Congress of the United States
Washington, DC 20515

September 8, 2022

The Honorable Katherine Tai
U.S. Trade Representative
Office of the U.S. Trade Representative
600 17th Street, NW
Washington, D.C. 20508

Dear Ambassador Tai:

We file this petition, under Section 301 of the Trade Act of 1974, to request the administration to conduct an investigation into the flood of imported seasonal and perishable agricultural products from Mexico. Specifically, fruits and vegetables grown with subsidized horticultural infrastructure and other forms of Mexican government support, which over the last two decades have burdened and restricted U.S. commerce. The contents of this petition make clear that Mexico's scheme to displace Florida's seasonal and perishable agricultural industry from the U.S. market is an unreasonable trade practice that constitutes export targeting. The petition also shows Mexico poses a direct threat to Florida's seasonal and perishable agricultural industry, endangers the long-term food security of the U.S., and raises the prospect that Mexico will become an unchallenged hegemon in the winter and spring fruit and vegetable supply chain, with the ability to set market prices that harm American consumers.

The Biden Administration has affirmed its intention to protect and reinvigorate critical supply chains within the U.S., including agricultural supply chains. Mexico's export targeting scheme, which is affecting U.S.-grown produce during the winter and spring months, is a direct threat to this objective. As this petition discusses, and as various government entities, including the U.S. Trade Representative, have confirmed, seasonal and perishable industries such as Florida's generally do not enjoy access to trade remedies. The provisions of Section 301 of the Trade Act of 1974, however, are uniquely suited to investigate Mexico's trade-distorting practices and policies and provide urgently needed relief to Florida's growers.

As you know, the Trade Act of 1974 gives you broad authority to investigate and redress unreasonable trade practices that burden and restrict U.S. commerce. The Trade Act also sets broad criteria for interested persons to file petitions under Section 301. The Bipartisan Florida Congressional Delegation is a group of U.S. Members of Congress, each of whom represents U.S. workers, farmers, family-owned businesses, and other businesses injured by Mexico's unreasonable practices and policies.

We respectfully submit this petition to redress the untenable situation imposed by Mexico's practices and policies, and to seek relief.

Sincerely,

Marco Rubio
U.S. Senator

Rick Scott
U.S. Senator

Al Lawson
Member of Congress

Bill Posey
Member of Congress

Maria Elvira Salazar
Member of Congress

W. Gregory Steube
Member of Congress

Neal P. Dunn, M.D.
Member of Congress

Mario Diaz-Balart
Member of Congress

John H. Rutherford
Member of Congress

Scott Franklin
Member of Congress

Byron Donalds
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Kat Cammack
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Sheila Cherfilus-McCormick
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Darren Soto
Member of Congress

Michael Waltz
Member of Congress

Vern Buchanan
Member of Congress

Frederica Wilson
Member of Congress

Kathy Castor
Member of Congress

Debbie Wasserman Schultz
Member of Congress

Theodore Deutch
Member of Congress

BEFORE THE OFFICE OF THE
UNITED STATES TRADE REPRESENTATIVE

BIPARTISAN FLORIDA CONGRESSIONAL DELEGATION	))))	**Petition for Relief Under Section 301(b) of the Trade Act of 1974, as Amended, 19 U.S.C. § 2411 et seq.**

Summary

The Bipartisan Florida Congressional Delegation is a group of United States (U.S.) Members of Congress, each of whom represents U.S. workers, farmers, family-owned businesses, and other businesses injured by the unreasonable trade practices and policies of the Government of Mexico, which burden and restrict commerce within the U.S., specifically the production and sale of seasonal and perishable agricultural products grown in Florida.

Since the year 2000, the Mexican Government has provided hundreds of millions of dollars or more in subsidies for the development and operation of a multi-billion-dollar export-oriented "protected" agricultural industry. Mexico's subsidized and protected agricultural infrastructure includes greenhouses, shade houses, and macro tunnels, among other structures and equipment, which have enabled Mexico's protected agriculture industry to grow exponentially from less than 2,000 acres in the year 2000 to approximately 126,000 acres or more by the year 2018. Nearly 80 percent of the Mexican fresh produce grown in subsidized protected infrastructure is exported to the U.S. The Mexican Government's scheme to subsidize the development, operation, and expansion of an export-oriented protected seasonal and perishable agricultural industry is an unreasonable practice that constitutes export targeting, as defined in Section 301 of the Trade Act of 1974.

The Mexican Government's export targeting scheme is further aided by race-to-the-bottom labor wage rates that make seasonal and perishable agricultural products exported from Mexico to the U.S. more competitive against like agricultural products produced in Florida. In 2021, the U.S. International Trade Commission (ITC) reported that agricultural workers in Mexico's export-oriented protected seasonal and perishable agriculture industry earn wages of about $10-$12 per day and characterized those low wages as "a competitive advantage" for Mexico's export-oriented produce sector. Those wages compare to Florida's minimum wage of $10 per hour as of September 2021 and 2021 adverse effect wage of $12.08 per hour. The benefits of Mexican government subsidies and race-to-the-bottom wage rates provide an unfair advantage to exporters of Mexican produce to the U.S. by enabling extraordinary export volumes and unfair pricing.

