would allow importers to obtain refunds of such duties. This order will remain in effect for 28 days. You can expect that the Administration will vigorously oppose this action. However, the mere fact that a judge granted the plaintiffs request will surely be encouraging to their cause! While this action does not stop the collection of these levies, it would make it easier to obtain refunds, since once an import is liquidated by customs, such refunds are not easily obtained.

- **Department of Defense list of companies dominated by the Chinese Military**: On August 28, 2020, both ChemChina and Sinochem were added to a list kept by the US Department of Defense of entities that are deemed to be "Communist Chinese military companies". While there is no immediate impact to this listing, it could eventually have a significant impact on Syngenta and ADAMA's ability to operate freely in the US. It is unknown how the new administration will work with this listing. No further action is noted on this agenda item.

It has been reported by Reuter's that "ChemChina is planning to raise around \$10B from a Shanghai IPO for Swiss agricultural giant Syngenta Group." "is also considering a secondary listing for Syngenta that could take place less than a year after its debut, with exchanges in Zurich, London, and New York among the options being examined". "Syngenta is likely to be valued at around \$60 billion, including debt, or \$50B without". It is unlikely that either listing will remove Syngenta from the DOD list, since unless there was a complete spin-out it would still likely be considered a State-Owned Enterprise under the same control. Also, unless there is a change in U.S. rules, it is unlikely that the secondary listing could occur in New York.

- **US/UK Free Trade Agreement**: At this point, this agreement is dead as the chief UK negotiator has been assigned to other duties.

- **US/Japan Stage 2 free trade agreement:** No apparent progress. At this point, this progress towards a completion of this agreement is likely dead until Trade Promotion Authority is re-instated.
- **Taiwan TIFA:** The Biden Administration has had their first meeting with Taiwan to restart these negotiations to complete a Trade and Investment Treaty with Taiwan. The U.S. has such treaties with many countries. Taiwan made it plain that they hope that this effort will result in a full-fledged free trade agreement between the U.S. and Taiwan. The launching of this negotiation is perceived to be a provocative act by China.

General observation: We noted a significant up-tick in activity in March. The number of “lines” added to this report was significantly larger than the previous months. Perhaps March of 2021 marked the turning point for the agrochemical industry. April retreated somewhat from March, and May imports are similar to April.

The update version of the “Index” which includes import details for all formulated Agrochemical imports in 3808.91, 3808.92 and 3808.93 for May is attached. May, except for herbicides show continued improvement, especially in fungicides. Below, please find value information for the month of May as well as the first five months results for four years. Except for herbicides, things are definitely improving for the industry.

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.

May 2021 details are as follows (000):

	5/2018	5/2019	5/2020	5/2021
3808.91 – insecticides	\$44,797	\$35,773	\$25,612	\$40,212
3808.92 – fungicides	\$37,420	\$31,694	\$36,711	\$83,775
3808.93 – herbicides	\$66,905	\$37,233	\$35,009	\$38,123

Totals for the first 5 months (000) are shown below:

	2018	2019	2020	2021
3808.91 – insecticides	\$220,905	\$171,331	\$155,144	\$201,274
3808.92 – fungicides	\$219,939	\$151,490	\$211,447	\$332,634
3808.93 – herbicides	\$377,845	\$268,492	\$247,349	\$230,224

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

Very truly yours,

Jim

V.M. (Jim) DeLisi

VMJD: me