

The Honorable Michael Froman
United States Trade Representative
600 17th Street NW
Washington, DC 20508

September 29th, 2014

Dear Ambassador Froman:

We, the undersigned organizations, write to express our deep concerns about proposals for the Trans-Atlantic Free Trade Agreement (TAFTA, otherwise known as the Transatlantic Trade and Investment Partnership) that would threaten efforts to label food containing genetically modified organisms (GMOs).

Recent polling by Consumer Reports shows that for three out of every four U.S. consumers avoiding genetically modified ingredients when purchasing food is important. And, as last year's *New York Times* poll revealed, more than 90 percent of U.S. consumers support the labeling of genetically modified food. Thus, it is not surprising that more than half of the U.S. states are now considering GMO labeling legislation. However, proposed TAFTA rules could undermine such GMO labeling initiatives, limiting consumers' ability to make informed choices about their food.

Specifically, we are concerned that the terms of TAFTA's "technical barriers to trade" chapter could limit governments' ability to maintain or establish product labels that are not premised on avoiding human or animal health risks but rather, for instance, on providing consumers information. The World Trade Organization's (WTO) Appellate Body has ruled that under the WTO's Technical Barriers to Trade (TBT) rules, labeling policies that apply to both domestic and foreign products can violate WTO requirements.

The letter from the Office of the U.S. Trade Representative (USTR) notifying Congress of the launch of TAFTA negotiations proposes that the deal not only incorporate, but go beyond the already restrictive TBT rules of the WTO. While an increasing number of U.S. states are contemplating enactment of GMO labeling policies, inclusion of such WTO-plus requirements could invite challenges of GMO labeling policies before TAFTA dispute resolution panels. The panels' rulings would be enforceable by indefinite trade sanctions unless and until a violating policy would be brought into conformity with TAFTA constraints.

Equally concerning is the controversial and unpopular proposal to include investor-state dispute settlement (ISDS) provisions in TAFTA. This would grant foreign corporations the power to skirt domestic courts and laws, drag the U.S. and EU governments before extrajudicial tribunals, and directly challenge GMO labels as violations of expansive, TAFTA-created foreign investor "rights." The tribunals, comprised of three private attorneys, would be authorized to rule against new GMO labeling laws on the basis that they frustrated the expectations that the investors held when they made their investments. Such tribunals would be empowered to order unlimited taxpayer compensation to biotech and other firms for alleged losses to "expected future profits" resulting from new GMO labels or other changes to domestic policy. Such extraordinary "investor-state" rules have been included in past U.S. "free trade" agreements, forcing taxpayers to pay firms more than \$430 million for toxics bans, land-use rules, regulatory permits, and water and timber policies. Just under U.S. pacts, more than \$38 billion remains pending in corporate claims against medicine patent policies, pollution cleanup requirements, climate and energy laws, and other public interest polices. If ISDS were included in TAFTA, the

investor-state threat would be vastly expanded, as European-chartered corporations would be newly empowered to directly challenge U.S. state, local or national policies – including GMO labeling laws – on behalf of their more than 24,000 entities operating in the United States. Take, for example, BASF – a German firm that, in addition to being the world’s largest chemical corporation, recently relocated the headquarters of its burgeoning GMO division to North Carolina. BASF owns more than 40 subsidiaries in the United States, any one of which could serve as the basis for an investor-state attack against GMO labels or other U.S. public interest policies under TAFTA.

Indeed, European and U.S. agribusiness corporations, in their formal demands issued to TAFTA negotiators, have been remarkably candid in naming the dismantlement of GMO labeling policies as one of their goals for TAFTA. For example, the U.S. National Confectioners Association, which represents Nestle USA and The Hershey Company, 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 corporate goal for TAFTA threatens not just the EU’s robust GMO labeling policies, but also those being advanced in the United States. Connecticut and Maine passed GMO labeling laws in 2013, and so far in 2014, 35 new GMO labeling laws have already been introduced in 20 states. In May 2014, Vermont passed the first GMO labeling law that will automatically take effect without waiting for other states to pass similar laws. One month later, the Grocery Manufacturers Association and ally food industry entities filed a lawsuit against the state of Vermont over this new GMO labeling law. TAFTA, as currently proposed, would provide such industry groups a wider array of tools to halt the advance of GMO labeling policies. When U.S. courts rule in support of such policies, TAFTA, if ISDS is included, would provide a new means to thwart the public’s will.

TAFTA is being sold on the basis that it would benefit consumers by creating new efficiencies. But consumers gain nothing by being denied information to make informed choices about their food. The only beneficiaries from such constraints on GMO and other consumer food labeling would be the large agribusiness and biotech firms that seek to keep consumers ignorant so that they buy foods that they would not choose when provided full information.

The undersigned organizations commit to fighting any trade pact that threatens GMO labeling. We will strenuously oppose any U.S.-EU deal that undermines U.S. consumers’ right to know what is in the food they purchase and feed their families.

Finally, we request that TAFTA negotiating texts be made public so as to allow for a robust public debate about the impact the proposed provisions would have on these most basic aspects of our daily lives.

Sincerely,

Businesses

Dr. Bronner's Magic Soaps
Mercola
Sun Dance Genetics LLC
Zevin Asset Management

National / International Organizations

AllergyKids Foundation
Alliance for Natural Health USA
American Sustainable Business Council
Biosafety Alliance
Center for Food Safety
Columban Center for Advocacy and Outreach
Congregation of Sisters of St. Agnes
Consumers Union
Cornucopia Institute
Corporate Accountability International
Council for Responsible Genetics
Domestic Fair Trade Association
Environmental Health Network
Earth Island
Earth Open Source
Fair World Project
Farm and Ranch Freedom Alliance
Food & Water Watch
Food Democracy Now
Friends Fiduciary Corporation
Friends of the Earth, US
GMO Free USA
GMO Inside
Green America
Greenpeace
Institute for Agriculture and Trade Policy
Moms Across America
National Family Farm Coalition
National Organic Coalition
Non-GMO Project
Northwest Coalition for Responsible Investment
Open Source Seed Initiative
Organic Consumers Association
Organization for Competitive markets
Pesticide Action Network of North America
PLANT (Partners for the Land & Agricultural Needs of Traditional Peoples)
Public Citizen
Rural Advancement Foundation International
Slow Food USA

SumOfUs
The Sierra Club

Regional / Statewide / Local Organizations

Cedar Circle Farm (VT)
Community Alliance for Global Justice (WA)
ConnFACT
Ecological Farming Association (CA)
Empire State Consumer Project
Family Farm Defenders (WI)
Farms Not Arms (CA)
Farmworkers Association of Florida
GMO Free CT
GMO Free Florida
GMO free MARYLAND
GMO Free NY
GMO FREE PA
Hemp4Governor.org (CO)
Illinois Right to Know GMO
Labelgmos.org (CA)
Los Jardines Institute (NM)
Mass Right To Know GMOs
Mossville Environmental Action Now (LA)
NeedToKnowMARYLAND
NH Right To Know GMO
Northeast Sustainable Agriculture Working Group (NESAWG)
Ohio Ecological Food and Farm Association
Peaceroots Alliance (CA)
Sustainable Living Systems (MT)
Toxics Information Project (TIP) (RI)
Vermont Public Interest Research Group
Washington Biotechnology Action Council
Western Organization of Resource Councils (MT)