The Mexican Government's export targeting scheme, an unreasonable policy and practice, has resulted in what the U.S. Department of Agriculture characterizes as a "surge" in the volume of certain seasonal and perishable agricultural products exported from Mexico to the U.S. in the last two decades, particularly in recent years. This surge in volume has caused the gross value of Mexican produce in the U.S. market to increase 596 percent between 2001 and

2021, according to the attached August 1, 2022 Florida Department of Agriculture and Consumer Services (FDACS) report titled, "*Mexico's Ag-Exports Impacts on Florida Agriculture*." Among other impacts, the surge in volume resulting from Mexico's unreasonable policies and practices burdens and restricts U.S. commerce by directly displacing the market share held by Floridian growers of seasonal and perishable agricultural products. Florida's domestic market share in several primary seasonal and perishable products (including bell peppers, strawberries, blueberries, cucumbers, and squash) dropped by 36 percent from 2006 to 2021, while Mexico's market share increased by 160 percent. This trend has occurred among other fruit and vegetable products as well.

Mexico's export targeting scheme, which leverages government subsidies and low labor wage rates, is an unreasonable trade practice that burdens and restricts U.S. commerce, causing Florida producers of seasonal and perishable agricultural products to lose production, acreage, revenues, and market share, among other adverse impacts.

The Bipartisan Florida Congressional Delegation seeks an investigation into the surging volumes of unfairly priced seasonal and perishable agricultural exports from Mexico to the U.S., which are accelerating due to Mexico's multi-decade export targeting scheme.

I. INTRODUCTION

This petition is presented by the Bipartisan Florida Congressional Delegation pursuant to Section 302(a) of the Trade Act of 1974, as amended (19 U.S.C. § 2412 et seq.) ("the Trade Act"), and the regulations of the Office of the U.S. Trade Representative ("USTR") at 15 C.F.R. Part 2006 (2006). This petition requests that action be taken under Section 301(b) to investigate surging volumes of unfairly priced seasonal and perishable agricultural exports from Mexico to the U.S. that are occurring due to Mexico's unreasonable policies and practices that burden and restrict U.S. commerce.

A. The Petitioner

The Bipartisan Florida Congressional Delegation is a group of U.S. Members of Congress, each of whom represents U.S. workers, farmers, family-owned businesses, and other businesses injured by the Mexican policies and practices covered by this petition.

B. Statutory Basis for This Petition

As described in this petition, Mexico's unreasonable policies and practices, through which it has developed and maintained an export-oriented seasonal and perishable agricultural industry through government subsidies and low wage rates, burden and restrict U.S. commerce in violation of 19 U.S.C. § 2411 (b)(1).

C. Foreign Country That Is the Subject of This Petition

This petition addresses the acts, policies, and practices of Mexico.

D. Laws or Regulations Which are the Subject of this Petition

The Laws or Regulations of Mexico that are the subject of this petition include, but are not limited to:

- subsidies in the years 2001 to 2006 (the existence of which is confirmed in Attachment N, citing SAGARPA sources, but for which regulations are not identifiable on the internet);
- the 2007-2012 National Development Plan Equipment and Infrastructure Program (Attachment I);
- the 2013-2018 National Development Program - Program for the Promotion of Agriculture (Attachments J and K); and
- the 2019-2024 Program for the Promotion of Agriculture (Attachment L).

E. Petitioner's Economic Interest

The Members of the Bipartisan Florida Congressional Delegation are U.S. Members of Congress acting on behalf of their constituents, whose businesses, jobs, and livelihoods have been undercut and displaced as a result of Mexico's unreasonable policies and practices that are burdening and restricting U.S. commerce. By conducting an export targeting scheme to enable the Mexican seasonal and perishable agricultural industry to become more competitive in the export of perishable fruits and vegetables to the U.S., Mexico has engaged in unreasonable practices and burdened and restricted U.S. commerce. This unfair competition has permanently forced Floridian growers out of business, and will continue to do so in the absence of relief. Historically, Florida's seasonal and perishable agricultural industry has been the primary, if not exclusive, supplier of nutritious fresh fruits and vegetables to more than 100 million Americans east of the Mississippi River during the winter and spring months. The permanent loss of this industry would pose a grave threat to the food security of the U.S. and would allow Mexico's government-enabled fruit and vegetable exporters to set the price of fresh fruits and vegetables during the winter and spring months. The Bipartisan Florida Congressional Delegation filing this petition holds that the wellbeing of Floridian growers of seasonal and perishable agricultural products, American consumers of such products, and the reliability and security of the American food supply chain are at stake and threatened by Mexico's unreasonable practices and policies.

F. Requests for Other Relief

The Bipartisan Florida Congressional Delegation has in the past requested other forms of relief under the Trade Act of 1974 or other provisions of law with respect to the acts, policies, and practices of Mexico that are the subject of this petition. The Bipartisan Florida Congressional Delegation is not filing at this time for other forms of relief under the Trade Act of 1974, or under any provision of law with respect to the acts, policies, and practices of Mexico that are the subject of this petition. The Bipartisan Florida Congressional Delegation reserves the right to file for other forms of relief under the Trade Act of 1974 or other provisions of law with respect to acts, policies, and practices of Mexico that are the subject of this petition.

G. Public Hearing

The Bipartisan Florida Congressional Delegation hereby requests that a public hearing be held on this matter.

