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Following Breadcrumbs

TPP Text Provides Clues to U.S. Positions in TTIP

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While civil society groups around the world raise a variety of concerns about the substance of free trade agreements, for the most part they begin their critiques with the lack of transparency. Despite their potentially far-reaching impacts on national economies, public services, and natural resources, trade deals are negotiated in secret, with the resulting agreements submitted for ratification without the possibility of amendments. This is as true in the negotiations for the Transatlantic Trade and Investment Partnership (TTIP) as it has been for other bilateral or regional trade deals negotiated by the U.S. or EU.

So instead of a robust public debate on the merits of the issues under negotiation, civil society groups are forced to rely on bits of leaked text or the evidence of past trade agreements to guess at what might be under negotiation. EU and U.S. legislators are allowed to make appointments to view consolidated text that includes U.S. Trade Representative (USTR) positions, but they must do so in a closed room, without access to experts to help them discern what the reams of bracketed text could mean for the issues they care about.[1]

The EU has taken some important steps towards greater transparency in the TTIP negotiations with the publication of negotiating objectives and some textual proposals. Based on that information and leaks of other EU negotiating proposals, civil society groups on both sides of the Atlantic have issued detailed critiques on how the proposed agreement could undermine our economies, environments and food systems.

The European Commission's disclosures of negotiating texts to the public have not been reciprocated by the United States. Information on the USTR website describes general negotiating objectives, but meetings with U.S. trade officials rarely provide more than clues about the issues being debated in TTIP. Even EU negotiators may not know exactly what their U.S. counterparts have in mind, as the U.S. has not yet made specific offers on state and local public procurement and other priority issues for the EU.[2]

What we can see very clearly, however, are the results of the negotiations for the Trans Pacific Partnership (TPP) between the U.S. and eleven Pacific Rim countries. More than 5,000 pages within 30 chapters of text and scores of annexes and bilateral side letters have been posted online.[3] USTR has indicated that it intends to replicate many of these provisions in other trade negotiations, including TTIP.[4] Of course, the TPP provisions are the compromise positions after years of negotiations, so it's likely that USTR would seek even stronger positions in other trade deals. The TPP provides us new clues about what the U.S. is likely pushing for behind the closed doors of the TTIP negotiations, at least during the Obama administration.

This paper focuses on TPP provisions not included in previous trade agreements that could affect food and farm systems in Europe if they were adopted in TTIP:

- rules on food safety that redefine the science behind the standards
- new challenges for enforcement of food safety rules
- provisions that create pressure to accept GMO imports
- restrictions on food labeling
- challenges to local food names
- a built-in agenda for future changes

We hope this will help to identify clues to some of the positions the U.S. is likely advancing in TTIP. Those who have access to the consolidated TTIP proposals should look to see if the TPP language is replicated in the TTIP. Those who do not have that access could assume that these provisions represent the U.S. positions in TTIP.

Defining the use of "science" behind food and plant safety standards

The U.S. government has made no secret of its interest in limiting the EU's reliance on the Precautionary Principle in setting food, environmental and chemical safety standards. Under that Principle, which is part of the EU's foundational Treaty of Lisbon, when there is a possibility that a policy or action could harm human or environmental health but the science is uncertain, that action is avoided until there is more definitive scientific information.[5]

The U.S. position is clearly laid out in the negotiating objectives set out in Trade Promotion Authority.[6] It is also strongly backed by industry. At the start of the TTIP negotiations, a coalition of 47 agribusiness firms sent a letter to USTR insisting that,

> Such precautionary measures are often based on mere hazard identification—or worse, on public perception and political considerations—rather than proper, science-based risk assessments, as required by the WTO. And, even in cases where risk assessments are ultimately carried out, the EU has demonstrated an inability to lift unjustifiable measures because of domestic political pressures. "Precaution" in the EU has become a pretext for import protectionism under the pretense of consumer safety. As a result, U.S. exports have repeatedly paid the price.[7]

At the heart of those discussions are judgments about what constitutes the science on which the standards are based. TPP's chapter on Sanitary and Phytosanitary Standards (SPS) introduces new rules on that issue that go beyond provisions in previous free trade agreements. Article 7.9.5 of the TPP states that,

> Each Party shall ensure that each risk assessment it conducts is appropriate to the circumstances of the risk at issue and takes into account reasonably available and relevant scientific data, including qualitative and quantitative information.

