



**NATIONAL POTATO COUNCIL**

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June 28, 2021

The Honorable Tom Vilsack  
Secretary of Agriculture  
Jamie L. Whitten Building  
1400 Independence Ave. SW  
Washington, DC 20250

Ambassador Katherine Tai  
US Trade Representative  
Office of the US Trade Representative  
600 17<sup>th</sup> St. NW  
Washington, DC, 20508

Dear Secretary Vilsack and Ambassador Tai:

On behalf of the thousands of family farms across the United States involved in the potato industry, the National Potato Council and the undersigned state potato organizations would like to thank you and your respective teams for the relentless efforts to fully open the Mexican market for U.S. fresh potatoes. With the recent Mexican Supreme Court ruling, it appears significant progress is being made to resolving this long-standing trade dispute.

Opening the Mexican market will provide a much-needed boost to the U.S. potato industry by providing access to 130 million new consumers. It will also allow Mexican citizens access to healthy, nutritious U.S. potatoes at affordable prices. Once the market is open, our industry is committed to expanding potato consumption in Mexico to benefit both U.S. and Mexican potato growers.

Despite these positive developments, as we approach the finish line in this long-standing dispute, there are serious concerns about the long-term prospects for successful market access for U.S. potatoes in Mexico. Our concerns come from a 20-year history of the Mexican potato industry and Mexican government undertaking actions to undermine agreements made to open the market. Examples of such actions are numerous and summarized in the appendix to this letter.

The long history of this dispute confirms that the Mexican government is only grudgingly allowing access for U.S. potatoes, as the Mexican potato cartel ("CONPAPA") is exerting great political power to impede competition with the U.S. This causes serious concern among U.S. potato growers that access to the Mexican market will be only temporary before Mexican officials invent a way to halt imports again.

The most recent indication of this intention occurred in April, when SENASICA unilaterally changed their U.S. fresh potato import protocol. This change was made without notice to the U.S. and involves additional sampling of U.S. potatoes to be sent to a laboratory selected and paid for by CONPAPA.

The clear goal of this unilateral change is to manufacture a reason to close the market to U.S. fresh potatoes at some point in the future. Conversely, the U.S. government would never allow a U.S. industry to involve themselves in inspecting and overseeing a competing country's imports.

Given this history and these recent developments, we urge USDA and USTR to maintain a "trust but verify" stance with Mexico. Without some sort of leverage, the pattern of CONPAPA's political influence causing the Mexican government to close the market will simply repeat itself. The Mexican market must not only be opened but remain open.

We respect that at the same time U.S. fresh potatoes have been seeking to access the Mexican market, the Mexican avocado industry has been seeking to expand on their current \$2 billion market in the U.S. by seeking approval of additional states that are eligible to export. To help ensure Mexico's commitment to allowing full access for our potatoes into Mexico, one option is to offer any additional access for Mexican avocados to the U.S. as provisional. The Mexican avocado industry would therefore be an active participant in urging their government to resist the political pressure that harmed U.S. farmers in the past.

Absent such leverage, we believe that any market access the Mexican government may provide to the U.S. will not be durable. Should Mexico continue its historical pattern by delaying reinstating market access for U.S. potatoes or illegitimately restricting the market, we strongly urge USDA and USTR to move forward with the dispute resolution process under the U.S.-Mexico-Canada Agreement and thereby seek to apply tariffs against Mexican exports to the U.S such as avocados.

Thank you again for the tireless work of your teams in seeking resolution of this longstanding dispute with Mexico. Success in this matter will lead to hundreds of millions of dollars in additional U.S. agricultural exports and substantial benefits for both U.S. growers and Mexican consumers.

Sincerely,



W. Kam Quarles  
Chief Executive Officer  
National Potato Council

State Organizations:

Association of Virginia Potato and Vegetable Growers  
Colorado Potato Administrative Committee  
Empire State Potato Growers  
Idaho Potato Commission  
Idaho Grower Shipper Association  
Maine Potato Board  
Minnesota Area II Potato Growers Research & Promotion Council  
Montana Potato Improvement Association  
Nebraska Potato Development Division/Potato Certification Association of Nebraska  
North Carolina Potato Association  
Northern Plains Potato Growers Association  
Oregon Potato Commission  
Pennsylvania Co-Operative Potato Growers  
Potato Growers of Michigan  
United Potato Growers of America  
Washington State Potato Commission  
Wisconsin Potato and Vegetable Growers Association

cc: Osama El-Lissy, USDA-APHIS  
Jason Hafemeister, USDA  
Julie Callahan, USTR  
Blair Richardson, Potatoes USA  
John Toaspern, Potatoes USA  
Matt Lantz, Bryant Christie Inc.

