



FANWOOD CHEMICAL, INC.

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April Notes

Some of the data points in our reports are derived 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

Please see the January notes for our update on the new Administrations trade priorities. This letter has been truncated to focus on things that have evolved over the last month.

The key remaining question on trade policy is if Ambassador Tai will actually be calling the shots, or if key players in the State Department and/or the White House will actually be controlling the narrative. In addition, it will very interesting to see how China responds to an individual of Taiwanese descent in this position.

It is now abundantly 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 also 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.

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:** 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 expires in July of this year. There is no indication that this administration will seek to renew TPA. There is also little likelihood that Congress would agree to an extension.
- **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. However, this suit, even if successful in this venue, is appealable all the way to the US Supreme Court. Therefore, if they are successful, the "pay-off" is likely years' away. Also, it is hard to imagine that if they are successful, that it would not become a class action suit so that anyone that paid these levies, would be eligible for a refund. I understand that literally thousands of companies have signed on to this effort.

The Biden Administration has now announced that they will be defending this suit. They suffered a set-back in a similar lawsuit concerning the Aluminum and Steel Tariffs under section 201. The US Court of International Trade ruled that some of these tariffs were "improperly imposed".

- **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.

This issue got more complex this week. The Wall Street Journal as well as several other news organizations reported that Sinochem Group and ChemChina will be placed under a new holding company funded and overseen by a government body that holds state enterprises. It creates the world's largest chemical conglomerate with more than USD 153 B in sales (~2.5 X BASF!). It was apparently done in this manner to avoid a Cfius (Committee on Foreign Investments) review of Syngenta.

This action will clearly raise the visibility of these companies as "State Owned Enterprises" (SOE's), worldwide. It should present a significant obstacle to further

acquisitions outside of China, especially in the U.S. This could put additional international pressure on Syngenta to be divested, sooner rather than later.

- **Duty Suspension update:** Ways & Means Committee has posted draft legislation. However, it needs some minor changes and adjustments to satisfy various Congressional Member demands. It was hoped that this legislation would have been included in the omnibus spending package that was passed in December. As previously noted, all of the current duty suspensions/reductions expire on 12/31/2020. There is tremendous pressure, led by NAM (National Association of Manufacturers), on the new Congress to pass this legislation as soon as possible. Traditionally, there have not been provisions for retroactivity for this program. You are urged to plan accordingly.
- **US/UK Free Trade Agreement:** As the US/UK deal is said to be almost completed, it will be very interesting to see if the Biden Administration chooses to finalize the deal or put it on the shelf for a while. In order for any such deal to have a chance for enactment, it needs to be considered under “Trade Promotion Authority” which expires in July. It is said to be unlikely that this program will be extended. The UK appears to be pressing USTR very hard to complete this arrangement.
- **GSP:** The entire GSP program expired at the end of 2020. There is broad-based support for a prompt renewal of this program, but only if it includes updates to address labor and environmental issues (global warming?) in beneficiary countries. There also appears to be broad support to renew India’s participation in this program. In the past, when this program lapsed, upon reinstated, retroactive refunds were easily obtained, especially if the import declarations were properly coded to show GSP status. Please plan accordingly.
- **US/Japan Stage 2 free trade agreement:** As expected the incoming Biden Administration appears to be putting this agreement on the shelf for an ill-defined period of time until they have had a chance to enunciate a new trade policy. However, there is some indication that the Japanese may be pressing USTR to take some action. In the meantime, the stage one agreement remains in place.

General observation: February, except for formulated fungicides, still points towards difficult times. The outlook for the agrochemical industry, on a year-to-date basis, again, except for fungicides, continues to face a very cloudy outlook. Please see additional details below in the notes section under “the Index”.

The update version of the “Index” which includes import details for all formulated Agrochemical imports in 3808.91, 3808.92 and 3808.93 for February is attached. Two-month details, especially when compared to 2018, continue to show an industry being challenged. 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.

February 2021 details are as follows (000):

	2/2019	2/2020	2/2021
3808.91 – insecticides	\$34,194	\$35,509	\$34,795
3808.92 – fungicides	\$22,868	\$42,191	\$55,077
3808.93 – herbicides	\$61,267	\$54,006	\$46,366

Last year-to-date (full year) Details (000):

	2018	2019	2020	2021
3808.91 – insecticides	\$88,339	\$60,077	\$67,450	\$63,319
3808.92 – fungicides	\$100,103	\$45,517	\$80,904	\$90,664
3808.93 – herbicides	\$164,507	\$106,448	\$99,077	\$89,632

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

Very truly yours,

Jim

V.M. (Jim) DeLisi

VMJD: me