This "reasonably available" standard of scientific data in risk assessment in the TPP goes beyond similar provisions in the WTO SPS agreement.[8] It is a different formulation than the EU's proposed SPS text for TTIP. The EU proposal refers to exchanges of scientific information among regulators and a commitment to ensuring that SPS measures do not constitute undue barriers to trade.

While exactly how this approach would play out would only be fully defined in the event of trade disputes, leading consumer organizations are concerned about the implications. In its resolution on the proposed SPS chapter in TTIP, the Trans Atlantic Consumer Dialogue (TACD) points out that that reliance on "reasonably available and relevant scientific data" for risk assessment underscores the very different standards for scientific evidence in the U.S. and EU.

The U.S. approval process for glyphosate illustrates that point. Glyphosate (patented by Monsanto as RoundUp) is a controversial herbicide that the World Health Organization's International Agency for Research on Cancer has deemed to be a probable carcinogen. The U.S. Environmental Protection Agency (EPA) rescinded its initial classification of glyphosate as a possible carcinogen after receiving new data submitted by Monsanto, mostly from unpublished studies. TACD notes that, "The EPA concluded that the Monsanto studies, including the unpublished ones, were 'reasonably available and relevant scientific data,'" even though they were based largely on data deemed to be Confidential Business Information and not available for peer review.[9] In the U.S., glyphosate would only be taken off the market should scientists prove it is a carcinogen, a process thwarted by EPA's continued acceptance of "reasonably available" data from industry.

In the EU, there is an active public debate around the possible approval of glyphosate and the scientific studies used to inform that decision.[10] Because of the EU's reliance on the Precautionary Principle, glyphosate will not be approved for use in the EU until that debate is done (perhaps sometime this year).[11] Similarly, in 2012 the EU banned the use of three neonicotinoid chemicals associated with bee colony collapse. It is continuing to collect new scientific information on the issue, but the ban would only be repealed should definitive science prove its safety. In the U.S., despite recent reports by EPA showing links between a class of neonicotinoid and bee deaths (and bans in several U.S. state and municipalities), the chemicals remain on the market.[12]

TACD insists that any studies and data cited in commercialization applications be publicly available and subject to peer review. However, Article 7.17.6 of TPP establishes rules that go in the opposite direction, stating that TPP SPS Committee consultations about the science underlying SPS measures "shall be kept confidential unless the consulting Parties agree otherwise."

In addition, TPP Article 7.6(c) requires that, when conducting a risk analysis, the Parties must "select a risk management option that is not more trade restrictive than required to achieve the sanitary or phytosanitary objective, taking into account technical and economic feasibility." So, if there are several options, perhaps with varying degrees of independent scientific evidence or grounds for precaution, the default becomes the option that is least trade restrictive and is "economically feasible," not the option that best protects human or environmental health.

Inadequate enforcement exacerbated

Several provisions in TPP would limit independent audits and inspections of imported foods and weaken already inadequate enforcement of food safety. In addition to the dubious process used to establish the standards, U.S. food and plant safety is severely undermined by inadequate funding for enforcement. At present, less than three percent of U.S. food imports are inspected. While the EU SPS proposal requires adequate funding to implement the SPS chapter, including for enforcement (Article 3), the TPP rules go in the opposite direction.[13] There are no requirements for adequate enforcement resources. The TPP also establishes a Rapid Response Mechanism that would put even more pressure on inspectors and laboratory technicians. Article 7.11.6 states

> If an importing Party prohibits or restricts the importation of a good of another Party on the basis of an adverse result of an import check, the importing Party shall provide a notification about the adverse result to at least one of the following: the importer or its agent; the exporter; the manufacturer; or the exporting Party.

