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March Agrochemical Notes

A special note on our reports: Since the temporary duty suspensions/reductions expired, there will be less "granularity" to the census side of our reports until this benefit is re-instituted.

General Update

The new Administrations trade priorities are beginning to jell. Katherine Tai will be the new US Trade Ambassador. She received a unanimous vote for confirmation out of the Senate Finance Committee so there is clear sailing for the remainder of the process. It is unfortunate that her confirmation has not yet occurred so that she could have attended the meeting in Alaska with the Chinese delegation where among other things, trade is apparently on the agenda.

Gina Raimondo has been confirmed as the new Secretary of Commerce.

Ms. Tai received a great deal of praise for her work on USMCA.

President Biden has signed a strong executive order requiring a careful study to determine what needs to be done to bring more manufacturing, especially for strategic materials, back home. Included are strong "buy-American" provisions.

The key remaining question on trade policy is if Ambassador Tai will actually be calling the shots, or if key players in the State Department and/or the White House will actually be controlling the narrative. It also will be very interesting to see how China responds to an individual of Taiwanese descent in this position.

There has to be two "camps" in the administration, especially concerning China. I watched Ms. Tai's confirmation hearing before the Senate Finance Committee. She clearly is in the camp that wants to maintain a strong posture on trade, and promote a jobs-based trade agenda. As part of this agenda, she advocated that her efforts will be centered on:

- Worker rights.
- Environmental rights and justice.
- Global warming.
- Supporting US manufacturing
- Strong protection of Intellectual Property
- Strong enforcement of existing trade agreements.

She also clearly believes that the judicial use of tariffs should be retained as an important tool to accomplish these objectives. We might get some clarity on the "two camps" when we all receive a read-out on the Alaska meeting to be held next week.

In the case of China, she pledged to carefully study the existing situation. She is a supporter of the Phase One agreement and stated her intention to hold China to its terms and conditions, including the purchase commitments. This being the case, the "China surtaxes" are going to remain in place for quite a while.

She also pledged to review the exceptions procedures to be sure that they are open and transparent.

Therefore, it is likely that the status quo, as described below will be maintained for quite a while concerning the US's bilateral relationship with China. It is clear that "the 301 tariffs" will remain in place for an indefinite period of time as abandoning the tariffs would also 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.

Therefore, you should consider placing incoming imports that are going into inventory of China Surtax-able items into a bonded warehouse, unless they are due to be processed or sold onward shortly after they arrive. 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.

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.

<u>Internationalist Approach</u>: President Biden has pledged to have a more "internationalist approach" to trade. This apparent dichotomy in the administration's efforts could first become apparent at the WTO. There are many organizations and trade groups that vehemently opposed the "Trump approach" to trade. They argue that the tariffs should be removed immediately and that the WTO should be the appropriate forum to solve trade issues, including China. In areas outside of the purview of the WTO, the US should partner with the EU, Japan and other like-minded countries to accomplish its goals.

There has already been a softening with the UK and the EU concerning the Boeing/Airbus tariffs which have now been suspended by both sides for 4 months. The reason for this "suspension" is to allow both sides time to negotiate a settlement. This will be a difficult undertaking since such discussions have been "in the works" for over 15 years! It is also interesting to note that the US tariffs on the EU are 2X the size of the EU tariffs on the US. Also of note; no-where in the announcement is there any indication that there will be retroactive refunds of tariffs previously paid. This is another indication that the advice to store China surtax goods in a bonded warehouse is reasonable to avoid having a warehouse full of very expensive goods.

WTO: The new Administration has agreed on the consensus candidate for WTO Director General. She has pledged to lead the reform of this organization. However, this means that it is likely that the WTO Appellate Body will be re-constituted shortly. This would have a significant impact on both of the issues discussed below.

- Several months ago, China was successful in its claim that the 301 tariffs imposed by the US violate our agreement with the WTO. The practical effect of this win was nil, since the appellate body could not meet. However, once the appellate body of the WTO regains a quorum the US will need to defend the tariffs. A loss at the WTO concerning this decision would require the US to pay compensation to China.
- There is also the potential for a WTO challenge to Presidents Trump's farm subsidies. It is likely that over time this effort will also result in the WTO ruling that these policies are a violation of our agreement with the WTO. As in the above issue, the actual impact of such actions will be nil until the appeals panel is put back into place. A loss at the WTO in this instance could require the US to compensate a myriad of countries for the "unfair trading practices" that will be alleged in the complaint.

Other issues that need to be considered, include:

- **Trade Promotion Authority**: 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 that this administration will seek to renew TPA. There is also little likelihood that Congress would 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. However, this suit, even if successful in this venue, is appealable all the way to the US Supreme Court. Therefore, if they are successful, the "pay-off" is likely years' away. Also, it is hard to imagine that if they are successful, that it would not become a class action suit so that anyone that paid these levies, would be eligible for a refund. I understand that literally thousands of companies have signed on to this effort. As the new Administration would now be responsible for defending this suit, it is now harder to predict how it will end. It would be expected that they would defend the suit to avoid refunding all of the tariffs previously paid.