H. <u>Definition of Seasonal and Perishable Agricultural Products</u>

For the purposes of this petition, the term "seasonal and perishable agricultural products" (fruits and vegetables) should be defined as it was in the 2006 Communication from the U.S. to the World Trade Organization (WTO) (TN/RL/GEN/129).

II. MEXICO'S EXPORT TARGETING SCHEME HAS ENABLED THE MEXICAN SEASONAL AND PERISHABLE AGRICULTURAL INDUSTRY TO BECOME MORE COMPETITIVE IN EXPORTING TO THE U.S., RESULTING IN SURGING VOLUMES OF UNFAIRLY PRICED PRODUCE BEING EXPORTED FROM MEXICO TO THE U.S.

A. Mexican Government Subsidies Have Massively Expanded the Mexican Seasonal and Perishable Agricultural Industry

Since the early 2000s, Mexico has subsidized its seasonal and perishable agricultural industry through the Mexican Ministry of Agriculture (SAGARPA), which has also been referred to by the acronym SADER since 2018. Mexico has methodically subsidized every aspect of the Mexican industry, including subsidies for acquiring seeds and equipment, constructing protected agricultural infrastructure such as greenhouses, shade houses, and tunnels (complete with complex irrigation systems), and postharvest management including subsidies for transport to foreign markets and the acquisition of cold storage containers and vehicles to make exports more competitive in the U.S. market).

Attachment A, a 2018 report by the Agricultural and Applied Economics Association titled, "*Government Support in Mexican Agriculture*," which primarily cites Mexican government sources, details these SAGARPA subsidy programs for protected structures, irrigation, and other services, characterizing government subsidies as providing "comprehensive support throughout the entire supply chain." From 2001 to 2006, Mexico's subsidies for protected agriculture averaged approximately $15 million per year, and intensified to $126.7 million between the years 2007 and 2008 combined (Attachments A and O). Between the years 2011 and 2016, the government provided $188 million for protected agriculture equipment and services. The industry received approximately 546,976,000 pesos (~$28.99 million) and 678,058,000 pesos (~$35.3 million) in the years 2017 and 2018, respectively (Attachment B). Attachment A also discusses the expansion of the fruit and vegetable industry growth in 2009, following the launch of Mexico's 2007-2012 National Development Plan.

In 2013, Mexico launched its aggressive 2013-2018 National Development Plan to create a more "competitive agri-food sector." Among the subprograms implemented through this plan, four were tailored particularly for fruit and vegetable production (see below table). Several other programs under the 2013-2018 Plan likely benefited the protected seasonal and perishable industry, including the Program of Agri-Food Productivity and Competitiveness; the

Comprehensive Rural Development Program; the Fund for the Support to Productive Projects in Agricultural Areas; the Program for Innovation, Research, Technological Development, and Education; and the Marketing and Market Development Program. Of note, the Plan also contained postharvest management subsidies, which included assistance for the acquisition and development of export-oriented postharvest supply chains.

Subsidy Sub-Group	Covered Projects	Support Amount ($Pesos)
Intensive Production and Agriculture Covers	Macro-tunnels Shade houses Anti-hail mesh structures Greenhouses	$90,000/ha, up to $2,700,000/project $300,000/ha up to $2,700,000/project $70,000/ha up to $700,000/project $900,000/ha up to $2,700,000/project
Irrigation Technology	Multi-floodgate irrigation systems Sprinkler irrigation systems, micro-sprinklers, and drip irrigation Agricultural land drainage	Up to $10,000/ha Up to $15,000/ha Up to $15,000/ha
Integral Agricultural Production	Comprehensive strategic agricultural projects	Up to 50% of the value of the project, not exceeding $10 million
Agri-Food Cluster Development	Technical, administrative, and investment support in infrastructure and equipment for activities throughout the production chain	30% of the value of the project, up to $30 million

2013-2018 National Development Plan Agriculture Support Rules (Attachment A)

The Mexican Government's unreasonable subsidies have exponentially increased the capacity of Mexico's protected seasonal and perishable agriculture industry to produce massive volumes of fruit and vegetable products since the early 2000s. Attachment A confirms this explosive growth and attributes it to "instrumental" Mexican government subsidies. The report confirms that Mexico's protected fruit and vegetable industry accounted for 790 hectares (~1952 acres) of production area in the year 2000. It also confirms that due to government subsidies, industry production area exploded to 40,862 hectares (~100,792 acres) by the year 2016. Other public reporting indicates that production area growth has continued. A 2019 article by *The Packer* (Attachment E), which cites the Mexican Association of Protected Horticulture, reported that the industry had grown to 126,000 acres of protected production area in 2018.

B. <u>The Mexican Government-Created and Subsidized Industry is Export-Oriented, Constituting an Export Targeting Scheme</u>

In addition to subsidizing the equipment necessary to greatly expand the acreage of the Mexican covered seasonal and perishable agriculture industry, Mexico has provided additional subsidies with the explicit intent of positioning the industry as a low-cost exporter to the U.S. These subsidies for "postharvest management" and "agrifood cluster development" are specifically intended to expand Mexico's ability to export fruits and vegetables to the U.S. Economic analyses commissioned by SAGARPA, and conducted by Wageningen University (Netherlands), explicitly confirm this.