## **Appendix:**

### **History of Mexican Efforts Prevent Access for U.S. Potatoes**

What follows is a brief history of Mexican efforts to undermine U.S. fresh potato market access in Mexico, even after agreements were reached.

**Mexico Fails to Honor Avocados for U.S. Potatoes Agreement:** The original 2003 agreement between the U.S. and Mexico included access to the U.S. for Mexican avocados in conjunction with access to Mexico for U.S. potatoes. The U.S. upheld its side of the agreement. Currently, \$2 billion worth of Mexican avocados enter the U.S. annually. Mexico reneged on their commitment, restricting entry of U.S. potatoes to just the border region. Currently, the U.S. exports only \$50 million annually worth of fresh potatoes to the Mexican border region.

**Mexico Makes Unannounced Changes to Restrict U.S. Access:** Even as the U.S. and Mexico signed the market access agreement for U.S. potatoes to Mexico in March 2003, Mexico quietly amended its domestic potato regulation (NOM-12) that same month to only allow access for U.S. potatoes to the border region, rendering the expansion sections of the 2003 agreement moot.

**Mexico's Erroneous Pest Find Arguments:** For years, Mexico argued that once inspected, U.S. potatoes had multiple pests finds that allegedly threatened their domestic industry. These claims were found to be erroneous. Over 85% of the pests cited are either widely present in Mexico meaning they cannot be classified as quarantine pests, have a national treatment issue, or are not a concern for table stock potatoes. The Mexican pest find arguments to prevent market access are not consistent with their obligations under the WTO, the USMCA or the prior NAFTA.

**Mexico Changes Its Objections to Focus on Lack of Reciprocal Access:** In the late 2000's, Mexico argued the U.S. would not allow access to Mexican potatoes, therefore Mexico could not allow access for U.S. potatoes. This issue was addressed when the U.S. agreed to allow Mexican potato access in exchange for U.S. potato access. Mexico quickly dropped this line of argument.

**Mexico Loses Potato Pest Claims Before International Panel But Refuses to Accept Findings:** In 2010-2011, a mutually agreed upon independent expert panel was convened under the North American Plant Protection Organization (NAPPO) to review the dispute and offer guidance. Both Mexico and the United States presented their well-researched cases.

The NAPPO Panel found a total of six legitimate pests of concern for U.S. potatoes to Mexico, rendering almost all the Mexican pest find arguments without merit. All of these pests can be fully mitigated via the import protocols and therefore would not prevent market access. Displeased with the results, Mexico refused to officially accept the findings.

**Mexico's Losses on Pest Issues Force Transition to Legal Strategy:** Facing pressure from the US government and the adverse NAPPO ruling, Mexico agreed to open the market to cities greater than 100,000 in May 2014. For three weeks, U.S. potatoes entered Mexico. These exports were immediately halted when CONPAPA, the Mexican potato grower non-government interest group, filed a series of Amparos "actions" (injunctions) to halt imports. The core argument by CONPAPA's legal team was that the government of Mexico had no constitutional authority to grant access for agricultural imports. They also cited the previously-addressed pest claims that had been dismissed by NAPPO. Due to these injunctions, U.S. exports to the new areas ceased and have not recommenced. This plan was obviously long-planned to coincide with the opening of the market. In April of 2021, the Mexican Supreme Court unanimously ruled against the Mexican industry's legal arguments.

**Mexico's Unilateral Change to Require CONPAPA-Sponsored Testing of U.S. Potatoes:** In late April 2021, when it became likely that the Mexican Supreme Court would rule in favor of allowing U.S. potato access, CONPAPA arranged an agreement with SENASICA to modify the import testing requirements for U.S. potatoes. This modification was undertaken without notice to APHIS. It involves the Mexican industry paying for additional laboratory testing of U.S. potatoes at their preferred facility. Such action demonstrates the clear desire of Mexico to preserve options to shut the market once it is reopened.

For the record, since January 1, 2019, Mexico has reported to APHIS a total of 11 pest finds on U.S. potato imports, none of which are legitimate according to NAPPO Panel findings and international trade regulations. Should future pest finds spike, it suggests a clear political effort to undermine market access.

Many of the NAPPO pests have been cited in official publications as widely present in Mexico. The U.S. government should ensure that Mexico is not using phytosanitary issues against U.S. imports that are otherwise unregulated for their domestic potato industry.

**Conclusion:** There is a clear pattern of Mexico offering to open the market for U.S. fresh potatoes only to find arguments to close it again and prevent access. CONPAPA's steps in late April demonstrate such an effort is underway again, and despite commitments to the United States to open the market, Mexico is continuing its efforts to conjure up ways to prevent access. Only a clear and forceful direct response by the U.S. government to Mexico will prevent this pattern from reoccurring. There must be strong consequences for Mexico should it seek to close or restrict the market for U.S. fresh potatoes again.