- **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.

  However, this is one of the areas where the US could put pressure on the Chinese Government without firing any bullets if the "saber rattling" over Taiwan intensifies, the crackdown in Hong Kong becomes more intense, as well as the claims of "forced labor" being used by state owned enterprises are not resolved. The proposed EU/China agreement on investments has a section on State Owned Enterprises. This could put additional international pressure on Syngenta to be divested, sooner rather than later.

- **Trans Pacific Partnership**: The then Vice President was a proponent of this agreement which did come into effect, without the US even though much of the Democratic caucus will be opposed, I would expect him to try to re-engage in these discussions as a way to foster an international approach against China. It is highly unlikely that this could occur for quite some time since significant renegotiation would likely be required to update the rules of origin, as well as the labor and environmental provisions to get it up to USMCA standards. This could get a higher priority since a group of Asia countries have agreed to a new trade deal. China and Japan are participants. While it is not said to be nearly as robust as US Trade agreements, it could add impetus to the US to re-engaging in the Trans Pacific Partnership which currently does not include China.

- **Duty Suspension update**: Ways & Means Committee has now posted draft legislation. However, it needs some minor changes and adjustments to satisfy various Congressional Member demands. It was hoped that this legislation would have been included in the omnibus spending package that was passed in December. As previously noted, all of the current duty suspensions/reductions expire on 12/31/2020. There is tremendous pressure, led by NAM (National Association of Manufacturers), on the new Congress to pass this legislation as soon as possible. Traditionally, there have not been provisions for retroactivity for this program. You are urged to plan accordingly.

- **US/UK Free Trade Agreement**: As the US/UK deal is said to be almost completed, it will be very interesting to see if the Biden Administration chooses to finalize the deal or put it on the shelf for a while. In order for any such deal to have a chance for enactment, it needs to be considered under "Trade Promotion Authority" which expires in July. It is said to be unlikely that this program will be extended. Therefore, if they do decide that competing this deal is a priority, the new Administration will need to quickly state their goals and priorities, while ordering USTR staff to continue their engagement with their UK counterparts.

- **US/Kenya Free Trade Agreement**: It is expected that the incoming Biden Administration will put this agreement on the shelf for an ill-defined period of time until they have had a chance to enunciate a new trade policy.

- **GSP:** The entire GSP program expired at the end of 2020. There is broad-based support for a prompt renewal of this program, with updates to address labor and environmental issues which are currently not part of the GSP program. There also appears to be broad support to renew India's participation in this program. In the past, when this program lapsed, upon reinstated retroactive refunds were easily obtained, especially if the import declarations were properly coded to show GSP status. Please plan accordingly.

It also needs to be noted that USTR pulled about one third of Thailand's GSP benefits, effective April 25, 2021 because of issues surrounding worker's rights. Upon request, we can provide a list of the items that were pulled from this program.

- **US/Japan Stage 2 free trade agreement**: It is expected that the incoming Biden Administration will put this agreement on the shelf for an ill-defined period of time until they have had a chance to enunciate a new trade policy. In the meantime, the stage one agreement remains in place.

- **USMCA:** It came into force on July 1, 2020. NAFTA is now sunsetted. There are significant changes in the rules of Origin that will likely have a positive impact on the business of chemistry, especially for Mexico's exports to the USA.

  Since this is a treaty, it cannot be altered by a change in Administrations. However, Congress did "fix" the implementing language so that it now maintains NAFTA provisions on how Free Trade Zones are treated. This change reflects the initial intention. Therefore, it will only be possible to ship materials to Mexico or Canada, produced in a Free Trade Zone, to first export them into the territory of the US

General observation: January showed some improvements over the same month in previous years. However, the outlook for the agrochemical industry, on a year-to-date basis continues to be a very cloudy, except for Fungicides.

January 2021 details are as follows (000):

	1/2019	1/2020	1/2021
3808.91 – insecticides	$28,883	$39,941	$28,524
3808.92 – fungicides	$22,649	$38,713	$35,586
3808.93 – herbicides	$45,181	$45,040	$43,266

Last year-to-date (full year) Details (000):

	2017	2018	2019	2020
3808.91 – insecticides	$500,708	$441,906	$302,276	$296,780
3808.92 – fungicides	$605,530	$405,162	$299,509	$412,968 #
3808.93 – herbicides	$627,890	$652,532	$417,473	$443,761

Reduced by $10,000,000 as noted in the March report.

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

Very truly yours,

Jim

V.M. (Jim) DeLisi

VMJD: me