TPP Articles 7.11.8 and 7.11.9 establish a process to require inspectors to justify their decisions within strict time limits. These provisions then create a new right for companies that

they have not had in previous trade agreements. Exporters would be empowered to directly challenge inspectors' decisions, and to compel them to respond quickly, creating new pressures to simply let imports slip through.[14]

The TPP SPS chapter is subject to the state-to-state dispute settlement chapter, following a one-year transition period on Equivalence, Audits and Import Checks, and a two-year transition period for Science and Risk Analysis (Article 7.17.1). Disputes would be submitted first to the Consultative Committee. If the Committee is unable to resolve the disagreement, the matter can proceed to state-to-state dispute settlement. The EU's proposal for an SPS chapter in TTIP includes a similar committee to review issues and make reports, but does not (yet) include language making those disputes subject to binding dispute settlement within TTIP.[15]

As in the TTIP negotiations, there has been considerable controversy in TPP over investor-state dispute settlement (ISDS), the mechanism in the investment chapter that allows corporations to sue governments over rules or laws that undermine their expected profits. Tobacco control groups managed to win a clause in TPP that lets governments exclude tobacco control measures from potential ISDS lawsuits. However, TPP continues to include very broad definitions of what constitutes a covered investment and vague standards governing whether an investor has been treated fairly. It goes beyond previous agreements negotiated by the U.S. to include the possibility of ISDS suits over financial services, which could threaten reforms to volatile derivatives markets, including for agricultural commodities.[16] The fact that ISDS is included in TPP at all, after strong opposition from legal scholars, members of Congress and civil society around the world, is in itself a fundamental problem with the agreement.

Since SPS measures are not specifically excluded from dispute settlement in TPP's investment chapter, it appears that they would also be subject to challenges by corporations under ISDS. The fact that most investor-state challenges are raised on grounds of Fair and Equitable Treatment or Minimum Standards of Treatment, both vague notions based on what an investor might "reasonably" expect, would seem to indicate that food safety rules could be subject to challenge.

Expanding trade in agricultural biotechnology[17]

New provisions in the chapter on Market Access would streamline rules to promote expanded trade in agricultural goods produced with GMOs or from other genetic engineering techniques such as synthetic biology. An article on "Trade in Products of Modern Biotechnology" has not been included in previous trade agreements, and it is surprising to find this controversial issue addressed within the text on Market Access rather than in the SPS chapter. This is most likely driven by the continuing trade related conflicts over GMOs, including China's rejection of U.S. corn shipments containing Low Level Presence (LLP) of MIR 162 (Syngenta's genetically modified corn, which is cultivated in the U.S., Argentina, Brazil, Canada, Colombia, Paraguay and Uruguay). In fact, U.S. farmers and distributors are suing Syngenta in federal courts over losses associated with that rejection.[18]

The section in TPP begins with assertions about the rights of each country to determine its own policies. However, the article on the detection of LLP of GMOs or synthetic organisms in plant materials (including animal feed, but not animal products) not already approved in the importing country is binding. Article 2.27.7[19] states:

> In the event of an LLP occurrence, the importing Party shall, subject to its laws, regulations and policies:
>
> a. inform the importer or the importer's agent of the LLP occurrence and of any additional information that the importer will be required to submit to allow the importing Party to make a decision on the disposition of the shipment in which the LLP occurrence has been found;
>
> b. if available, provide to the exporting Party a summary of any risk or safety assessment that the importing Party has conducted in connection with the LLP occurrence; and
>
> c. ensure that the measures applied to address the LLP occurrence are appropriate to achieve compliance with its laws, regulations and policies.[20]

This new language puts pressure on importing party authorities to explain their risk assessment. Subparagraph (b) directs Parties to provide the risk assessment relevant to the LLP event, "if available," which sounds optional. However, in the next subparagraph "ensure that measures… are appropriate" means that a risk assessment would be needed to back up the decision at the port of entry.

