



# WHOSE CENTURY IS IT?: THE TRANS-PACIFIC PARTNERSHIP, FOOD AND THE “21<sup>ST</sup>-CENTURY TRADE AGREEMENT”

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**Supporters are calling the Trans-Pacific Partnership (TPP) a “21st-century trade agreement,” but the agreement—negotiated in secret—is more of the same failed ideas of free-trade past.**

## **The future of trade deals?**

In the final year of the George W. Bush presidency, the U.S. entered into negotiations to establish a gargantuan new trade deal. The negotiations for the Trans-Pacific Partnership (TPP) currently involve 12 countries—Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, Vietnam, and the United States—together comprising 40 percent of the world economy and a third of global trade.<sup>1</sup> In pro-TPP rhetoric, the deal is marketed as a “21st-century trade agreement.”<sup>2</sup> But the deal isn’t as futuristic as its boosters want you to believe; rather, it’s a massive double down on the strategies and philosophies of NAFTA and other 20th-century free trade agreements. And like those earlier deals, TPP has the potential to impact agriculture and food systems on a large scale. There isn’t a single TPP chapter on agriculture in TPP; rather, issues impacting food and agriculture are scattered throughout the deal. With that in mind, here are the issues that characterize the TPP so far:

**IT UNDERMINES LOCAL CONTROL OF FOOD:** Only five of the 29 chapters of the “trade” agreement deal with conventional trade issues like tariffs or quotas.<sup>3</sup> The real focus of the deal is “regulatory coherence.” The idea here is that the current diversity of national and sub-national-level laws and regulations complicate trade, and that some regulations constitute “barriers” rather than legitimate safeguards for public health or the environment. The TPP fix is to “eliminate unnecessary barriers [and] reduce regional divergence” in standards.<sup>4</sup> This means that if the TPP is adopted by the countries involved, regulations written by negotiators will supersede local laws and policies.<sup>5</sup> While regulations in the trade deal would be legally binding, there are also built-in enforcement mechanisms, including an Investor-State Dispute Settlement (ISDS) process, in which corporations can sue countries over rules they feel are infringing on their expected profits. ISDS, enshrined in other trade deals like the US.-Central America Free Trade Agreement (CAFTA), has been a powerful lever for corporations to challenge national and local laws.<sup>6</sup> CAFTA has allowed



Written by Adam Needelman, August 2014  
2105 First Avenue South Minneapolis, Minnesota 55404 USA [iatp.org](http://iatp.org)

mining companies to sue Latin American countries, notably El Salvador, for refusing them the “right to mine”<sup>7</sup>—likewise, corporations like Monsanto have power to sue small countries that don’t want their products, and will see that power increased in the TPP. Under regulatory deals, secret panels of trade boosters tell sovereign countries how to legislate.

**IT’S DONE IN DEEP SECRET:** While the regulatory focus of TPP means that the deal could have tremendous impacts on domestic policy, absolutely everything the public—and most of Congress—knows about the actual content of the TPP comes from leaks rather than public debate or published texts; negotiating texts are kept top-secret.<sup>8</sup> Members of Congress only have limited, hard-fought access to negotiating texts. Those who go through the rigmarole of seeing the text are not allowed to take any notes on it, publicize what they’ve learned, or share specific information with anyone.<sup>9</sup> In 2012, then-U.S. Trade Representative Ron Kirk intimated that secrecy is needed precisely because Congress and the people they represent may disagree with the issues USTR and the other negotiators are pushing.<sup>10</sup> Under the terms of the negotiations, even after the deal is completed and made public, those past negotiating texts will stay secret for four years after it takes hold.<sup>11</sup> In 2012, after battling for months to see the agreement’s text, Rep. Alan Grayson (D-FL) called it ironic that “the government thinks it’s alright to have a record of every single call that an American makes, but not alright for an American citizen to know what sovereign powers the government is negotiating away.”<sup>12</sup> More recently, 130 Congressional opponents of TPP’s secrecy sent a letter to the White House pointing out that previous trade deals set a much higher bar for transparency.<sup>13</sup>