The materials produced by Wageningen University for SAGARPA confirm that postharvest support is intended to improve Mexico's "export position in agri-food" (Attachment F). Further, SAGARPA and the Mexican President, along with industry stakeholders, adopted a shared declaration for Mexico to "become a world leader in export of agri-food products by the year 2030" (Attachment G). Additionally, this vision explicitly states the goal of the declaration is "maximizing the opportunities of export to the United States," while acknowledging that the "United States is the main export market for Mexico, with fruits and vegetables as the most exported products, with a current participation of Mexico's products in the United States market of 31% and 66% respectively. This market share must increase."

In May 2018, outgoing Mexican President Enrique Peña Nieto boasted that Mexico had become a "world agri-food power" by executing a "conquest of external markets." In his remarks, Peña Nieto highlighted how the government's support for expanding the acreage of Mexico's agriculture sector and facilitating export-oriented logistics systems had played a decisive role in enabling Mexican farmers to "leverage competitive advantages" to massively expand export volumes to the U.S. Peña Nieto attributed Mexico's newfound position as an export power to the role of government policies and programs, claiming that Mexico's "conquest" had been "made possible by the convergence of efforts, government policies and determined commitment" (see attachment H). It is clear that Mexico's intent in developing this protected seasonal and perishable agriculture industry was not to produce fruit and vegetable supplies for domestic consumption, but rather to develop an export powerhouse to flood products into the U.S. market.

C. <u>Transportation Subsidies for Mexico's Export Targeting Scheme Contribute to the Mexican Seasonal and Perishable Agriculture Industry's Competitive Pricing Advantage</u>

Attachment A confirms that SAGARPA provided subsidies to enable the Mexican industry to become more competitive in exporting to the U.S. by supporting joint ventures and providing subsidies for postharvest projects, including subsidies for infrastructure and equipment and contributions of up to five million pesos (per project) to establish private investment funds serving postharvest projects. Materials commissioned by SAGARPA, and produced by Wageningen University, confirm that the objective of subsidies and support for postharvest projects, including the handling, packaging, and transportation of fruits and vegetables for sale in foreign markets, is to improve their "competitiveness and incomes" (Attachment G). Under the Lopez Obrador presidency, SADER continues to provide subsidies for the purchase of refrigerated trucks and the consolidation of post-harvest logistics, among other things, under the active Program for the Promotion of Agriculture. Currently, individuals are eligible to receive up to 400,000 pesos (nearly $20,000), and corporations are eligible to receive up to 5 million pesos (nearly $250,000) for the purchase of refrigerated trucks and the integration of post-harvest agriculture logistics projects to reduce risk and increase the competitiveness of Mexican agricultural products (Attachment L). These funds are also available for other post-harvest infrastructure, machinery, and equipment to establish and expand agro-logistics hubs, such as those used to pack and transport seasonal and perishable agriculture products to the U.S.

Artículo 15. Subcomponente Riesgo Compartido. Este subcomponente está orientado a impulsar inversiones para agroparques y agroindustria, a partir de esquemas de riesgo compartido.

Las Unidad Responsable de este subcomponente es la Dirección General de Gestión de Riesgos.

Los apoyos que se incluyen en este subcomponente se describen a continuación:

Concepto de Apoyo	Características Específicas del Apoyo	Población Objetivo Específica	Monto de Apoyo
I. Riesgo Compartido	Apoyos para proyectos en post-producción para infraestructura, maquinaría y/o equipo nuevos. Son elegibles vehículos de transporte terrestre especializado de carga, nuevos, sin características de lujo, tipo chasis de 1 a 4 toneladas con sistema de frio o caja refrigerada, indispensable para la implementación y mejora del proceso de transformación o agregación de valor, en cuyo caso, el apoyo para vehículo será sin rebasar el 50% de su costo.	Productores agrícolas individuales (personas físicas) y productores agrícolas organizados (personas morales) que transformen al menos el 60% de la producción primaria que producen a partir del proyecto.	Incentivos recuperables, sin aval o garantía, de hasta el 80% del costo de inversión del proyecto. Para personas físicas hasta $400,000.00 (cuatrocientos mil pesos 00/100 M.N.). Para personas morales hasta $400,000.00 (cuatrocientos mil pesos 00/100 M.N.) por socio activo, sin rebasar $5,000.000.00 (cinco millones de pesos 00/100 M.N.) por persona moral.

Para el Subcomponente Riesgo Compartido, tanto los productores agrícolas individuales (personas físicas) como productores agrícolas organizados (personas morales), deberán cumplir el requisito de presentar un Proyecto conforme al Guion para la Elaboración del Proyecto Colectivo del Componente Fomento a la Agricultura (Anexo 4).

Source: Regulations for the Program for the Promotion of Agriculture, published December 31, 2021 (Attachment L)

D. Mexican Labor Wage Rates Aid Mexico's Export Targeting Scheme by Contributing to the Mexican Seasonal and Perishable Agriculture Industry's Unfair Competitive Advantage

In 2021, within reports on volumes of squash and cucumbers surging from Mexico to the U.S. titled, "*Squash: Effect of Imports on U.S. Seasonal Markets, with a Focus on the U.S. Southeast*" (Investigation #332-584) and "*Cucumbers: Effect of Imports on U.S. Seasonal Markets, with a Focus on the U.S. Southeast* (Investigation #332-583)," the U.S. International Trade Commission reports that agriculture workers in Mexico's export-oriented protected seasonal and perishable agriculture industry earn wages of about $10-$12 per day, and characterized those low wages as "a competitive advantage" for Mexico's export-oriented produce sector. Those wages compare to Florida's minimum wage of $10 per hour as of September 2021 and 2021 adverse effect wage of $12.08 per hour.

