



**NATIONAL POTATO COUNCIL**

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May 3, 2013

Mr. David Weiner  
Deputy Assistant U.S. Trade Representative for Europe  
Office of the U.S. Trade Representative  
Executive Office of the President  
600 17th Street, N.W.  
Washington, D.C. 20508

Submitted electronically via <http://www.regulations.gov>

RE: Request for Comments and Notice of public hearing concerning Proposed Transatlantic Trade and Investment Agreement (Docket ID USTR-2013-0019)

Dear Mr. Weiner:

In response to the notice from the Office of the U.S. Trade Representative (USTR) published in the *Federal Register* on April 1, 2013, the National Potato Council (NPC) is providing comments on behalf of the U.S. potato industry with respect to the recently proposed Trans-Atlantic Trade and Investment Partnership (TTIP) negotiations.

The NPC represents the nation's 3,000 potato farmers on regulatory issues affecting potatoes. For over 15 years, the NPC has worked closely with USTR and the U.S. Department of Agriculture (USDA) to open and expand U.S. potato exports by reducing trade barriers through free trade agreement negotiations and bilateral market access talks. As a result of these efforts, potato exports (both fresh and processed product) have grown 64 percent in volume and 116 percent in value over that period. In 2012, the U.S. exported \$1.6 billion worth of potato products. Potato exports are a U.S. agriculture trade success story.

We look forward to working with USTR and USDA on the TTIP negotiations. The U.S. potato industry's priorities for the partnership are below.

**Tariffs**

The TTIP provides an opportunity to eliminate European potato tariffs, which are significantly higher than U.S. tariffs on EU potato products. EU tariffs applied to fries range from 14.4 – 17.6 percent, while U.S. tariffs are 6.4 – 8 percent. Fresh potato tariffs in the EU are 9.6 – 13.4 percent, while the U.S. equivalent is \$0.005/kg, which equates to approximately 1.32 percent.

Given these disparities, the U.S. potato industry seeks the immediate elimination of all EU potato tariffs.

Highest priorities include:

HS 2004.1	Tariffs applied to frozen potatoes, including frozen fries
HS 0701.9	Tariffs applied to fresh potatoes
HS 1105.2	Tariffs applied to dehydrated potato flakes
HS 2005.2	Tariffs applied to other dehydrated potato products such as granules and potato chips
HS 1905.90.90	Tariff applied to extruded products such as <i>Pringles</i>

The EU eight-digit tariff codes and the specific EU potato tariffs are included in the appendix to this letter.

Finally, in addition to the immediate elimination of these tariffs, as the appendix notes, the EU tariff system for some potato products also applies additional duties based on content such as milk, sugar, wheat, and corn. Again, the potato industry requests that these be eliminated. Details can be provided, if requested.

### **Pesticide MRLs**

Over the last decade, the EU has moved from individual member state pesticide maximum residue levels (MRLs) to a community-wide MRL list. While this has simplified exporting to the EU, there are several concerns regarding EU MRL policies.

First, the EU is establishing MRLs at significantly lower levels than U.S. MRLs, causing potential trade disruptions. The NPC encourages harmonization of MRLs whenever possible or the acceptance of U.S. MRLs.

Second, seeking EU import tolerances is overly burdensome for U.S. commodities. While there technically is a way to seek EU import tolerances, most U.S. commodities cannot undertake such a task. The EU data requirements often do not match EPA requirements. This results in additional lab studies being required, which can cost hundreds of thousands of dollars. Some commodity groups have turned to USDA-TASC (Technical Assistance for Specialty Crops) grants to assist with this, but others choose simply not to seek the MRLs, which is not a good solution.

It is positive that the EU is adopting Codex MRLs when they have not raised an objection to those MRLs. The result of this policy has been the resolution of several long standing MRL issues that were mired in the EU application process. The NPC encourages the continuation of this policy.

In the TTIP negotiations, a better, more cost effective means of seeking EU import tolerances is needed to allow trade to flourish.

Third, based on a residue violation in the EU from U.S. fruit, EU officials have visited the U.S. industry and, as a result, recommended that U.S. fruit products be pre-tested prior to export to the market to ensure compliance with restrictive EU standards. Such pre-testing is unnecessary and expensive. The NPC opposes mandatory pesticide pretesting prior to export to the EU.

### **Subsidies/Support**

As a result of the WTO Uruguay Round, the EU was allowed to provide support to their fruit and vegetable industries. Although direct payments to EU potato growers cannot be documented, the fact that EU potatoes can be so competitive in third markets raises concerns that other market distorting support is being provided. Additionally, support for upgrades to equipment or infrastructure, transportation assistance, export insurance, and other programs, which lower costs to the industry, appears to be impacting the export prices of U.S. potatoes and potato products.

Anything the TTIP can do to make all agricultural and potato support transparent and to ensure that the EU does not exceed its Uruguay Round commitments would be greatly appreciated.