The TPP text reflects strong industry pressure and is consistent with demands raised for TTIP. In its comments to the USTR at the start of the TTIP talks, the Biotechnology Industry Organization called on negotiators to address Low Level Presence (LLP) arising from "asynchronous" approval processes, i.e., GMO corn or soy that is approved in the U.S. but not yet in the EU.[21]

Footnote 14 defines a Low Level Presence incident as

> inadvertent low level presence in a shipment of plants or plant products, except for a plant or plant product that is a medicine or medical product, of rDNA plant material that is authorised for use in at least one country, but not in the importing country, and if authorised for food use, a food safety assessment has been done based on the Codex Guideline for the Conduct of a Food Safety Assessment of Foods Derived from Recombinant-DNA Plants (CAC/GL 45-2003).

It does not specify that the approval must have been in the exporting country or what percentage of contamination counts as Low Level Presence. In its analysis of the TPP chapter, Third World Network notes that this omission means that "[i]mporting Parties would likely have to determine a threshold in order to implement this Article. This then, linked with the appropriateness of the action taken by an importing Party when faced with contaminated shipments, would be subject to dispute settlement."[22]

Article 2.27.8 of TPP increases pressure to agree to previously unapproved varieties:

> To reduce the likelihood of trade disruptions from LLP occurrences:
>
> a. each exporting Party shall, consistent with its laws, regulations and policies, endeavor to encourage technology developers to submit applications to Parties for authorization of plants and plant products of modern biotechnology; and
>
> b. a Party authorizing plant and plant products derived from modern biotechnology shall endeavor to:
>
> i. allow year-round submission and review of applications for authorization of plants and plant products of modern biotechnology; and
>
> ii. increase communications between the Parties regarding new authorizations of plants and plant products of modern biotechnology so as to improve global information exchange.

Articles 2.27.9 establishes a working group on the products of modern biotechnology, with functions that, while specific to this issue, sound very similar to proposals for a Regulatory Cooperation Council in TTIP. Article 2.27.10 states:

> The Working Group shall provide a forum to:
>
> a. exchange, subject to a Party's laws, regulations and policies, information on issues, including on actual and proposed laws, regulations and policies, related to the trade of products of modern biotechnology; and
>
> b. further enhance cooperation between two or more Parties, when there is mutual interest, related to the trade of products of modern biotechnology.

Taken together, while these provisions could increase the transparency of decisions around LLP, they also would increase pressure on governments to approve GMOs and avoid the conflicts associated with the process. In an article on the issue, *Inside U.S. Trade* notes that, "Biotech industry sources said that, taken together, these provisions would encourage countries to synchronize their authorization procedures and could ultimately lead to fewer LLP instances."[23]

Processed food annex puts limits on consumer information[24]

The TPP chapter on Technical Barriers to Trade (TBT) would create new restrictions on consumers' right to know about what is in their food. Among other issues, it includes a new annex on "Proprietary Formulas for Prepackaged Foods and Food Additives." Annex 8-F, Article 3 states:

> When gathering information relating to proprietary formulas in the preparation, adoption and application of technical regulations and standards, each Party shall:
>
> a. ensure that its information requirements are limited to what is necessary to achieve its legitimate objective; and
>
> b. ensure that the confidentiality of information about products originating in the territory of another Party arising from, or supplied in connection with, the preparation, adoption, and application of technical regulations and standards, is respected in the same way as for domestic products and in a manner that protects legitimate commercial interests.