Race-to-the-bottom minimum wage rates compared to those in the U.S. aid the Mexican industry in driving down the prices of its products and outcompeting products grown in Florida. This government policy of low wage rates in Mexico's export-oriented industry plays a significant role in Mexico's export targeting scheme, and as President Peña Nieto declared, it is a government policy that converges with government subsidy policies to help make Mexico's fruit and vegetable industry an export power. Despite the fact that subsidies for protected agriculture were in part intended to improve produce quality, and in principle could have allowed Mexican exporters to increase prices, it is clear that these subsidy benefits do not translate to higher wages for Mexican workers harvesting fruits and vegetables from covered infrastructure. These returns instead give Mexican exporters and multinational corporations significant profit margin flexibility to keep prices low compared to products grown in Florida, especially during the peak marketing months for Florida-grown products.

E. Mexico's Export Targeting Scheme is Enabling Surging Volumes of Unfairly Priced Exports to the U.S. and to Seize U.S. Market Share

The converging government policies that enable Mexico's export targeting scheme have succeeded in Mexico's stated goal of securing larger shares of the U.S. market, as confirmed in the most recent report by FDACS (Attachment C) and USDA's November 2021 report titled, "*U.S. Fresh Vegetable Imports From Mexico and Canada Continue To Surge"* (Attachment D).

According to FDACS, Mexico greatly increased its share of the U.S. market for seasonal and perishable produce, including bell peppers (by 110 percent), strawberries (by 239 percent), blueberries (by 1,197 percent), cucumbers (by 23.19 percent), and squash (by 9.31 percent). These market share increases have only been possible because Mexico's export targeting scheme has enabled Mexican exporters to surge high volumes of unfairly priced produce in the U.S. market. Mexican exports are generally unfairly priced compared to Florida-grown products across the board. However, in certain cases, prices for Mexican products drop to their lowest levels amid the peak harvest months for Florida fruits and vegetables, particularly blueberries, squash and cucumbers. This foreshadows the pricing dynamic that would occur in the future should Mexican produce face no competition in the winter and spring months due to the loss of Florida produce industries. The Mexican industry would then have the leverage to set the price for produce throughout the U.S. market. This should be considered a threat to American consumers, not just Florida industry. The below examples reflect trends and market-distorting practices that impact a range of fruit and vegetable products across the seasonal and perishable agricultural sector.

Bell Peppers: the analysis conducted by FDACS confirms that exports of unfairly priced bell peppers from Mexico to the U.S. have progressively grown in volume. In the year 2000, Mexico exported 339 million pounds of bell peppers to the U.S. This volume increased to 668 million pounds in the year 2010, following the subsidy-intensive years of 2007 and 2008. Following the implementation of additional subsidies for coverings, equipment, irrigation, and postharvest logistics in the years 2014-2016, the volume of bell peppers exported from Mexico to the U.S. increased from 779 million pounds in 2016 to 1.3 billion pounds in 2021. The analysis finds the average low price for Mexican bell peppers sold in the eastern U.S. (imported through Texas) is $9.29 per case, $2.41 less than the average low price per case of Mexican bell peppers sold in the Western U.S. (imported through Nogales, AZ), which is geographically closer to Mexico. When factoring in the assumed logistical costs of shipping 500-2,500 miles to the Eastern U.S. ($1.50-$4 per case), Mexican bell peppers destined for the Eastern U.S. are priced 36 percent below what should be the reasonable average low price of $14.50 per case. The $9.29 average low price for a case of Mexican bell peppers is $5.85 less than the average low price of $15.14 for a case of Florida-grown bell peppers sold in peak marketing months.

Strawberries: the analysis conducted by FDACS confirms that exports of unfairly priced strawberries from Mexico to the U.S. have progressively grown in volume. In the year 2000, Mexico exported 75 million pounds of strawberries to the U.S. This volume increased to 127 million pounds in the year 2010, following the subsidy-intensive years of 2007 and 2008. Following the implementation of additional subsidies for coverings, equipment, irrigation, and postharvest logistics in the years 2014-2016, the volume of strawberries exported from Mexico to the U.S. increased from 216 million pounds in 2016 to a record 536 million pounds in 2021. The analysis finds that Mexican strawberries sold in the eastern U.S. (imported through Texas) are marketed at an average low price between $12-$15 per flat, less than the average low price per flat of $16.09 for Mexican strawberries sold in the Western U.S. (imported through Nogales, AZ), which is geographically closer to Mexico. When factoring in the assumed logistical costs of shipping 500-2,500 miles to the Eastern U.S. ($1.50-$4 per flat), Mexican strawberries destined for the Eastern U.S. are priced well below what should be the reasonable average low price of $18.00 per unit. The average low price for a flat of Florida-grown strawberries in peak harvest months is $18.99 per flat in recent years.