**IT’S A CORPORATE BRAINCHILD:** So, with TPP negotiations safely insulated from our democracy, how does USTR make decisions? Six hundred corporate advisors are allowed direct input to the negotiation texts, even as our elected officials are offered no meaningful access.<sup>14</sup> The “goals” of the USTR value free markets over any and all other concerns, like those of workers or farmers, public health or the environment.<sup>15</sup> In this frame, countries’ protective measures like tariffs and quotas, technical regulations like consumer labeling laws for food, and food safety standards like the restrictions many countries have put on beef after the breakout of Mad Cow disease in the early 2000s, become problems to be solved rather than legitimate exercises of policy. The corporate bias in these trade deals is especially apparent in agriculture: USTR’s Agricultural Policy Advisory Committee is loaded with prominent members of huge agribusiness concerns like the National Cattlemen’s Beef Association and Cargill.<sup>16</sup> When corporations run the negotiations, policy judgments are made on the basis of how much they “distort” trade rather than how much they support the public good.

**IT’S DEPENDENT ON FAST TRACK:** Whatever USTR and the other negotiators decide must be approved by the U.S. Congress. But proponents don’t want TPP subject to the same processes as other legislation. USTR and its allies are fighting for Fast Track, or “Trade Promotion” Authority (TPA). TPA is a measure originally designed by the Nixon administration. It mandates both houses of Congress to hold a yes or no vote on

the completed text of the deal within 90 days, with no ability to amend or revise the deal; this is a privilege no other piece of legislation ever gets. Congress has yet to consider Fast Track and this will be a major hurdle for the TPP.

If the “21st-century trade agreement” undercuts democratic processes at home and abroad, and is kept from our elected officials while being open to lobbyists, who does the 21st-century really belong to? Will people and governments be allowed to protect public health and the environment—or defend the livelihoods of farmers? Or will corporate lobbyists set the terms?

## Opponents of the TPP

While free trade proponents see profits and GDP as be-all, end-all goals, there are politicians and political actors who do not feel that way. Congressman Alan Grayson, for example, has been a vocal critic of the TPP. His website, tradetreachery.com, currently hosts an online petition to support the Grayson Amendment, a bill that would protect Buy American provisions endangered by the TPP’s pro-competition language.<sup>17</sup> Rep. Keith Ellison (D-MN) has opposed the TPP, calling it “the largest corporate power grab you’ve never heard of” and saying “Let’s see it. If it’s so good, why are they keeping it hidden?”<sup>18</sup> Rep. Rosa DeLauro is another outspoken opponent of TPP who sees it as a continuation of NAFTA; in a recent interview she raised the specter of the 800,000 jobs lost in NAFTA, spoke of jeopardized food safety and consumer protection, unfair competition, and a slew of other consumer issues raised by TPP, before confidently writing off the possibility of Fast Track.<sup>19</sup> And American opposition to TPP isn’t limited to the Political Left; November 2013 saw twenty-three House Republicans issue a letter against granting of Fast Track.<sup>20</sup> In an internet radio interview, the leader of that group, Rep. Walter Jones (R-NC), called TPP a “total sell-out of American sovereignty.”<sup>21</sup>

Opposition to TPP is hardly confined to the halls of the Capitol Building. The National Farmers Union (NFU) has been fighting the TPP in one way or another since negotiations began. A 2013 joint statement from the NFU and its Japanese counterpart, JA Zenchu, said that the publicized TPP framework “seems to lack any effort toward supporting farmers and minimizing the effects inflicted upon them[...]it is both unfair and unacceptable to put the interests of multinational corporations above those of farmers who are forced to sell at a minimal farm-gate price.”<sup>22</sup> The National Family Farm Coalition (NFFC) locates TPP as part of a trend of liberalization that “deprive nations of the right to protect their food systems” resulting in “collapsed” domestic food production alongside “record profits” for agribusiness.<sup>23</sup> And criticism of the TPP isn’t solely in the agricultural arena; opposition to the TPP stretches across issues as diverse as labor, the environment, internet freedoms, and consumer groups on the grounds that secrecy and regulatory coherence benefits corporations at the expense of people.

