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TAFTA as Monsanto's Plan B: A Backdoor to Genetically Modified Food

The safety standards on which we rely daily for our food, medicines and cars. The energy and climate policies needed to save our planet. The new financial regulations designed to prevent banks from gambling with our money and creating another crisis. These are policies that should be determined in open, democratic venues where we have a say. But a group of the largest U.S. and European corporations want to rewrite these safeguards behind closed doors. For over a decade, they have pushed for a new U.S. “trade” deal with Europe – [the Trans-Atlantic Free Trade Agreement \(TAFTA\)](#), which corporate proponents have tried to rebrand as the Transatlantic Trade and Investment Partnership (TTIP) – a deal that would roll back consumer protections on both sides of the Atlantic. European Union (EU) and U.S. negotiators launched TAFTA negotiations in July 2013 and plan to finish the sweeping deal by 2014.

A “trade” deal only in name, TAFTA would require the United States and EU to conform domestic financial laws and regulations, climate policies, food and product safety standards, data privacy protections and other non-trade policies to TAFTA rules. This could include obligations for products and services that do not meet domestic standards to be allowed under processes called “equivalence” and “mutual recognition,” or obligations to actually alter domestic U.S. and EU policies to conform to existing international standards or to new trans-Atlantic standards negotiated to be more convenient to business. These constraints on policy space would be binding. Failure to comply with TAFTA rules could result in trade sanctions. The pact could also newly empower foreign corporations, including biotech firms like Monsanto, to directly challenge public interest policies and demand taxpayer compensation in extrajudicial tribunals.

The EU/U.S. TAFTA Agenda: Deregulation in Disguise

U.S. and EU TAFTA negotiators, advised by the world's largest agribusinesses, have used coded language in pushing for TAFTA rules that could chill attempts to label food containing genetically modified organisms (GMOs) and government approvals of GMO seeds and cultivation of GMO crops. A [majority](#) of European consumers and a [plurality](#) of U.S. consumers are concerned about the impacts of genetically modified food and crops on human health and the environment. The EU requires GMO seed approvals that are based on the precautionary principle – that in the face of uncertainty about a product's safety for consumers or the environment, policies must seek to avoid exposure to risk. Governments have long relied on this principle to shield their populations from uncertain risks from new or emerging products. The U.S. drug safety system is based on the precautionary principle. Thus, drugs must be proved safe before they are permitted on the U.S. market. As a result, the United States did not allow sale of the morning sickness drug Thalidomide in the 1960s, which prevented a generation of children from being born with severe birth defects. In countries where medicines were allowed on the market before being proved safe, thousands of “thalidomide babies” were born.

The EU GMO approval policy requires that a seed/crop must be assessed for its consumer health and environmental implications *before* it can be marketed. Moreover, EU member countries maintain the authority to altogether ban cultivation of GMOs, which nine nations have done. In addition, the EU and an increasing number of U.S. states have responded to consumers' demands for GMO labels that allow people to choose whether or not to consume GMO foods.

However, U.S. and EU negotiators are now proposing TAFTA rules that could undermine both precautionary principle-based approvals for GMO seeds and cultivation and GMO labeling. U.S. negotiators have [stated](#) that TAFTA should “seek to eliminate or reduce non-tariff barriers...such as sanitary and phytosanitary (SPS) restrictions that are not based on science.” Translated out of trade jargon, this means that instead of agribusinesses being required to prove that a GMO seed does not pose a threat before it can be sold, limits on GMO seeds or cultivation would only be permitted under TAFTA rules if governments can show that there is scientific evidence of a specific threat to human, animal or plant life. Not only would this endanger the EU GMO approval process, but it would directly undermine the current rights of EU member states to ban cultivation of GMOs.

A leaked EU position paper mimics this coded language, [saying](#) TAFTA should include “requirements that each side's SPS measures be based on science and on international standards where these exist.” This is a perverse position given that under similar requirements in the World Trade Organization (WTO), the EU lost in 2006 a U.S. challenge related to delays in GMO approvals and EU member states' bans on cultivation of approved seeds. Imposing even more onerous

constraints on GMO regulation in TAFTA is especially dangerous because the agreement would allow agribusiness firms to directly challenge government policies that they claim violate their investor rights. And the definition of investment is extremely broad, including regulatory permits, which could include GMO approvals. (See below.)