Many governments (including state governments in the U.S.) are developing innovative food labels that help guide consumers toward healthier food choices. For example, bills were introduced last year in California, New York and Vermont to require safety warnings on sugary drinks.[25] USTR has challenged a proposed food labeling law in Chile that it asserts constitutes a barrier to trade. The Chilean labels would

warn consumers of foods that exceeded specific thresholds for saturated fats, calories, sodium and sugar with a stop sign-shaped label. USTR, in its report on Foreign Trade Barriers, complained that, "[i]nitial estimates from the USDA's Foreign Agricultural Service indicate that as much as 80 percent of the $312.4 million of U.S. prepackaged foods exported to Chile could need to bear at least one warning icon."[26]

The "necessity test" in paragraph (a.) of TPP, combined with the additional confidentiality protections in paragraph (b.), would create new constraints on government regulators seeking information to regulate food ingredients. This could create new obstacles to the timely development of stronger standards relating to junk food warnings and detailed information about "proprietary" food additive formulas. In general, the Food and Drug Administration is unable to verify the safety of the thousands of food additives in processed foods. As FDA Deputy Director of Food Michael Taylor said, "We simply do not have the information to vouch for the safety of many of these chemicals."[27] This TPP annex will make it that much harder to find out what ingredients are in processed food and subsequently whether they are safe, all in the name of protecting those ingredients as trade secrets.

The "necessity test" language is similar to a general proposal in the EU's draft text on Technical Barriers to Trade in TTIP. In this case, Article 8 of the EU's proposal is actually somewhat more restrictive than what was agreed to in TPP, stating that labels "should be limited to what is essential and what is the least trade restrictive possible to achieve the legitimate objective pursued." This means that, when selecting among different options, a country would be required to choose the labeling option that distorts trade the least, not the one that best informs consumers. The TPP processed food annex takes those restrictions a step further, establishing new rights for companies to keep ingredients lists of processed foods secret as confidential business information. This would make it more difficult to gather adequate information to develop the right rules and regulations on junk food warnings or other detailed information about "proprietary" food additive formulas.

Weakening protections for food names

The U.S. and EU have fundamentally different approaches to protections for Geographical Indications. The EU has established a comprehensive registry of names for wines, cheeses, meats and other products that are produced in specific geographic regions according to defined production methods. That registry is protected under EU law and its trade agreements as a form of intellectual property. In the U.S., names such as Maine Lobster, Idaho Potatoes or Vidalia Onions are protected under trademarks held by industry associations. Those private associations are responsible for any legal challenges over the use of those names, whether in the U.S. or abroad. The Consortium for Common Food Names (which includes the U.S. Dairy Export Council)[28] and the Teamsters labor union (which represents many dairy workers) strongly oppose increased protections for Geographical Indications in TTIP, a position that has been endorsed in several congressional letters to USTR.[29]

These organizations argue that Geographical Indications can be used unfairly used to protect common names. TPP includes provisions to limit the use of Geographical Indications for common food names and gives priority to existing trademarks. This would expand on processes at the WTO, which permit denial of such protection, to actually require it under TPP.[30]

Article 18.32 (in the chapter on Intellectual Property Rights) provides explicit grounds for the cancellation of Geographical Indications considered to be common names:

1. If a Party protects or recognizes a geographical indication through the procedures referred to in Article 18.31 (Administrative Procedures for the Protection or Recognition of Geographical Indications), that Party shall provide procedures that allow interested persons to object to the protection or recognition of a geographical indication, and that allow for any such protection or recognition to be refused or otherwise not afforded, at least, on the following grounds:

    a. the geographical indication is likely to cause confusion with a trademark that is the subject of a pre-existing good faith pending application or registration in the territory of the Party;

    b. the geographical indication is likely to cause confusion with a preexisting trademark, the rights to which have been acquired in accordance with the Party's law; and

    c. the geographical indication is a term customary in common language as the common name for the relevant good in the territory of the Party.

2. If a Party has protected or recognized a geographical indication through the procedures referred to in Article 18.31 (Administrative Procedures for the Protection or Recognition of Geographical Indications), that Party shall provide procedures that allow for interested persons to

seek the cancellation of a geographical indication, and that allow for the protection or recognition to be cancelled, at least, on the grounds listed in paragraph 1. A Party may provide that the grounds listed in paragraph 1 shall apply as of the time of filing the request for protection or recognition of a geographical indication in the territory of the Party.

