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January Agrochemical Notes
HAPPY NEW YEAR!!!!

Further to last months "Special Comments" on Glyphosate: It continues to be widely reported that there are significant shortages expected in 2022 of a number of herbicides, especially Glyphosate. The import details continue to show a huge increase in Glyphosate imports, while BCS reported that Luling was down for only 5 weeks which would not have an impact on their earnings prospects. In addition, it is clear that Albaugh has reactivated their US Glyphosate facilities. However, there has been a significant change in the importer profile on many products, including Glyphosate. Farmer's Business Network has become a substantial direct importer of Glyphosate as well as many other products. Therefore, while there may currently be shortages in the "traditional" distribution channels, these issues may at least be partially caused by products being channeled through the Farmer's Business Network distribution system.

Imports of Glyphosate, as acid, for September, October, November and December for the last 4 years are at least as much as shown below:

	2021	2020	2019	2018
December	7,000 MT	5,200 MT	3,800 MT	8,900 MT
November	9,800 MT	4,700 MT	8,000 MT	6,000 MT
October	8,800 MT	3,200 MT	8,000 MT	8,100 MT
September	10,700 MT	4,000 MT	4,700 MT	8,600 MT
Totals	36,300 MT	17,100 MT	24,500 MT	31,600 MT

There is no doubt that there likely will be significant disruptions in the supply of materials sourced from China, especially Glyphosate, as they shutdown large parts of the economy in support of the Olympic Games. We are seeing evidence of a significant up-tick in imports likely in anticipation of these expected closures.

General Update

Since this is our first edition of the new year, we thought it would be timely to do a general review of what we expect to happen in 2022. Included is a review of the worst-case scenario for the US/China trade relationship.

<u>MTB, GSP & 301 Exceptions</u>: There are only two potential scenarios for successful passage of these programs:

- It is still hoped that the House and Senate will get together soon and pass the Senate version of the "China Chips Act" so that we can have the MTB, GSP and a vigorous exceptions procedure for the China surtaxes in place as early in 2022 as possible. This is the only hope for these three initiatives to be enacted quickly. This legislation also contained provisions for retroactivity for MTB, GSP, as well as China 301 exceptions. While I would suspect that once GSP is renewed, there will be retroactive provisions, it is doubtful that retroactivity provisions will be part of MTB or China 301 if enacted in any other way. As has been widely reported, President Biden badly needs a "win". Since this legislation was approved in the Senate by a large bi-partisan majority, this would appear to be low hanging fruit, if Speaker Pelosi would allow it to be taken up by the House.

- House and Senate could pass MTB and GSP as part of some other revenue measure. If they take this avenue, it could be quite a while for these initiatives to be enacted into law as new revenue bills in an election year tend to be very contentious.

  As a last resort, it may be that these measures are passed by the lame duck session of congress that will occur after the election. While it is highly likely that GSP will be retroactive, if this happens, we will likely lose MTB benefits for another entire year, with no retroactivity provisions.

- Unless the Senate "China Chips Act" is enacted, including the provisions to force USTR to re-open the China 301 exceptions procedure, it is highly unlikely that this will occur this year. While USTR has the authority to re-authorize this process, and even though a group of Congressman sent a letter specifically asking that this process be reopened, it is highly unlikely that they will do it voluntarily beyond the opening that is already in process for products that were extended through December 31, 2020. USTR has stated on a couple of occasions that it is simply too much work. The only Agrochemical impacted by the current opening is Paraquat.

<u>U.S./China trade relationship</u>:

Clearly, the trading relationship between the U.S. and China did not "cool off" in 2021, in fact it may have gotten more contentious. There is clear bi-partisan support for being "tough on China" making it impossible for it to appear as if the Biden Administration "caved" on its China policy.

There are several important issues that remain open and likely will cause significant continuing stains in this important relationship:

- 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 obeyance 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>CPTPP – Comprehensive and Progressive Agreement for Trans-Pacific Trade</u>**: This agreement, previously known as TPP could be a game changer for trade in the region, especially since China has now asked to join. While it is highly doubtful that this will occur, there will be significant tension in the region because of their desire to join. While the US was a founding partner under President Obama in the formation of this agreement, as one of his first official acts President Trump pulled us out. In either event, it is highly unlikely that this treaty would have been approved by Congress. However, the remaining countries plowed ahead and completed the deal. Included, among others, is Japan, Canada, Mexico, and Australia. The US has been very forceful in stating that China should not be allowed to join. The US has additional leverage in this action since there is a 6-month cancellation clause in USMCA that could be triggered if either Mexico or Canada agree to a trade deal that includes a non-market economy. Should the US wish to consider joining, there are significant changes that likely would be necessary in the existing agreement to make it palatable to Congress.

