

# TTIP and Genetically Engineered Foods

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In 2013, the United States and the European Union (EU) began negotiations to create the Transatlantic Trade and Investment Partnership (TTIP), also known as the Transatlantic Free Trade Agreement (TAFTA).<sup>1</sup> The trade relationship across the Atlantic is already the number one economic relationship in the world, making up a third of all trade in goods and services and about half of global economic output.<sup>2</sup> Both the United States and EU claim that a new trade agreement with the EU would enhance job creation and competitiveness by eliminating trade barriers and harmonising regulations — but the real winners would be big biotech and food companies, at the expense of consumers and the environment.<sup>3</sup>

Harmonisation and “regulatory coherence” are allegedly designed to streamline regulatory standards between trading partners, but too often, trade deals are used to weaken democratically enacted consumer, environmental and food safety protections, undermining the ability of elected representatives to enact and enforce the laws that people need and want. In many cases, TTIP seeks to impose the weaker U.S. regulations onto the EU that will jeopardise the safety of the environment and the food we eat.

## Corporate Lawsuits vs. The Rule of Law

Most trade disputes are between nations, but a new provision in TTIP would allow companies to directly challenge a country’s laws as illegal trade barriers. These new “investor-to-state” provisions not only allow foreign companies to challenge the EU’s laws and regulations (including those of EU Member States), but the companies could seek monetary damages for rules that impose regulatory costs on the company.<sup>4</sup>

The United States first included investor-to-state provisions in the North American Free Trade Agreement (NAFTA) and has added similar provisions to every U.S. free trade deal. Already, companies have won more than \$400 million in damages in suits against municipal, provincial and national governments, including successful 2003–2004 challenges brought by Archer Daniels Midland (ADM), Cargill and Corn Products International



against Mexico’s tax on foods sweetened with high-fructose corn syrup, which cost the government nearly \$200 million.<sup>5</sup>

The TTIP investor-to-state dispute resolution provisions would allow big biotech and food companies to directly undermine safeguards for public health, consumer protection and the environment put in place by the European Parliament or U.S. Congress. Such legal challenges would bypass U.S. or European court systems and be arbitrated by a three-person international tribunal.<sup>6</sup>

U.S. biotechnology companies, like Monsanto and Dow Agroscience, could challenge the EU's more restrictive food approval and labelling regulations as well as any Member State ban on genetically modified organisms (GMOs). Today, Europe has only one biotech crop approved for cultivation and grows less than one-tenth of a percent of the global genetically engineered cropland.<sup>7</sup> Challenges to delayed approvals could pressure the EU to allow more GM varieties for cultivation. In the United States, European companies like BASF and Syngenta could attack state GM labelling initiatives, such as those that have passed in Vermont, Maine and Connecticut.<sup>8</sup>

## GM Crop Approval and Labelling Regulations at Risk

The EU follows the precautionary principle, including in its regulations for GMO crops. The principle requires companies to demonstrate the safety of their products or crops and prevents authorities from taking action when there are potential health risks that are known or uncertain.<sup>9</sup> As a practical example, the United States considers all GMOs to be "substantially equivalent" to their non-GM counterparts. The EU does not, and requires each GMO to undergo an assessment intended to ensure that it is safe. Thus far, the EU has approved about 50 GM products to be sold, primarily GM soya and maize for animal feed.<sup>10</sup> Currently, only one GM crop is approved for cultivation, a Monsanto insect-resistant maize variety.<sup>11</sup>

The EU requires that all foods and feed containing GM ingredients be labelled. The law permits unintentional contamination of up to 0.9 percent in cases of accidents where the company can demonstrate that the GMO presence was "technically unavoidable".<sup>12</sup> The EU also permits up to 0.1 percent unauthorised GMO content to be unlabelled in animal feed.<sup>13</sup> The United States does not require labelling on genetically modified foods and has challenged GM labelling rules as trade barriers, stating that allowing consumers to know the contents of their food also "wrongly impl[ies] that these foods are unsafe."<sup>14</sup> TTIP could prevent EU citizens from knowing what is in their food.

The EU is a frequent target of the U.S. Trade Representative's (USTR's) efforts to undermine food safety and food labelling laws. The majority of European consumers are opposed to GM crops and foods, according to a 2010 survey.<sup>15</sup> The EU's stringent approach to approving GM crops and food for commercialisation and import is a high-priority target for the United States, even after a protracted dispute at the World Trade Organization (WTO).<sup>16</sup> Even while the WTO was considering the dispute, the USTR demanded that the United States "get the access that we think we're entitled to in the EU market" for biotech crops.<sup>17</sup>

In 2006, the WTO ruled that the "undue delay" in the EU's approval process for 24 biotech crop varieties from 1999 to 2003 constituted a de facto biotech moratorium that was inconsistent with WTO rules.<sup>18</sup> It also ruled that



individual EU Member State bans violated trade rules and were unjustified without adequate risk assessments.<sup>19</sup> The ruling did not prohibit the EU from applying its own standards and laws, including restricting biotech crop approvals, provided that the rules were implemented properly. Despite the limited and theoretical ability of countries to regulate GM crops, the WTO's biotech decision was another attack on the right of countries to ensure food safety and protect the environment.