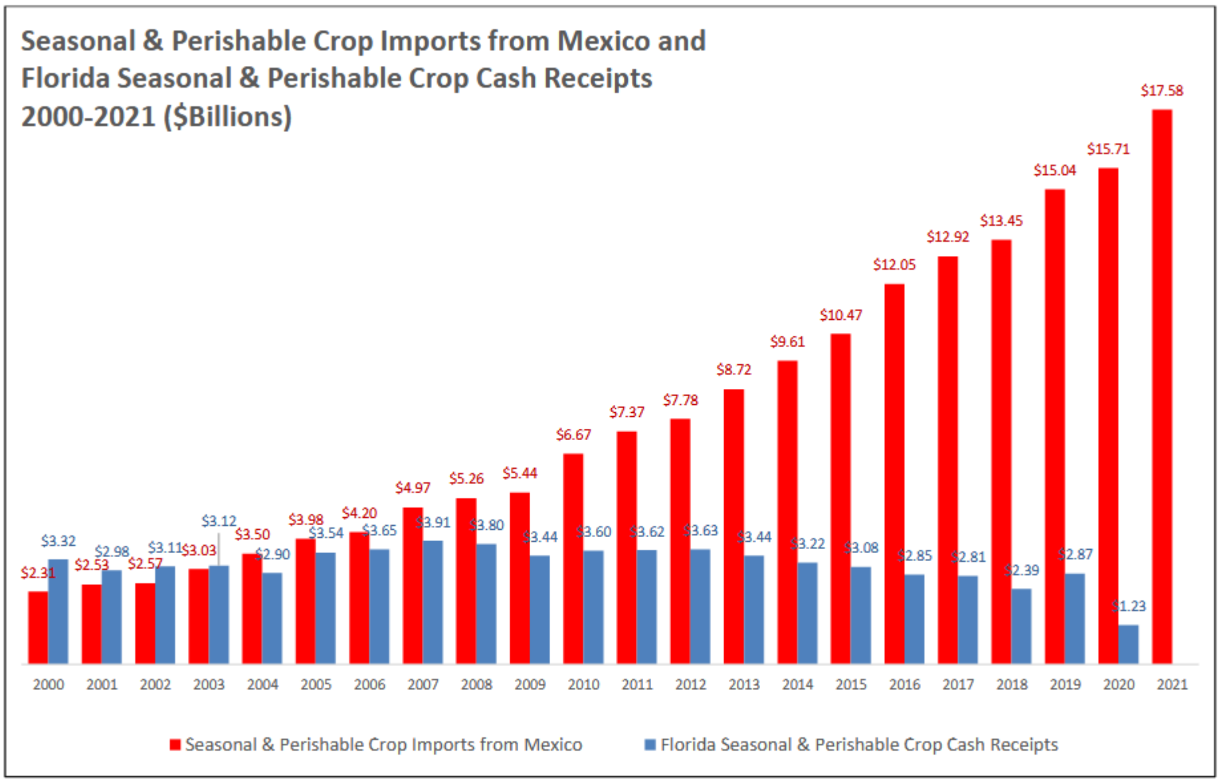
Blueberries: the analysis conducted by FDACS confirms that exports of unfairly priced blueberries from Mexico to the U.S. have progressively grown in volume. In the year 2000, Mexico did not export any measurable volume of blueberries to the U.S. Following the subsidy-intensive years of 2007 and 2008, 2.8 million pounds of blueberries were exported from Mexico to the U.S. in the year 2010. Following the implementation of additional subsidies for coverings, equipment, irrigation, and postharvest logistics in the years 2014-2016, the volume of blueberries exported from Mexico to the U.S. increased from 31 million pounds in 2016 to a record 140 million pounds in 2021. The volume of blueberries exported from Mexico to the U.S. increased 3,329 percent from 2011 to 2021. The analysis finds that Mexican blueberries sold in the eastern U.S. (imported through Texas) are marketed at an average price of $24.72 per flat (close to Florida's average of $23.64 per flat). However, the average price for a flat of Mexican blueberries decreases by as much as 50 percent below their average price (to $10-$15 per flat) in the months of April and May, which are the peak marketing months for Florida-grown blueberries. This is a clear attempt to displace Florida blueberries from the U.S. market in the primary months they are marketed. Mexican blueberries are sold at higher prices in the late spring and early summer when they face less competition and are at their production peak.

Cucumber: the analysis conducted by FDACS confirms that exports of unfairly priced cucumbers from Mexico to the U.S. have progressively grown in volume. In the year 2000, Mexico exported 647 million pounds of cucumbers to the U.S. This volume increased to 1.1 billion pounds in the year 2010, following the subsidy-intensive years of 2007 and 2008. Following the implementation of additional subsidies for coverings, equipment, irrigation, and postharvest logistics in the years 2014-2016, the volume of cucumbers exported from Mexico to the U.S. increased from 1.4 billion pounds in 2016 to a record 1.9 billion pounds in 2021. The analysis finds that Mexican cucumbers sold in the eastern U.S. (imported through Texas) are priced $17.92 per flat on average, $1.32 less than the average price of a flat of Florida-produced cucumbers. The same pricing dynamic for blueberries occurs with cucumbers, as prices for Mexican cucumbers are their lowest in the months of April and May, which are the peak months for the marketing of Florida-grown cucumbers. This is a clear attempt to displace Florida cucumbers from the U.S. market. The ITC reported in its 2021 Section 332 investigation that Mexico is the largest exporter of cucumbers in the world, with 70 percent of its production being exported (99 percent of which is exported to the U.S.).

