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January 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	4,358 MT	7,006 MT	5,200 MT	3,800 MT	8,900 MT	7,477 MT
November	8,521 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	21,620 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 +/- 85,000 MT, about two-thirds of what they were last year.

We thought it might be useful to update the chart we have previous produced concerning imports for a group of key herbicides. Included this time, is our best estimates, in MT, for 14 major herbicides. In each instance, whenever quantities of formulated materials are imported, or in instances such as Paraquat where it is all ~ 45% AI, the numbers shown should be considered “100% AI basis”. In addition, we added a column to highlight materials where AIs are produced in the USA. Also included is a column to show the source countries for imported products. We hope you find it to be useful. Clearly, as you will see, China is the dominant source for imported herbicides. We invite your comments on this list, including if there are other products that should be included. (Next update will likely need to include Pendimethalin.)

product	annual 2018 MT	annual 2019 MT	annual 2020 MT	annual 2021 MT	annual 2022 MT	U.S. 2022	2022 key source countries approximate percentages
2,4 D	19,437	20,351	18,352	18,904	43,721	Yes	58% China/22% India/10% Colombia
Atrazine	11,488	11,767	11,454	13,490	14,896	No	100% China
Clethodim	3,440	3,112	3,414	4,221	6,726	no	70% China/25% India
Clomazone	3,261	3,330	2,451	2,500	5,879	no	98% China
Dicamba	26,898	11,433	11,483	17,727	23,482	yes	55% China/40% India
Ethephon	13,289	12,745	12,226	9,862	9,359	no	100% China
Glufosinate, Imp	9,960	9,558	5,969	12,632	28,743		
Est. US GA	2,472	5,101	2,448	0	0		
Total est. GA	12,432	14,659	8,417	12,632	28,743	no	80% China/20% India
Glyphosate	95,325	63,472	61,965	95,911	111,790	yes	98% China
Mesotrione	3,895	3,735	4,717	6,378	6,418	no	93% China/5% India
Metribuzin	4,000	5,134	4,054	5,163	3,651	no	92% India/4% China
Paraquat	21,356	12,718	15,910	14,373	29,254	no	55% China/45% UK
S-Moc	26,599	33,786	19,647	42,972	57,429	no	82% Switzerland/16% India
Sulfentrazone	2,875	2,061	1,823	3,101	3,612	no	50% China/50% India
Trifluralin	3,865	1,746	306	864	3,816	no	98% Italy

USTR CHINA "Special 301" Surtax Review Process

This issue was discussed in detail for the last two months. If you missed it, please ask 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**.

I filed comments on a very high level concerning the lack of manufacturing drawback under USMCA which places US manufactures at a significant disadvantage over suppliers from the rest of the world when they manufacture a material with Chinese components for export to Mexico or Canada. The portal is very user friendly. While I did not include any confidential business information (CBI), there is adequate opportunities to claim CBI in the form.

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

Surprisingly, with no warning, USTR did extend all of 301 exceptions that expired on 12/31/2022, including Paraquat and NBPT, for an additional 9 months!

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

Unfortunately, Congress did not include any of these issues in the Omnibus bill that passed late in December. These issues are orphans at this point in time. If these issues are important to your business, you are urged to let your Congressional representatives know of your concerns.

While there continues to be 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 control the House of Representatives, it is likely that they will press USTR to re-open this process.

Even if the MTB had passed in the "lame duck" session, it would have had 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 2022 so that the reviews could be completed prior to the expiration of this round of the MTB on December 31, 2023.

It still remains highly unlikely that if the MTB is enacted during 2023 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 lobbing 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.

Syngenta IPO: Surprisingly, no update since this was expected to occur before the end of 2023. 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 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: Next round of talks is scheduled for mid-January. No market access discussions are envisioned. However, especially now that the House of Representatives is under Republican Control, there could be pressure to expand the mandate to include a drive to complete a comprehensive Free Trade Agreement. It remains a concern that since Taiwan is not an "independent State", how would any proposal to negotiation a Free Trade Agreement be considered "legal" under our WTO commitments.

No individual pillars were closed or nearing completion by years' end, as originally hyped after the Speakers visit to Taiwan.

IPEF – Indo-Pacific Economic Framework: An in-person meeting was held in Brisbane, Australia from December 10 to 15, 2022. There was discussion on many of the pillars. "Progress" is being made towards convergence for language for several of the pillars. It will likely take a couple of years to see a path to a conclusion.

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 significant 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:** it appears as if a compromise was found to satisfy the EU's concerns regarding the Inflation Reduction Act which could have blocked their participation in the Electric Car incentives. This allows the U.S. and EU to address some significant joint concerns, especially Russia/Ukraine and China trade tensions.

  It now appears that a couple of Senators may push back on the rules issued by the Treasury Department to satisfy the EU. Only time will tell how all of this will be resolved. However, it must be resolved if the U.S. and EU wish to collaborate on a variety of outward pressures impacting their economies, including the "green agenda", China trade issues, SOEs, and other technology issues.

- **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.

- **Mexico**: The U.S. is working to resolve issues with Mexico concerning its desire to ban the use of Glyphosate as well as ban the importation of GMO corn. At this point, it looks like Mexico will agree to allow for the continued importation of GMO corn for animal feed, but its use for human consumption appears to still be under negotiation.

- Once the new Congress is set into motion, it is likely that there will be pressure exerted to re-open long stalled Free Trade Agreement negotiations, including but not limited to:
  - U.S./ UK
  - U.S./Kenya

- In addition, the House of Representatives is expected to particularly focus on several issues impacting trade, including:
    - A special committee will be commissioned whose sole focus will be on issues related to China, including but not limited to the origins of COVID, China's trade practices, and the impacts of China's State-Owned Enterprises.
    - Pushing the Administration hard to negotiate market opening trade agreements. This likely would require passing Trade Promotion Authority, which the Administration has previously declined to support.

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

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

Below, please find value information for the month of November 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):

	11/2019	11/2020	11/2021	11/2022
3808.91 – insecticides	$15,433	$18,746	$33,443	$46,426
3808.92 – fungicides	$26,619	$38,332	$57,945	$55,857
3808.93 – herbicides	$22,658	$31,023	$56,827	$88,347

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

	2019	2020	2021	2022
3808.91 – insecticides	$277,733	$272,443	$392,293	$449,693
3808.92 – fungicides	$268,261	$381,239	$615,469	$752,973
3808.93 – herbicides	$387,262	$399,884	$543,863	$816,593

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

Very truly yours,

Jim

V.M. (Jim) DeLisi

VMJD: me