While this approach would not affect protections for products sold within the EU, it would weaken protection for specialty cheeses and other goods that are exported to the U.S. or other markets, especially for names like Asiago, Feta, Fontina, Gorgonzola or Munster, which were also contested in the Comprehensive Economic Trade Agreement (CETA) between the EU and Canada.

A built-in agenda to unravel local control

Scattered throughout the TPP text are references to changes that should happen at some future date. In some ways, they move the negotiation of the trade agreement into the implementation phase when there is likely to be much less public scrutiny. Not unlike the "Rendezvous Clauses" in many of the Economic Partnership Arrangements (EPAs) negotiated by the EU, they commit countries to meet again later to work out issues that proved to be too challenging during the official negotiations. In the EPA negotiated with African countries, for example, such clauses commit Parties to eventually discuss commitments on investment, procurement and competition policies (notably, issues many developing countries have refused to negotiate at the World Trade Organization).[31] These might simply be placeholders that allow negotiators to save face, or they could be instruments to allow negotiations to continue after the agreement is ratified and without further input from national legislatures.

Negotiations to increase commitments under the North American Free Trade Agreement (NAFTA) have continued sporadically since the 1990s. Talks during the Bush administration for the Security and Prosperity Partnership included discussion of energy security, rules of origin and immigration. While it appears that those negotiations eventually failed, they were every bit as secretive as the trade talks, and would likely have been signed without the involvement of legislatures in any of the three countries.[32]

In addition to establishing general commitments in many chapters for the Parties to review implementation of the agreement and to consider future changes, several chapters also include specific provisions that require new negotiations within set time periods.

Article 15.24.2 on Government Procurement, for example, states that,

> No later than three years after the date of entry into force of this Agreement, the Parties shall commence negotiations with a view to achieving expanded coverage, including sub-central coverage. Parties may also agree to cover sub-central government procurement prior to or following the start of those negotiations.

Article 17.14 on State-Owned Enterprises, requires that,

> Within 5 years after entry into force of this Agreement, the Parties shall conduct further negotiations on extending the application of the disciplines in this Chapter in accordance with Annex 17-C.

The TPP also contains new provisions to encourage integration of supply chains in the chapter 22, on Competitiveness and Business Facilitation. Article 22.3 states that,

> 5. The Committee [on Competitiveness and Business Facilitation] shall commence a review of the extent to which this Agreement has facilitated the development, strengthening and operation of supply chains in the free trade area during the fourth year after the date of entry into force of this Agreement. Unless the Parties agree otherwise, the Committee shall conduct further reviews every five years thereafter.
>
> 6. In conducting its review, the Committee shall consider the views of interested persons that a Party has received pursuant to Article 22.4 (Engagement with Interested Persons) and provided to the Committee.
>
> 7. No later than two years after the commencement of a review under paragraph 5, the Committee shall submit a report to the [Trans Pacific Partnership] Commission containing the Committee's findings and recommendations on ways in which the Parties can promote and strengthen the development of supply chains in the free trade area.

The experience under NAFTA has been that integration of agricultural supply chains has weakened farmers' bargaining power and increased corporate concentration. The percentage of U.S. pork processing controlled by just four firms, for example, has increased from 69 percent before the agreement was signed, to 85 percent today. This consolidation has meant that farmers in each of the three countries have fewer options for buying inputs or selling their products. Various provisions in the trade deals, starting with reductions in tariffs and increases in protections for foreign investors, have facilitated that process. This integration of supply chains is specifically provided for in TPP.

Of course, one of the central objectives of TPP and TTIP is to remove or weaken regulatory standards or public interest programs that impede the easy flow of goods, services and investments across borders. From that perspective, integrating live animal and pork or beef processing across borders is efficient, i.e., producing more products with fewer farmers and meat processing employees. Fewer and larger Confined Animal Feed Operations supplying fewer and larger meatpacking companies is characteristic of integrating meat production supply chains. From the perspective of family farmers, this kind of provision creates new pressures that further reduce their bargaining power in agricultural markets.