Squash: the analysis conducted by FDACS confirms that exports of unfairly priced squash from Mexico to the U.S. have progressively grown in volume. In the year 2000, Mexico exported 384 million pounds of squash to the `U.S. This volume increased to 596 million pounds in the year 2010, following the subsidy-intensive years of 2007 and 2008. Following the implementation of additional subsidies for coverings, equipment, irrigation, and postharvest logistics in the years 2014-2016, the volume of squash exported from Mexico to the U.S.

increased to 955 million pounds in 2016 and reached a record 1.1 billion pounds in 2021. The analysis finds that Mexican squash sold in the eastern U.S. (imported through Texas) are priced $11.60 per flat on average, $3.15 less than the average price of a flat of Florida-grown squash. The same pricing dynamic that exists for blueberries and cucumbers occurs with squash, as prices for Mexican squash are their lowest in the months of March and April, which are the peak months for the marketing of Florida-grown squash. This is a clear attempt to displace Florida squash from the U.S. market. The ITC reported in its 2021 Section 332 investigation that Mexico is the largest exporter of squash in the world, with 65 percent of its production being exported (94 percent of which is exported to the U.S.).

Mexico's Agricultural Export Expansion to the U.S.



Source: Florida Department of Agriculture and Consumer Service (Attachment C)

F. Past Subsidies, and Ongoing Opaque Subsidy Programs, Continue to Enable Mexico's Export Targeting Scheme

Though specific information regarding direct subsidies for greenhouses, shade houses, tunnels, irrigation systems, and other forms of government infrastructure support for Mexico's export-oriented commercial seasonal and perishable agriculture industry is not available beyond 2018, it is clear that past subsidies continue to benefit Mexico's growers and enable surging volumes of unfairly priced fruits and vegetables from Mexico to the U.S. The 2021 ITC reports on Squash and Cucumbers confirm this, stating: "*While the various programs were designed to provide benefits throughout supply chains, capital investment assistance programs were of* *particular relevance to fresh fruit and vegetable production. This type of support likely lowered the barriers to accessing capital, which can be hard to obtain in Mexico, accelerating technology adoption. This type of government support for enhanced technology can have longer-term effects compared to one-time benefits such as direct payments and crop insurance support*."

In fact, with regard to assessing the ongoing benefits of foreign government capital investments, the U.S. Government maintains standards for assessing the average useful life of subsidized physical assets over a number of years beyond the immediate allocation of such subsidies (see 19 C.F.R. § 351.524). Additionally, Section 301 of the Trade Act explicitly states that "[a]ny action taken by the Trade Representative under this section with respect to export targeting shall, to the extent possible, reflect the full benefit level of the export targeting to the beneficiary *over the period during which the action taken has an effect*." USTR has the authority, under Section 301, to investigate the impact of prior and continuing capital infusions which are contributing to ongoing export surges.

The Mexican Government has not been transparent. In a letter to President Donald Trump dated July 12, 2018, incoming Mexican President Lopez Obrador stated his intent for Mexico to "have more public investment which will be used as seed capital to encourage private investment and to allocate significant resources to production, job creation, reactivation of the agricultural and energy sectors," including by "plant[ing] a million hectares of fruit and timber trees" (Attachment M).

Direct government support for postharvest agro-logistics, including the purchase of refrigerated trucks and the consolidation of agro-logistics parks, continues, as confirmed by active regulations for the Program for the Promotion of Agriculture.

III. MEXICO'S EXPORT TARGETING SCHEME BURDENS AND RESTRICTS FLORIDA'S SEASONAL AND PERISHABLE AGRICULTURAL INDUSTRY

A. Mexico's Seasonal and Perishable Agriculture Industry Directly Competes with Florida's Industry

Florida's and Mexico's seasonal and perishable agriculture production regions share the same latitude, causing the fruits and vegetables grown in both locations to mature and enter the market at roughly the same time. This shared "market window" means that Florida-grown seasonal and perishable agriculture products must directly compete with the unfairly priced products exported from Mexico to the U.S., which flood the U.S. market in high volumes due to Mexico's export targeting scheme. Evidence confirms that Mexico's industry was established by the Mexican government to displace competitors in the U.S. market, and due to the shared marketing window, those competitors are the Florida seasonal and perishable agricultural industry. As a consequence of Mexico's export targeting scheme and extraordinary market growth described in Section II(E) above, Florida's growers have suffered displacement of market share, loss of income, closure of businesses, and the permanent loss of agricultural lands, among other adverse impacts.

B. Florida's Lost Market Share

Mexico's export targeting scheme has been successful in its "conquest" of the U.S. market and has undercut and displaced Florida's industry. Between 2006 and 2021, the share of the U.S. domestic market held by Florida's industry across all seasonal and perishable produce has declined 36 percent, according to FDACS. Among the focus products analyzed by FDACS, the market share held by Floridian growers during the peak winter and spring marketing months progressively decreased between 2000 and 2021 as Mexican products flooded the U.S. market (the market share of Florida bell peppers decreased by 73 percent, strawberries by 32 percent, blueberries by 68 percent, cucumbers by 72 percent, and squash by 59 percent).

