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December AgChem 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 August for the last 5 years as well as year-to-date are at least as much as shown below:

	22-23	21-22	20-21	19-20	18-19	17-18
August		6,507 MT	7,847 MT	4,611 MT	5,997 MT	3,364 MT
July		8,414 MT	9,178 MT	7,985 MT	2,735 MT	6,562 MT
June		11,592 MT	8,972 MT	6,749 MT	3,495 MT	6,333 MT
May		12,420 MT	10,110 MT	9,029 MT	4,542 MT	12,307 MT
April		16,267 MT	8,067 MT	5,584 MT	3,241 MT	9,836 MT
March		12,334 MT	7,302 MT	2,927 MT	6,656 MT	10,711 MT
February		11,768 MT	2,311 MT	1,636 MT	3,235 MT	8,601 MT
January		8,908 MT	5,660 MT	8,950 MT	6,100 MT	6,081 MT
December		7,006 MT	5,200 MT	3,800 MT	8,900 MT	7,477 MT
November	8,467 MT	9,809 MT	4,700 MT	8,000 MT	6,000 MT	5,900 MT
October	4,713 MT	9,417 MT	3,200 MT	8,000 MT	8,100 MT	3,800 MT
September	4,018 MT	10,661 MT	4,000 MT	4,700 MT	8,600 MT	4,298 MT
Total	17,198 MT	125,103 MT	76,547 MT	71,971 MT	57,511 MT	85,270 MT

The slowdown in import volumes, year on year, noted in September, appears to be continuing. At this rate, total imports for the year will be +/- 69,000 MT, about half of what they were last year. Prices are falling.

USTR CHINA “Special 301” Surtax Review Process

This issue was discussed in detail last month. If you missed it, please us for another copy. The new docket opened on November 15. It allows for comments, both for and against these levies, on a “macro” or “micro” level. It will be open for comments until January 17, 2023.

We would expect that most of our readers would reply on a “micro” level and leave the overall policy discussion to others. If you do respond, we would urge that you keep the following thoughts in mind:

- The fact that you did respond will become part of the public record, visible by anyone, anyplace in the world that chooses to sign onto the USTR web portal.
- The most effective responses will focus on job creation or job losses caused by this action, not loss of profits or sales.
- Also effective, would-be discussions concerning downstream impacts.

Existing 301 Exemptions

There is no news from USTR concerning the existing 301 exceptions that expire on 12/31/2022, including Paraquat and NBPT, and everything else on that list. At this point, it is highly unlikely that anything could be accomplished between now and the end of the year. It may be that any decision will need to wait for the outcome of the full four-year review cycle discussed above. It is unlikely that this can be accomplished until well into next year, perhaps not before the second half of the year. You are urged to plan accordingly.

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

Unfortunately, these issues are orphans at this point in time. Congress is back in Washington, but no direction has been gleamed about the potential for either of these initiatives. It remains likely that they will move together. If these items are important to your business, you are urged to let your Congressional representatives know of your concerns.

While there is general agreement on language for the MTB as well as renewal of GSP, in both Houses of Congress, and they are generally considered to not be controversial, there is no agreement on pressing to re-open the China exclusions portal. The Administration remains opposed to this action. Now that the Republicans will control the House of Representatives, it is likely that they will press USTR to re-open this process early next year.

Even if the MTB is passed after the elections in the “lame duck” session, it will have a serious impact on renewals and/or new requests for the next round. Under normal circumstances, USITC would have been 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.

It remains highly unlikely that if the MTB is enacted in the “lame duck” session that they will be able to extend the termination date from 12/31/2023 to 12/31/2024 to provide time for renewals to be processed. The USITC report that was produced to create the list would not cover this additional time-period. Our best hope is that the retroactive provisions will be increased from 120 days to something larger, hopefully at least 180 days, perhaps a full year. NAM (The National Association of Manufactures), the lead lobbying group on this issue, is pushing for full retroactivity back to 1/1/2021. It remains to be seen how the renewal process for 2024 is handled.

It remains highly likely that once GSP is re-enacted it will be retroactive to its expiration on 12/31/2020. Refunds should be “almost” automatic for properly recorded entries. Even if India is allowed back into this program, it is highly unlikely that there will be any retroactivity for India.