TAFTA could also undermine the labeling of GMO products that allow consumers to make informed choices. Countries' ability to maintain or establish product standards not premised on avoiding human or animal health risks but rather, for instance, on providing consumers information, would be limited under rules of another TAFTA chapter, revealingly called "Technical Barriers to Trade (TBT)." The food industry considers having to meet the consumer and environmental product standards on which we rely as "technical barriers," preventing the sale of products not meeting such standards. Under existing TBT rules, the WTO has ruled that [U.S. country-of-origin labels](#) that apply equally to domestic and foreign meat are "discriminatory" because the program could inadvertently disadvantage some importers, even though such effects were not seen in trade flow data after the program was implemented. Now food industry groups seek TAFTA "technical barriers" disciplines that would impose even broader constraints on consumer standards and labels. The GMO labels required in Europe and proposed in 26 U.S. states are a special target.

The Agribusiness TAFTA Agenda: Deregulation without Disguise

European and U.S. agribusiness corporations, in their [formal demands](#) issued to TAFTA negotiators, have been remarkably candid in naming the specific U.S. and EU GMO regulations that they would like to see dismantled via TAFTA. Here is their wish list for TAFTA regulatory rollbacks, as stated by the corporations themselves:

- **GMO Labels:** While [more than 90 percent of U.S. consumers support the labeling of genetically modified food](#) and [more than half of U.S. states are now considering GMO labeling legislation](#), large GMO-producing and GMO-using firms are pushing for TAFTA to quash GMO labeling. The U.S. National Confectioners Association has bluntly stated, "US industry also would like to see the US-EU FTA achieve progress in [removing mandatory GMO labeling](#) and traceability requirements." This TAFTA goal threatens not just the EU's robust GMO labeling policies, but also those being advocated in the United States. Connecticut and Maine recently passed GMO labeling laws, [at least 28 states now have such legislation](#) or ballot initiatives, and a congressional committee recently [approved funding](#) for the U.S. Food and Drug Administration to label GMO salmon. The industry goal for TAFTA is to halt this trend.
- **GMO Approval:** Many U.S. corporations have stated that they would like TAFTA to force the EU to roll back its precautionary stance toward GMO approvals. The Biotechnology Industry Association (BIO), a corporate alliance that includes GMO behemoth Monsanto, has expressed concern that GMO products sold in the United States are not automatically approved in the EU, where about [60 percent of the populace views GMOs as unsafe](#) for human health. The firms [complain](#) of "the significant and growing gap between the deregulation of a new biotechnology product in the United States and the approval of those products in the EU." Monsanto and other BIO firms hope that TAFTA can be used to [push through the "burgeoning backlog of GM products](#) awaiting approval/processing."

Investor Privileges: Empowering Monsanto's Attack on GMO Safeguards and Labels

U.S. and EU officials have called for TAFTA to grant foreign firms the power to skirt domestic courts, drag the U.S. and EU governments before extrajudicial tribunals, and directly challenge GMO controls or labels as violations of TAFTA-created foreign investor "rights." The tribunals, comprised of three private attorneys, would be authorized to order unlimited taxpayer compensation for regulations seen as undermining the "expected future profits" of biotech firms like Monsanto. Such [extreme "investor-state" rules](#) have already been included in U.S. "free trade" agreements, forcing taxpayers to pay firms more than \$400 million for toxics bans, land-use rules, regulatory permits, and water and timber policies. Just under U.S. pacts, more than \$14 billion remains pending in corporate claims against medicine patent policies, pollution cleanup requirements, climate and energy laws, and other public interest policies. The EU is proposing an even more radical version of these rules for TAFTA, offering firms a new tool to roll back GMO limits and labels.

Fast Track: Railroad Democracy to Railroad Safeguards?

How could a deal like TAFTA get past Congress? With a democracy-undermining procedure known as [Fast Track](#) – an extreme and rarely-used maneuver that empowered executive branch negotiators, advised by large corporations, to ram through unfair "trade" deals by unilaterally negotiating and signing the deals before sending them to Congress for an expedited, no-amendments, limited-debate vote. As a candidate, President Obama said he would replace this expired, anti-democratic process. But now he is asking Congress to grant him Fast Track's extraordinary authority – in part to sidestep growing public and congressional concern about pacts like TAFTA. We must ensure that Fast Track never again takes effect and instead create an open, inclusive process for negotiating and enacting trade agreements in the public interest.

For more information, visit stop-tafta.org