C. Impact on Florida Industry Cash Receipts

The market share losses experienced by displaced Florida growers due to Mexico's export targeting scheme have severely degraded the industry's gross income levels (cash receipts). FDACS estimates that Florida's industry loses between $1.28 billion and $2.56 billion per year due to this market share displacement. As the total annual cash receipts by Florida's industry between 2000 and 2020 were $3.167 billion on average, with a low of $1.23 billion in 2020 and a high of $3.91 billion in 2007, annual losses in the billions of dollars are unsustainable in an industry that operates on single-digit profit margins under best conditions. Under the poor and worsening conditions imposed by Mexico's conquest, Florida growers face no other choice but to go out of business and sell their lands.

D. Permanent Loss of Florida Agricultural Lands

As Florida growers have lost market share due to Mexico's export targeting scheme, making seasonal and perishable agriculture a less viable business to conduct in Florida, many growers have sold their lands to generate income despite the preference to maintain active agriculture businesses. As a result, the loss of agricultural land is a strong indicator of the impacts to the Florida industry. FDACS estimates as many as 123,000 acres of productive farmlands have been lost due to market share displacement.

E. Impact to the Florida Economy

Due to the market share lost by Florida's industry caused by surging unfairly priced Mexican produce shipments, Florida experiences between 17,208 and 34,816 direct, indirect, and induced job losses, and between $1.94 billion and $3.89 billion in total lost economic activity each year, according to FDACS. Additionally, this lost economic activity results in the loss of between $43.1 million and $86.2 million in tax revenues to the State of Florida annually.

IV. TRADITIONAL TRADE RELIEF MECHANISMS ARE NOT ACCESSIBLE TO SEASONAL AND PERISHABLE INDUSTRIES, AS ACKNOWLEDGED BY THE U.S. GOVERNMENT

The Florida industry has sought trade relief to lessen the burden caused by Mexico's export targeting scheme for years. However, due to the structure of U.S. trade relief tools, traditional trade relief is inaccessible to American seasonal and perishable industries. Under most trade relief mechanisms, including anti-dumping/countervailing duty (AD/CVD) and Section 201 laws (under the Trade Act), petitioners (producers of a specific products) must satisfy standards of injury on a nationwide and year-round basis. Seasonal and perishable agricultural industries are seasonal by their nature, and often face insurmountable challenges to obtaining the relief they need. As USTR has itself confirmed to the WTO: "*Because of distinct conditions of competition, producers of perishable, seasonal agricultural products, which have short marketing periods, can face unique challenges in obtaining timely relief from injuriously dumped or subsidized imports. If an agricultural product is seasonal, producers in different geographical areas within the territory of a single Member may have different marketing seasons for their product. Similarly, the seasonal nature of certain agricultural products can lead to situations in which the marketing season of imports will only partially overlap with overall domestic production; thus, only those domestic producers whose marketing season happens to correspond with the marketing season of the imports will face direct import competition.*" (TN/RL/GEN/129)

In the September 2020 titled, "*Report on Seasonal and Perishable Products in U.S. Commerce*," USTR and the U.S. Secretaries of Commerce and Agriculture jointly acknowledged this reality: "*The Mexican agriculture industry has undergone a substantial transformation and modernization over the last two decades, largely attributed to investment in large-scale greenhouse production facilities and other technical innovations. … Interested parties ordinarily could adjudicate these contentions under U.S. AD/CVD laws, but both the regional and seasonal nature of these industries present challenges to doing so. Before initiating an AD/CVD investigation, the statute requires that a petition be supported by domestic producers or workers accounting for at least 25 percent of the total production of the industry and more than 50 percent of the production of the portion of the industry that has expressed an opinion for or against the petition. Furthermore, in order to obtain relief under the AD/CVD laws, a domestic industry must establish that it is injured, or threatened with injury, by unfairly traded foreign imports. In general, but with certain exceptions, the term 'industry' means the producers as a whole of a domestic like product, wherever located in the United States*."

Congress has also repeatedly called for mechanisms to provide relief to injured seasonal and perishable agricultural industries injured by foreign imports through Trade Promotion Authority.

As acknowledged by USTR and the Secretaries of Commerce and Agriculture, the nature of relief standards and Florida's seasonal and perishable agricultural industry generally preclude it from securing relief from Mexican shippers under AD/CVD mechanisms. In this case, Section 301 is the only viable trade tool for investigating and relieving the burdens and restrictions imposed on Florida's seasonal and perishable agriculture industry by Mexico's trade-distorting export targeting scheme.

V. CONCLUSION

For the reasons stated in this petition, Mexico's seasonal and perishable produce export targeting scheme burdens and restricts U.S. commerce. Mexico's export targeting scheme has always been intended to accomplish a "conquest" of the U.S. market by largely displacing the

Florida industry, its primary competition. Section 301 of the Trade Act is the only viable relief mechanism that can be used to investigate and relieve the injury to Florida growers caused by the Mexican industry.

The Bipartisan Florida Congressional Delegation accordingly requests that USTR initiate an investigation under Section 301 on the basis described above, and work with the Florida Congressional Delegation to secure the relief needed to sustain the Florida seasonal and perishable agricultural industry, which is vital for Florida and the nation.