- **India**: USTR is again in negotiation with India that could lead a further opening of their economy to imports. If an agreement is reached, it is likely to include renewal of GSP benefits assuming that this program is re-instituted.

- **Taiwan**: USTR continues to engage with Taiwan on an investment deal. This is a flash point for China. Taiwan has also asked to join the CPTPP.

- **Trade Promotion Authority**: Trade promotion authority is an important tool if the US wishes to be taken seriously as a true negotiating partner on the international stage. However, there is no indication that the Administration will ask Congress to pass this authority. It is important since it outlines Congressional intent for future FTAs, and then allows the Administration, once such an agreement is completed, to present it to Congress for an up or down vote, no amendments are allowed. Without such authority, the US has 535 trade negotiators.

  There are significant limits to Presidential authority in international trade negotiations. This was clearly evidenced in the "mini deals" that the Trump Administration signed with Brazil and most importantly Japan, were they pushed the limits of these powers. If the US wishes to do a "deal of substance" with Taiwan, India, Japan, Brazil, UK, Kenya, consider joining CTPTT, open negotiations with a group of African countries, or anyone else, it truly needs these provisions to be enacted into law before any such discussions begin.

- **WTO**: While a new Director General has been agreed, the Appellate panel has still not been re-constituted. There are several important cases waiting for this to occur, including a US request to overturn the fact that the WTO ruled that the China Surtaxes are a violation of the US's agreement with the WTO. While this process, once it starts, could be stretched out for a decade, a "win" for China upon appeal could be a significant game changer.

- **US/EU cooperation on SOEs**: It appears as if the US and the EU are cooperating on ways to thwart the influence of State-Owned Enterprises. Syngenta, the largest agrochemical company in the world, is such an enterprise. These actions will likely impede Syngenta's ability to continue to acquire organizations outside of China, especially such investments that involve biotechnology, since an acquisition of a US biotech company would be an automatic triggering of the CFIUS process (Committee on Foreign Investment in the US).

- **China Surtax Lawsuit**: This action will continue to weave its way thought the court system. It is highly likely that the Administration will continue to defend the Trump Administration's actions in this area all the way up to the US Supreme Court if necessary.

- **Syngenta IPO**: Though this was expected to occur during the fourth quarter of 2021, there has not been any further public announcements on the timing of this initiative. As previously noted, the Biden Administration revamped the Trump Administration's actions concerning Syngenta's parent organizations, therefore neither Sinochem nor ChemChina, or their parent organization SASAC – State-Owned Asset Supervision and Administration Commission - are subject to trading or investment restrictions in the US.

Therefore, it would appear that if they wanted to float all or part of the upcoming Syngenta IPO in the US or if a US based company or person wished to invest in the IPO, they would be free to do so under this Executive Order.

It needs to be noted that since they are planning to float significantly less than a controlling interest in Syngenta, it would still be subject to the rules and regulations that many of the world's leading economies apply to a State-Owned Company.

General observation: We noted a significant up-tick in activity in March, 2021. The number of "lines" added to this report was significantly larger than the previous months. November continues this trend where well over 1,100 new lines of data were added to this report. Perhaps March of 2021 marked the turning point for the agrochemical industry

The update 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 first eleven-month totals for four years.

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.

November 2021 details are as follows (000):

	11/2018	11/2019	11/2020	11/2021
3808.91 – insecticides	$32,328	$15,433	$18,746	$33,443
3808.92 – fungicides	$29,108	$26,619	$38,332	$57,945
3808.93 – herbicides	$44,260	$22,658	$31,023	$56,827

Totals for the first 11 months (000) are shown below:

	2018	2019	2020	2021
3808.91 – insecticides	$394,927	$277,733	$272,444	$392,293
3808.92 – fungicides	$315,743	$268,261	$381,239	$615,469
3808.93 – herbicides	$502,504	$387,261	$399,884	$484,361

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

Very truly yours,

Jim

V.M. (Jim) DeLisi

VMJD: me