### **SPS Regulations**

Over the last 15 years, the U.S. potato industry has benefited greatly from the addition of new markets opened by USDA on its behalf. While countries are often reluctant to open their markets for U.S. fresh potatoes, the Sanitary and Phytosanitary (SPS) Agreement has held them to a high standard and required them to base their decisions on sound scientific principles, not domestic politics.

Although commercial shipments of fresh and seed potatoes between the U.S. and the EU do not currently occur, the TTIP provides an opportunity to further develop and expand SPS principles between the United States and EU. The U.S. potato industry supports including WTO-plus SPS provisions in the TTIP negotiations. These provisions would go beyond the existing WTO SPS agreement on issues such as risk assessment, risk management, transparency, border checks and laboratory testing, and facilitating trade through regulatory coherence measures. The NPC also supports the development of a TTIP dispute resolution system that is enforceable.

Finally, the potato industry is in favor of the development in the TTIP of a Rapid Response Mechanism (RRM) on SPS issues to improve agriculture trade and resolve specific SPS potato shipment issues.

For the TTIP, the NPC supports an expanded SPS agreement that is enforceable.

### **Biotechnology**

The EU's policies on biotechnology have not been based on science. This has inhibited approval of new biotechnology products and trade.

For example, the bioengineered Amflora potato, which was introduced in the EU for industrial use, was technically approved after many years of delays, but then withdrawn for commercial reasons.

While currently there are no commercially grown biotech potatoes in the United States, research is being conducted on such products throughout the world, including in the United States.


The TTIP provides an excellent opportunity to ensure that the EU does not restrict legitimately-developed and scientifically-reviewed biotechnology products. The EU should approve such products based on sound science.

**Tax Transparency**

Members of the EU apply a set of simple principles in the establishment of a Value Added Tax (VAT). These rules are complicated by a multitude of derogations granted to certain EU members, and in some instances a majority of members. These derogations were granted during the negotiations preceding the adoption of the VAT rates Directive of 1992 and in the Acts of Accession to the European Union. Overall, such derogations prevent a coherent system of VAT rates in the EU from being applied. When discussing trade between the United States and the European Union, transparency is needed regarding the application of VAT and these derogations so that the system cannot be used to promote trade advantages between the EU members.

Thank you for your consideration of the U.S. potato industry priorities. The NPC looks forward to working with USTR and USDA on the upcoming TTIP negotiations.

Sincerely,

A handwritten signature in black ink that reads "John Keeling". The signature is written in a cursive style with a large, stylized "J" and "K".

John Keeling

Executive Vice President and CEO  
National Potato Council

## APPENDIX: Specific EU Potato Tariffs

EU Common External Tariffs on US Frozen Potatoes		
HS Code	Description	EU Tariff on US Product (MFN)
0710.10.00	Potatoes uncooked or cooked by steaming or boiling in water, frozen	14.4%
<i>Potatoes prepared or preserved otherwise than by vinegar or acetic acid, frozen, other than products under heading 2006:</i>		
2004.10.10	Cooked, not otherwise prepared	14.4%
2004.10.91	In the form of flour, meal or flakes	7.6% plus variable component (VC)
2004.10.99	Other	17.6%

<sup>1</sup>*Certain processed agricultural goods entering the European Union (EU) are assessed a specific duty based on the fat, sugar and milk protein content. See "EU Ag Comp" tabs for details.*

EU Common External Tariffs on US Dehy Potatoes		
HS Code	Description	EU Tariff on US Product (MFN)
0712.90.05	Potatoes (dried) whether or not cut or sliced but not prepared further	10.2%
1105.10.00	Flour, meal and powder	12.2%
1105.20.00	Flakes, granules and pellets	12.20%

<b>EU Common External Tariffs on US Fresh Potatoes</b>		
<b>HS Code</b>	<b>Description</b>	<b>EU Tariff on US Product (MFN)</b>
0701.90.10.00	For the manufacture of starch	5.8%
<i>New, from 1 January to 30 June</i>		
0701.90.50.00	From 1 January to 15 May	9.6%
	From 16 May to 30 June	13.4%
<i>Other so-called "New," from 1 July to 31 December</i>		
0701.90.90.10	From July 1-December 31	11.5%
<i>Other</i>		
0701.90.90.90	Other	11.5%

<b>EU Common External Tariffs on US Chip Potatoes</b>		
<b>HS Code</b>	<b>Description</b>	<b>EU Tariff on US Product (MFN)</b>
2005.20.10	In the form of flour, meal or flakes	8.8% plus agricultural component <sup>1</sup>
<i>Other chip potatoes:</i>		
2005.20.20	Thin slices, baked or fried, whether or not salted or flavored, in airtight packaging, suitable for immediate consumption	14.1%
2005.20.80	Other	14.1%

<sup>1</sup>Certain processed agricultural goods entering the European Union (EU) are assessed a specific duty based on the fat, sugar and milk protein content. See "EU Ag Comp" tabs for details.