There are discussions of a “grand bargain” in Senate to include MTB and GSP (both with retroactivity) but also including TAA (Trade Adjustment Assistance), TPA (Trade Promotion Authority – limited to discussions with the UK, Taiwan, Kenya and Ecuador) as well as the proposed TSPA (Trade Systems Preservation Act). The latter allows for the negotiation of sector specific trade deals with individual members of the WTO. Frankly, this “grand bargain” might make it more difficult to accomplish our industry’s key goals of renewing GSP and passing the MTB as these additional programs have their detractors, most specifically for TPA which many Democrats despise.

Uyghur region – Forced Labor Initiative: There has been very little news in the trade press suggesting that Customs has been aggressively enforcing these provisions for individual chemicals. However, in the case of certain silicones and solar panels, there have been a couple of articles in the national press pointing towards a severe shortage of such panels because of custom’s hold on shipments both here and abroad.

However, if you are importing from China, please visit www.dhs.gov/UFLPA-EntityList for complete details on this program

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.

Syngenta IPO: No update – though we are continuing to carefully monitor this situation. It will be interesting to see if the soon to be published Presidential Proclamation concerning the ability of U.S. Citizens to invest in Chinese SOE’s will impact the potential investors in this IPO.

Ukraine/Russia: No update – though we are continuing to carefully monitor this situation especially in regard to any chance that it could lead to restrictions on the ability of U.S. companies to source chemicals from India and/or China.

General Update

Taiwan: No update – but Congress did push the Administration to formally include Taiwan in the IPEF and also again pressed the Administration to enter into Free Trade Negotiations with Taiwan. Since Taiwan is not an “independent State” it is hard to imagine how a Free Trade Agreement could be negotiated in accordance with our WTO commitments.

IPEF – Indo-Pacific Economic Framework: Next in person meeting is scheduled for Brisbane, Australia from December 10 to 15, 2022.

Interestingly, a large bipartisan group of Senators has written to the Administration stating emphatically that any agreement would need to be ratified by the Senate. Since the Administration has carefully designed this proposal to avoid the need for any such ratification, it will be interesting to see how this plays out as it could have a significant bearing on the agenda, which at this point in time, especially in the area of energy, is very “green” focused.

It remains the fact that there is no market access component envisioned.

China Surtax Lawsuit: no update

U.S./China Trade relationship: It is important to repeat the following, especially because USTR is in process of reviewing this entire subject and there is public pressure from some parts of the Administration to significantly alter these levies.

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, with the exception of Paraquat that is under an exemption through the end of 2022.
- 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:** The EU is very upset over the Inflation Reduction Act which blocks their participation in the Electric Car incentives. Next big gathering is expected to be held in early December and will likely address some significant concerns, especially Russia/Ukraine and China trade tensions, if the IRA does not cause the EU to focus all of its efforts on this subject.
- **India:** Recent bi-lateral discussions suggested that the U.S. India relationship may be “on the mend”. However, it remains unlikely that the U.S./India relationship will improve in the short term unless the U.S. offers India some assurance that they will be permitted to regain GSP status once the program is renewed. Assuming that the program is reinstated, regaining GSP status could accelerate if India appears to be cooperating with the “IPEF” agenda and more importantly supporting the “western” position vis-a-via Russia/Ukraine.
- **US – Kenya Free Trade Agreement:** USTR continues to work on this agenda in the hope that it can lead to an agreement that covers the entire African Continent.

General observation: Imports continue to arrive at a blistering pace. Please see additional details below in the notes section under “the Index”.

Notes:

- The updated version of the “Index” which includes import details for all formulated Agrochemical imports in 3808.91, 3808.92 and 3808.93 for October is attached.

Below, please find value information for the month of October as well as totals for the first ten 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

October 2022 details are as follows (000):

	10/2019	10/2020	10/2021	10/2022
3808.91 – insecticides	\$17,563	\$16,115	\$29,940	\$36,147
3808.92 – fungicides	\$19,182	\$24,924	\$37,438	\$44,522
3808.93 – herbicides	\$17,422	\$30,424	\$50,059	\$75,462

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

	2019	2020	2021	2022
3808.91 – insecticides	\$262,230	\$253,697	\$358,851	\$403,267
3808.92 – fungicides	\$241,641	\$342,907	\$557,524	\$697,116
3808.93 – herbicides	\$364,604	\$368,861	\$427,535	\$728,246

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

Very truly yours,

Jim

V.M. (Jim) DeLisi