



FANWOOD CHEMICAL, INC.

219 MARTINE AVENUE, NORTH • P.O. BOX 159 • FANWOOD, NEW JERSEY 07023-0159
(908) 322-8440 • FAX (908) 322-8494 • e-mail: info@fanwoodchemical.com

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June Notes

Special note: Some of the data points in these reports 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

The Senate passed a huge piece of legislation, the American Innovation and Competition Act, 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.

There are issues that may force the Congress to break this legislation up into several pieces on procedural grounds. It will likely be at least a couple of more weeks until we know the outcome of this effort. It is gratifying to know that there are a significant number of Senators who 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, suggest that the House will act swiftly on these issues.

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. USTR continues to report that the promised review of the China relationship as well as the Stage 1 agreement has not yet been completed.

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 obeyance 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:** No further progress. 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 this administration will seek to renew TPA. There is little likelihood that Congress would easily 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. 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.

- **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 when ChemChina and Sinochem were officially merged under a new holding company funded and overseen by a government body that holds state enterprises. It created 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.

Farm Progress reported that several members of Congress have asked for a review of the implications of this merger on U.S. farmers and ranchers.

Further, the recent announcement that Nantong Jiangshan Agrochemical & Chemicals Company is looking to purchase Sichuan Leshan Fuhua Tongda Agro-chemical Technology Company could also come into play. Several months ago, it was reported that Sinochem had a significant stake in Nantong Jiangshan. If this is still correct, since Sinochem is also involved with Yangnong, Syngenta will have control of a substantial percentage of all of the Glyphosate manufactured in China.

Additionally, ADAMA continues to acquire majority stakes in various Chinese producing companies.

The EU is also working on legislation to protect their companies and economies from State Owned Enterprises and the market distortions that they can cause when they purchase domestic operations.

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., and especially for anything related to biotechnology. This could put additional international pressure on Syngenta to be divested, sooner, rather than later.

Additionally, on June 4 President Biden issued a new executive order to prohibit U.S. investments in Chinese companies that “undermine the security or democratic values of the United States and our allies.” There are 59 companies on this list. Since Sinochem and ChemChina are state owned enterprises, there are no “investors” so they are not on the list. When they begin the process to spin-out Syngenta as a private company, it will be very interesting to see if they get tripped up by being added to this list.

- **US/UK Free Trade Agreement:** No further progress. At this point, this agreement is dead until Trade Promotion Authority is re-instated.

- **US/Japan Stage 2 free trade agreement:** No apparent progress. At this point, this agreement is dead until Trade Promotion Authority is re-instated.
- **Taiwan TIFA:** The Biden Administration appears ready to resume negotiating a Trade and Investment Treaty with Taiwan. The U.S. has such treaties with many countries. The re-launching of this negotiation, should it actually occur, will be seen as 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. Please see additional details below in the notes section under “the Index”.

Notes:

- The update version of the “Index” which includes import details for all formulated Agrochemical imports in 3808.91, 3808.92 and 3808.93 for March is attached. We knew that March was a month that would show improvement by the number of lines that we added to the tables. April retreated from the March “blow-out”. Below, please find value information for the month of April as well as the first 4 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.

April 2021 details are as follows (000):

	4/2018	4/2019	4/2020	4/2021
3808.91 – insecticides	\$45,405	\$31,670	\$28,223	\$38,007
3808.92 – fungicides	\$43,264	\$44,565	\$41,607	\$87,015
3808.93 – herbicides	\$67,459	\$41,919	\$46,169	\$36,930

Totals for the first 4 months (000) are shown below:

	2018	2019	2020	2021
3808.91 – insecticides	\$176,108	\$135,559	\$129,532	\$161,158
3808.92 – fungicides	\$182,519	\$119,797	\$174,736	\$248,859
3808.93 – herbicides	\$310,939	\$239,259	\$212,339	\$192,101

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

Very truly yours,

Jim

V.M. (Jim) DeLisi

VMJD: me