## TPP's endgame

TPP negotiations are entering their endgame. Following a trade minister's meeting in May,<sup>24</sup> President Obama set a loose goal of having "something that we have consulted with Congress about, that the public can take a look at, and we can make a forceful argument to go ahead and close the deal" by the annual Asia Pacific Economic Cooperation (APEC) meeting in November.<sup>25</sup> In July, negotiators for the 12 countries involved met at a hastily announced meeting in Ottawa, Canada.<sup>26</sup> Another negotiating session is planned for September 1 to 10 in Hanoi,<sup>27</sup> with an additional ministerial meeting scheduled for October.<sup>28</sup>

Meanwhile, U.S. TPP proponents are fighting for the passage of Trade Promotion Authority. After the July negotiators' meeting, every Republican on the Ways and Means Committee signed a letter threatening to withhold support from TPP if negotiations were completed "even in principle" without TPA being secured first.<sup>29</sup> At a recent trade forum, the two Congressional co-chairs of the House Friends of the TPP Caucus claimed that TPA would come to a vote in the Lame Duck session of Congress following the November elections.<sup>30</sup> It could come up even sooner, if the Obama administration takes the House Republicans demands seriously.

Some of the issues left to be decided amount to tough talk hurled at a few partner countries and heated debate over the free-trade ideals of the deal. The most publicized issue has been Japan's efforts to protect five farm products: beef and pork, dairy, rice, wheat and sugar.<sup>31</sup> Rep. Dave Camp (R-MI), chairman of the House Ways and Means Committee, and two of his committee colleagues, Devin Nunes (R-CA) and Rep. Aaron Schock (R-IL), called for Japan to be booted from the TPP over these issues in June.<sup>32</sup> Similarly, Canada is refusing to table its "supply management system," which protects its dairy, poultry and egg industries from foreign competitors.<sup>33</sup> On July 30, nearly a third of the House of Representatives—140 congress people—signed a letter urging Obama to take a hard line with both Japan and Canada, stating that the president should "pursue the TPP negotiations without any country, including Japan, Canada, or others, that proves unwilling to open its market in accordance with these high standards."<sup>34</sup> While Congress works to push these countries out, Taiwan<sup>35</sup> and South Korea<sup>36</sup> are both considering entering the TPP.

The heated debate around Japan's TPP positions demonstrates the corporate bias inherent in the process. In May, a coalition of agribusinesses—including the National Association of Wheat Growers, U.S. Wheat Associates, USA Rice Federation, the National Pork Producers Council and the International Dairy Foods Association—called on officials to boot Japan from the deal.<sup>37</sup> The National Pork Producer's Council<sup>38</sup> released another, individual statement, and the National Cattlemen's Beef Association released two.<sup>39,40</sup> Recently a subway station near Capitol Hill in Washington D.C. has been blanketed with advertisements claiming "Free trade is bigger than one nation. No special treatment for Japan." The advertisements direct readers to a website where users can complete a form letter urging their congressperson to support Japan's exclusion from the TPP.<sup>41</sup> The site's banner is labelled with a populist

slogan of "Keep Food Affordable," but it's an effort of agribusiness through the National Pork Producer's Council and the Egg Farmers of America.<sup>42</sup>

## Food in the TPP

The Japan conversation is a naked example of how the TPP, and deals like it, are used as a bludgeon to undermine national agricultural policies. Simply put, Japan's regulations are in place for important reasons. Rice, for example, is part of a decades-long protection plan with complicated politics behind it.<sup>43</sup> The "Rice Acreage Reduction" plan in Japan has been stalwart policy for 40 years aimed at keeping the income of rice farmers secure—its dismantling would be a sensitive, highly political process with long-term effects.<sup>44</sup> TPP proponents seek to do away with it with the stroke of a pen. Ninety-six percent of Japanese rice is produced on farms smaller than three hectares, by small scale or part-time farmers who support protections against imports. In the lead up to TPP, the government is planning to cut these small farmers from the program, limiting subsidies to big operations.<sup>45</sup> While the system has kept small farmers afloat, the changes look to be creating the same kind of giant, agribusiness-controlled food economy we have in the USA.