There is no indication how future changes to the agreement arising from these extra negotiations would be approved or whether national legislatures would be involved in approving the results of those negotiations. These kinds of implementation provisions might not be included in TTIP text yet. They would likely appear late in the negotiations on issues that are too controversial to resolve during the overall negotiations.

TPP also provides a mechanism to allow other countries to join the agreement once it has been ratified by the original negotiating Parties. Article 30.4 on Accession (in the chapter on Final Measures) states that:

> 1. This Agreement is open to accession by:
>
> a. any State or separate customs territory that is a member of APEC, and
>
> b. such other State or separate customs territory as the Parties may agree,
>
> that is prepared to comply with the obligations set out in the Agreement, subject to such terms and conditions as may be agreed between the State or customs territory and the Parties, and following approval in accordance with the applicable legal procedures of each Party and acceding State or customs territory.

This means that any country could apply to join the TPP along the lines already negotiated. Despite hortatory language in the unenforceable chapter on Development (in which, "The Parties acknowledge the importance of development in promoting inclusive economic growth" but only commit to establishing a committee to discuss issues that may arise), there are no provisions in the accession process to allow for developing counties that might join the agreement to negotiate specific terms appropriate to their circumstances. Those countries would simply "dock in," as the Dominican Republic did when it joined the U.S.-Central America Free Trade Agreement. So far, Indonesia, the Philippines, Thailand, South Korea and Taiwan have indicated their interest in joining the TPP.

In addition, it is unclear whether or how national legislatures would be involved in the approval process for accession. In its analysis of the TPP text, Public Citizen notes that, "Congress would only be given any role in deciding whether negotiations about any country's prospective TPP accession should even begin if Congress explicitly requires this in legislation implementing the TPP. Absent such a requirement, under the TPP text the executive branch alone would decide for the United States."[33]

Even if TTIP does not include a similar provision to allow other countries to join, any broad process to add new countries to TPP would certainly influence global norms on controversial issues. If South Korea were to succeed in its bid to join TPP, for example, acceptance of the TPP norms on what constitutes "scientific" evidence for rules on chemical safety would undermine Korea's own REACH program on the regulation of chemicals, which currently mirrors the EU program. If more countries accede to TPP, with its acceptance of U.S.-style trademarks approach to Geographical Indications for food and cheese names, it could create new problems for EU exports of those goods, as well as weakening those GI standards internationally.

Conclusions

In discussions with EU officials, whether at the Commission or in Parliament, one hears a persistent refrain of No Hormone Beef, No Chlorine Chicken, No Cloned Beef. Civil society movements add massive resistance to GMOs and dubious food additives. It seems that every time some EU official asserts that these issues are simply off the table in the TTIP talks, a U.S. official will place them squarely back on the negotiating agenda.

There is nothing in TPP that says countries must allow these specific practices, and it is equally unlikely that they would be included directly in any TTIP text. But new approaches like those in TPP on how science is used to "prove" that one of these dubious practices is safe, based on confidential studies provided by industry and assessed by how much they distort trade, will lead to political pressure and trade disputes over exactly those practices that are supposedly off the table in TTIP. Similarly, restrictions on consumers' right to know, coupled with proposals for Regulatory Cooperation (which while fairly weak and vague in TPP have been expansively detailed in the EU's TTIP text) and the strong U.S. commitment to the unnecessary and unfair investor-state dispute settlement mechanism, would create huge new obstacles to better food systems rules in both the EU and the United States.

While many food and farm standards in the EU are relatively higher than those in the U.S., there are strong pressures by agribusiness and other corporate interests on both sides of the Atlantic to push these and other standards to their lowest common denominator. Advocates for better food system rules—farmers and eaters, legislators and regulators—should continue to collaborate across borders and across sectors to counter that push and to insist that trade agreements support better rules that are fair, equitable and sustainable. Knowing—and exposing—the devils in the details of those trade deals is an important first step.

Endnotes

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