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July AgroChemical Notes

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 June for the last 4 years are at least as much as shown below:

| | 21-22 | 20-21 | 19-20 | 18-19 |
|--------------|------------|-----------|-----------|-----------|
| June 22 | 11,592 MT | 8,972 MT | 6,749 MT | 3,495 MT |
| May 22 | 12,628 MT | 10,110 MT | 9,029 MT | 4,542 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 | 107,050 MT | 59,522 MT | 59,375 MT | 48,779 MT |

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

As noted last month, we continue to believe that because of the reported concerns over a shortage in Glyphosate, companies reacted by increase their imports of a variety of other herbicides. There may now be larger than prudent amounts of inventory of herbicide active ingredients in the United States waiting to be formulated into end use products.

There may also continue to be issues with obtaining boxes, totes, bottles, and caps.

If you are involved in the sale of herbicides, you are urged to carefully monitor your inventories. This is especially important since the replacement value for many products, especially from China, is now below the costs of such imports experienced late last year and into early 2022.

Uyghur region – Forced Labor Initiative

As of June 21, 2022, under legislation signed earlier this year, U.S. customs has been ordered to assume that any imports from the Uyghur region were produced by forced labor, and therefore are subject to exclusion, forfeiture, and/or seizure.

There is a specific list of entities to avoid which can be found at: www.dhs.gov/UFLPA-Entity-List. However, this list is not considered to be complete, ***and the burden of proof is on the importer.*** This will be especially difficult to police since products produced in this region are likely extensively distributed in China as well as neighboring countries. Therefore, since this initiative also covers “components/intermediates/additives”, due care is required. There is no de minimis allowance in the rule.

If Customs challenges an import under this rule, the importer has 30 days to make its case, however, customs has no time limit for a decision.

Importers of products from China need to have complete documentation on file so that they can respond rapidly to defend themselves against an allegation that forced labor played a role in their shipment.

China has filed a vigorous protest over this action.

Below, please find a map that illustrates how large this region actually is and demonstrates how difficult it will be to effectively police imports that are either wholly produced in this region or thought to contain components from this region.



Syngenta

It is now being reported that the much anticipated \$10B IPO will be floated before the end of 2022. It is speculated that this would represent about a 20% stake. Clearly, existing ownership will still dominate, and Syngenta will continue to be considered a State-Owned Enterprise (SOE). There are no longer any explicit restrictions on U.S. investments in this company, though the Administration and Congress are working on legislation and/or rules that would discourage U.S. private investment in Chinese companies, especially those owned by the State.

Likely related to the above, it was announced that Andy Yang, a Syngenta Board member, has been tasked to be the Chief Accounting Officer. It may be that he will be responsible for the conversion of their annual reports and other documents to meet international accounting standards (GAAP). This is likely considered to be a necessary step before the IPO can be launched.

It will be fascinating to see what the documents that are traditionally released to encourage investors to invest in an IPO reveals about their structure and their operations.

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. However, it needs to be noted that the U.S. has begun penalizing Chinese companies that are believed to be supplying electronic components necessary to support Russia's war efforts. It is not hard to imagine that such sanctions could be extended to include suppliers of explosives in both China and potentially India, if the U.S. Government believes that such materials are helping the Russians prosecute this war. Clearly, many of the inputs into Agricultural Chemicals are also inputs to the munitions industry.

It was also impossible to miss the news reports that BASF might have to shut-down Ludwigshafen if the natural gas situation worsens. This is an unthinkable event!

General Update

IPEF – Indo-Pacific Economic Framework: no news – please see last month's letter for details.

Taiwan: no news – please see last month's letter for details.

China 301 Surtaxes: The Administration published a Federal Register Notice on May 3, 2022, requesting comments from those positively impacted by these tariffs. They received numerous responses in support of these levies, including from major labor organizations. This input will determine how they proceed. It could easily be imagined some of these tariffs (those that impact the price of consumer goods such as toys, bicycles and just about anything on the shelf at Walmart) could be abruptly sunsetted to fight inflation, as some senior officials, including the Treasury Secretary have suggested.

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: Only news here is that the Court has granted USTR a 30-day extension to respond. USTR had requested 60 days. The Court may be getting impatient with the Administration on this matter. New response date would be the end of July.

There is no update on the following three topics, though speaker Pelosi has publicly stated that this legislation will be voted on before the July 4th recess. Clearly, this did not happen. 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 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. If this occurs, it will have a serious impact on renewals and/or new requests for the next round of the MTB, since under normal circumstances, USITC would be soliciting nominations in October/November of this year so that the reviews could be completed prior to the expiration of this round of the MTB on December 31, 2023.

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 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.

Other issues that need to be considered, include:

- **U.S. – EU:** No update.
- **U.S. – UK Free Trade Agreement:** Clearly, the UK wants to complete the Free Trade Agreement negotiations that were started under the previous administration. The departure of Boris Johnson will have in impact, though a recent visit by some high-level officials from the U.S. to the UK suggested that they may be considering restarting these talks.
- **India:** The behavior of India at the recent WTO Ministerial suggests that it is unlikely that the U.S./India relationship will improve in the short term to the point where renewing India’s participation in the GSP program could be entertained.
- **US – Kenya Free Trade Agreement:** No update

General observation: Imports continue to arrive at a blistering pace. 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 May is attached.

Below, please find value information for the month of May as well as annual totals for the first five months of each year.

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 2022 details are as follows (000):

| | 5/2019 | 5/2020 | 5/2021 | 5/2022 |
|------------------------|----------|----------|----------|----------|
| 3808.91 – insecticides | \$35,773 | \$25,612 | \$40,212 | \$54,776 |
| 3808.92 – fungicides | \$31,694 | \$36,711 | \$83,775 | \$89,235 |
| 3808.93 – herbicides | \$37,233 | \$35,009 | \$38,123 | \$61,492 |

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

| | 2019 | 2020 | 2021 | 2022 |
|--|------|------|------|------|
|--|------|------|------|------|

| | | | | |
|------------------------|-----------|-----------|-----------|-----------|
| 3808.91 – insecticides | \$171,331 | \$155,144 | \$201,370 | \$222,206 |
| 3808.92 – fungicides | \$151,490 | \$211,467 | \$332,634 | \$369,735 |
| 3808.93 – herbicides | \$268,492 | \$247,349 | \$230,224 | \$462,157 |

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

Very truly yours,

Jim

V.M. (Jim) DeLisi

VMJD: me