The Japanese meat industry also benefits from the country's trade regime. While tariffs protect the Japanese beef producers, consumers are also protected by comprehensive food safety standards.<sup>46</sup> These standards were triggered in 2003, when a U.S. calf was discovered with Mad Cow Disease. The standards have been updated to allow U.S. companies to export cows thirty-months old and younger to Japan.<sup>47</sup> "Barriers" for pork are more straightforward. Japan has a tariff on pork that activates if import prices are above or equal to a set reference price; if below, importers pay the difference between their value and the reference price. Critics claim that tariffs like these unduly affect competition, but even with these tariffs, Japan is still the largest market in the world for U.S. pork exports.<sup>48</sup> While TPP proponents argue that free-trade and cheap food is the best thing for a country, Japan is a clear example of how these deals could make crucial blows to local economies and public health laws, even if corporations are ultimately making money.

And while Japan's size—it's the third largest economy in the world—gives it the political leverage to fight for its regulations, nearly every country involved has food safety regulations on the chopping block. Vietnam, Singapore, Peru, Mexico, Chile, and Australia all have restrictions in place stemming from the 2003 discovery of mad cow disease in the U.S. Australia, Chile, Malaysia, New Zealand, Peru and Singapore all restrict pork imports due to fears of trichinosis, a parasitic, worm-related disease; Porcine Reproductive and Respiratory Syndrome (PRRS), a respiratory condition in pigs; and other diseases. Australia and Japan have health based restrictions on poultry and eggs as well. Outside of meats, there's a smattering of individual restrictions on things like pesticide levels in produce and Genetically Engineered seeds among TPP countries that the USTR considers "barriers" rather than legitimate political tools designed to protect public health or support local industry.<sup>49</sup>

The U.S. may suffer from action against SPS measures as well. Recently, two potential trade partners in the TPP, Vietnam and Malaysia, have signed on with eight other nations in a protest letter against a controversial catfish inspection program the U.S. instituted in the 2008 Farm Bill, an issue they are no doubt pushing within the TPP talks. Similarly, some Congressional opponents of TPP worry that the deal could affect revenue from the Staltson-Kennedy Act, which sends 30 percent of the revenue from duties on imported fish to R&D projects supporting U.S. fisheries. With the majority of Staltson-Kennedy revenues, which totaled over \$130 million in 2012, coming from TPP countries, the program, and the fisheries it supports, will take an undeniable hit if and when TPP kills import duties.<sup>50</sup>

Dairy has been another controversial issue in TPP. The U.S. dairy industry has been advocating for USTR to play hardball with both Canada and Japan, countries whose dairy producers the U.S. Dairy Export Council (USED) and the National Milk Producers' Federation (NMPF) feel are unfairly protected by national laws and tariffs.<sup>51</sup> But while the U.S. dairy groups want into new markets, they want to keep others out of theirs; the NMPF advocated in 2010<sup>52</sup> and 2012<sup>53</sup> to exclude New Zealand dairy from the deal, on the grounds that a single company has benefited from New Zealand laws designed to strengthen that country's own dairy industry.<sup>54</sup> They're right to be afraid of New Zealand dairy, which comprises a full third of international dairy trade, particularly in cheap processed Milk Protein Concentrate.<sup>55</sup> So TPP will very possibly expose U.S. markets and dairy producers to cheap imports from New Zealand dairy. USED and NMPF seem to want to have it both ways, accessing foreign markets while keeping the U.S. markets to themselves. The National Family Farm Coalition and National Farmers Union, on the other hand, argue against using TPP to open the floodgates on milk imports and instead insist on food sovereignty—each country's right to democratically determine the kind of food system it needs.

The TPP could have far reaching effects on global food supplies beyond meat and dairy. Several countries' GMO laws could be affected, for example. New Zealand has fairly comprehensive laws on labeling GMOs in processed foods, and doesn't allow genetically modified fresh vegetables, fruit or meat at all.<sup>56</sup> Japan and Australia both have comprehensive labeling laws for GMOs as well.<sup>57</sup> Peru is in the middle of a push for similar GMO labeling legislation, but already has a ten-year ban on planting genetically modified crops instituted in 2013.<sup>58</sup> In the logic underlying the TPP, these are "barriers" to trade rather than public health measures or a legitimate consumer information practices. Under this logic, the European Union lost a WTO challenge by the U.S., Canada and Argentina to its 1999-2003 moratorium on the import of GM products.<sup>59</sup> TPP may open the door to GMO policies in those 12 countries being overturned as well, either through rules in the agreement itself or through the investor-state dispute settlement process.

