

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)