The WTO is not the only group interested in ridding the EU of its precautionary approach in agriculture. U.S. agriculture trade groups and the Senate Finance Committee have separately expressed concerns in letters to the White House and the USTR about the EU's "unwarranted agricultural barriers".<sup>20</sup> Meanwhile, many European farmers and the French trade minister are opposed to loosening restrictions on GM crops and will continue to fight against TTIP-triggered changes to regulations.<sup>21</sup>

Food & Water Europe believes that the EU approach to GM crops and foods is more sensible than the pro-biotech approach of the U.S. government. The EU's precautionary approach to food safety, endocrine disruptors such as bisphenol A, genetically modified crops and emerging technologies such as nanotechnology provides a better safeguard for consumers and the environment. It is an approach that the United States should adopt, not attack as an illegitimate trade barrier. TTIP negotiations must allow each party to adopt the oversight and regulatory approval process for GM crops, animals and foods that its citizens demand.

Take action by telling your local representatives that you oppose TTIP and its potential to negatively impact restrictions and labelling on genetically engineered food: <http://www.foodandwatereurope.org/holding-the-line-against-the-corporate-takeover-stop-ttip/>.

## Endnotes

- 1 Office of the U.S. Trade Representative (USTR). [Press release]. "Statement from United States President Barack Obama, European Council President Herman Van Rompuy and European Commission President José Manuel Barroso." February 13, 2013.
- 2 USTR, Executive Office of the President. [Press release]. "Obama administration notifies Congress of intent to negotiate Transatlantic Trade and Investment Partnership." March 20, 2013.
- 3 USTR. "Final Report: High Level Working Group on Jobs and Growth." February 11, 2013 at 1 and 3.
- 4 Public Citizen. "Table of Foreign Investor-State Cases and Claims Under NAFTA and Other U.S. 'Trade' Deals." August 2013 at 1.
- 5 *Ibid.* at 1 and 27 to 30.
- 6 *Ibid.* at 1.
- 7 Europa-European Commission. "EU Register of Genetically Modified Food and Feed." 2015. See [http://ec.europa.eu/food/dyna/gm\\_register/index\\_en.cfm](http://ec.europa.eu/food/dyna/gm_register/index_en.cfm); James, Clive. International Service for the Acquisition of Agri-biotech Applications (ISAAA). "Executive Summary of Global Status of Commercialized Biotech/GM Crops: 2014." Brief 49. 2014 at 1 and 4.
- 8 Fuglie, Keith O. et al. U.S. Department of Agriculture (USDA) Economic Research Service (ERS). "Research Investments and Market Structure in the Food Processing, Agricultural Input, and Biofuel Industries Worldwide." Report No. 130. December 2011 at 51; Durkin, Alanna. "Maine advances genetically modified food labels." *Associated Press*. June 12, 2013; National Cotton Council. "Connecticut approves labeling GE foods." June 10, 2013; Vermont Governor Peter Shumlin. [Press release]. "Gov. Peter Shumlin signs first-in-the-nation genetically engineered foods labeling law." May 8, 2014. On file at Food & Water Watch and available at <http://governor.vermont.gov/newsroom-gmo-bill-signing-release>.
- 9 "Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC." *Official Journal of the European Communities*. April 17, 2001 at L 106/5; European Parliament and Council. "Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety." *Official Journal of the European Communities*. February 1, 2002 at L 31/9.
- 10 Europa-European Commission. "EU Register of Genetically Modified Food and Feed." 2013. See [http://ec.europa.eu/food/dyna/gm\\_register/index\\_en.cfm](http://ec.europa.eu/food/dyna/gm_register/index_en.cfm).
- 11 *Ibid.*
- 12 European Parliament and Council. "Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed." *Official Journal of the European Union*. October 18, 2003 at Article 12.2.
- 13 "EU allows unapproved GM material in feed imports." *Reuters*. June 24, 2011.
- 14 U.S. Food and Drug Administration (FDA). "Guidance for Industry: Voluntary Labeling Indicating Whether Foods Have or Have Not Been Developed Using Bioengineering; Draft Guidance." January 2001; USTR. "2011 Report on Sanitary and Phytosanitary Measures." March 2011 at 21.
- 15 European Commission. "Biotechnology Report." Special Eurobarometer. 2010 at 18.
- 16 USTR. "2013 Report on Sanitary and Phytosanitary Measures." March 2013 at 43 to 45.
- 17 Allgeier, Peter and Susan Schwab. Deputy U.S. Trade Representatives. World Trade Organization (WTO) Ministerial press conference transcript. December 17, 2005.
- 18 WTO. "European Communities – Measures Affecting the Approval and Marketing of Biotech Products." Report of the Panel. WT/DS291/R, WT/DS292/R, WT/DS293/R. September 29, 2006 at 1068.
- 19 *Ibid.* at 1069.
- 20 Chaffin, Joshua. "Faultlines emerge on EU-US trade liberalisation pact as talks loom." *Financial Times*. May 23, 2013; Senate Finance Committee. [Press release]. "Baucus, Hatch outline priorities for potential U.S.-EU trade agreement." February 12, 2013.
- 21 Birnbaum, Michael. "At trade talks, U.S., E.U. ready for fight on genetically modified crops." *Washington Post*. May 17, 2013.

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