USTR's battle against labeling isn't confined to concerns over GMOs. Peru and Chile both have comprehensive labeling laws for foods high in saturated fats, calories, salt, sugar and other additives. Peru's laws include prohibitions against advertising

aimed at children, and Chile's laws specifically target foods "popular with children."<sup>60</sup> Despite the fact these laws seem to take cues from U.S. efforts to keep consumers in general and children in particular away from dangerous products, USTR posits that both are barriers. USTR, with a coalition of 11 other countries, was successful in effectively neutering Chile's labeling law, reducing the size and boldness of the label, exempting several categories of products from the labeling scheme, and replacing the locally written text of the warning with text tying into WTO standards.<sup>61</sup> And the TPP cuts both ways; activists and lawmakers in the U.S. looking to affect GMOs and food labels through policy would be just as bound by TPP policies as these other countries. With the TPP's focus on overcoming "barriers" to trade, states' efforts to protect consumer information, encourage public health, and legislate new food technologies are at risk.

## New century, same as the old?

At the end of the day, what really makes TPP the "21<sup>st</sup>-century agreement" it's purported to be? Not much except for scale, it seems. The regulatory focus, the ISDS measures, the rhetoric around the goodness of free trade flying around while the deal knee-caps countries' efforts to promote public health, local economies, and food security in the name of profit; these are all features of the neoliberal politics of the 80s and 90s, but TPP threatens to take them further.

In 2008, then-candidate Obama described his disagreement with NAFTA. "While NAFTA gave broad rights to investors," he said, "it paid only lip service to the rights of labor and the importance of environmental protection."<sup>62</sup> Ironically, the TPP negotiations today give corporations far more than "broad rights." "Having seen what I've seen, I would characterize this as a gross abrogation of American sovereignty," Rep. Alan Grayson told the Huffington Post after finally getting a look at the TPP texts, "And I would further characterize it as a punch in the face to the middle class of America. I think that's fair to say from what I've seen so far. But I'm not allowed to tell you why."<sup>63</sup> Ultimately, what we see in the TPP isn't anything futuristic, but a double down on old, bad ideas. The level of secrecy is unprecedented, the power given to corporate advisors and experts is unprecedented, and the work to dismantle local regulation goes further than any deal we've seen before. The choice inherent in the notion of a "21st-Century Trade Deal," is who the 21st century belongs to—will food policy continue to go down the road of 20th-century neoliberalism that never really worked, or will it be decided by consumers and the officials they elected to represent their interests?

## What can you do?

### We need to send legislators four important messages:

1. **OPPOSE FAST-TRACK:** Fast Track allows USTR to negotiate trade agreements behind closed doors, and then rush them through Congress circumventing ordinary review, amendment and debate procedures. To create policies that are accountable to people, not just big corporations, Fast Track must be eliminated.
2. **NO MORE SECRECY:** The people have a right to know what USTR is negotiating in their name.
3. **SPECIAL PROVISIONS FOR FOOD AND AG IN AGREEMENTS:** Small farmers deserve protection, and food safety standards aren't simply "barriers" to be knocked down. Our food systems, the people whose livelihoods depend on them, and the consumers who support them deserve protection from the whims of the international market.
4. **OPPOSE THE TPP:** It's a double down on old, bad ideas done in secrecy and dependent on the outdated fast-track model. We want an actual 21st-century Trade Agreement!

As a member of the Citizens Trade Campaign (CTC), IATP recommends contacting your congress person through the CTC website at [www.citizenstrade.org](http://www.citizenstrade.org). Click on the "Take Action" button on the right side of the page to send a message to your local congress person. Together, we can ensure that the 21st century belongs to people, not corporations.

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