

Webcast Summary
Trans-Atlantic Trade Symposium
Washington D.C.
Sponsored by the Sierra Club
July 9, 2013

Introduction:

On Wednesday, July 9, 2013, the Sierra Club sponsored a symposium in Washington D.C. on the proposed Trans-Atlantic Free Trade Agreement (TAFTA). This symposium was broadcast live over the Internet and featured three different panels regarding different aspects of TAFTA and each of the panels was comprised of speakers from various interest groups.

The Chairs of the CTPC, Senator Troy Jackson and Representative Sharon A. Treat, requested that CTPC staff person Lock Kiermaier view this symposium and prepare a written summary for use by the CTPC.

The complete webcast is available for viewing at the following address:

<http://www.youtube.com/watch?v=aqNf2vHTdvw&feature=c4-feed-u>

Please note that in previous written documents prepared for the CTPC, TAFTA was referred to as the Transatlantic Trade and Investment Partnership (TTIP) which appears to be the formal name of the proposed treaty used by USTR. For convenience, this summary will make use of the TAFTA moniker.

Opening Panel: What's At Stake?

- **Virginia Robnett, Coalition for Sensible Safeguards (Moderator)**
- **Lori Wallach, Public Citizen (TAFTA context)**
- **Natacha Cingotti, Friends of the Earth Europe (European perspective)**
- **Celeste Drake, AFL-CIO (Labor perspective)**

Ms. Robnett opened the first panel discussion by identifying 5 matters of concern regarding TAFTA:

1. Democratically elected officials must be allowed to protect the safety and well being of citizens through regulation; the stated goals of TAFTA seek deregulation;
2. Trade treaties such as TAFTA must be negotiated in public so as to ensure necessary transparency; in the recent past, corporations and industry have been the only entities allowed to have access by the USTR to negotiated treaty text; elected officials and the public have been denied access to these documents;
3. The use of a regulatory ceiling with a lowest common denominator as the basis for negotiating TAFTA must be avoided;
4. The use of the Investor State Dispute Resolution (ISDR) mechanism is a threat to the sovereignty of the laws and judiciary of nation states and should be avoided in TAFTA; and

5. Much of what will be proposed for TAFTA will seek to replace regulations with cost benefit requirements which favor industry and corporations and should thus be avoided.

Ms. Robnett then introduced Lori Wallach from Public Citizen who provided a PowerPoint presentation that made the following points about the context in which TAFTA is being negotiated;

- TAFTA is a longstanding project and goal of large U.S. and European corporations;
- A stated goal of the Trans-Atlantic Business Dialogue, recently renamed as the Transatlantic Business Council, is to eliminate trade irritants (i.e. national regulations) and to promote “regulatory convergence” (i.e. lowest common denominator of regulatory standards);
- Most European Union (EU) members have consumer, environmental and labor standards/regulations which are higher than U.S. counterparts; the use of regulatory convergence would use U.S. benchmarks and thus reduce existing standards in much of Europe;
- Contrary to popular belief, treaties like TAFTA are not really about free trade or the reduction of trade tariffs but rather exist to lower regulatory standards set by sovereign governments;
- Trade agreements like TAFTA are really delivery mechanisms for a package of non-trade policies that can’t be achieved legislatively within sovereign states;
- TAFTA is not a trade agreement but is more properly described as a system of enforceable global governance that is not designed for modification by members of the public who will experience the results;
- Once implemented, these treaties are relatively permanent and are enforced and adjudicated by ISDRs which offer no appeals or due process; and
- ISDRs make use of a small universe of corporate lawyers who have the ability to override federal, state and local law and have been used with significantly increasing frequency since the mid-1990s.

The next panelist was Ms. Natacaha Cingotti, Friends of the Earth Europe, who provided the following points regarding the European context for understanding TAFTA:

- TAFTA is being promoted in EU countries as a way out of the massive financial crisis of recent years and a possible end to the resulting austerity measures that have been imposed;
- The secrecy surrounding Free Trade Agreements (FTAs) like the TPPA and TAFTA raises suspicions in the civil society about the question about who will really benefit from TAFTA; members of the public are only informed through the use of leaked text; elected officials have no meaningful access to proposed treaty text;
- The intent of reducing and nullifying existing regulatory standards of sovereign states in the EU is of paramount public concern; and
- Within the civil society of EU nations there is a desire for a truly fair and transparent trade agreement that promotes better rights and standards for all citizens.

The final panelist for the first session was Ms. Celeste Drake from the AFL-CIO who commented on TAFTA from a labor perspective:

- The labor perspective on TAFTA is slightly more optimistic than previous two speakers; the basis for optimism is simply because not one word of text has been agreed to yet so the opportunity for meaningful input still exists;
- AFLCIO position: TAFTA offers the possibility of increased trade and an improved U.S. economy but USTR needs to fundamentally change its negotiating stance to foster transparency and public discussion;
- Labor and its allies have previously been able to win or persevere on certain trade treaties and related issues; for example, these groups were able to stop the Free Trade on the Americas agreement in the early 2000s;
- Who do the FTAs benefit; the corporations or the working public?;
- Since the advent of recent FTAs dating back to the mid-1990s and as a consequence of these FTA's, the real value of working wages have declined by nearly 50% as opposed to soaring corporate profits during that same time period;
- ISDR mechanisms put private interests on a parallel with public interests; the interest of one foreign company can overturn domestic law of a sovereign nation like the U.S.;
- The labor chapter of TAFTA is a concern because EU members tend to have non-enforceable labor pacts; USTR will need to negotiate for enforceable labor contracts; and
- The Buy American issue is crucial; the WTO already has certain avenues open to allow the procurement non-American goods. Does TAFTA need to open up more avenues?

Environment Panel

- **Carroll Muffett, Center for International Law (Moderator)**
- **Ilana Solomon, Sierra Club (Investor-state, energy & climate)**
- **William Waren, Friends of the Earth U.S. (downward harmonization)**

Carroll Muffett initiated this panel discussion on the environmental perspective of TAFTA by stating that after years of experience of working with FTAs, he is convinced that TAFTA and other FTAs are not about free trade. Instead, FTAs are about unfettered and unregulated trade. Mr. Muffett went on to make the following points:

- Recommends reading the USTR 2013 publication entitled , Technical Barriers to Trade; this document offers profound insights as to exactly what trade barriers the USTR and American industry are concerned about such as “excessive” domestic standards on food, chemical and toy safety;
- ISDRs have gone beyond having a chilling effect on meaningful domestic environmental standards and now have a breaking effect on these standards;
- Several decades ago, the U.S. was a leader in regulating chemical safety with the Toxics Substances Control Act (TOSCA); however, the state of chemical safety has changed dramatically and TOSCA has not and the EU nations have adopted a much higher standard of chemical and environmental safety through the EU REACH program; (*Staff Note: REACH (Registration, Authorization and Restriction of Chemical Substances) is*

the European Community regulation on chemical safety and became effective in 2007. The purpose of REACH is the proactive identification of the intrinsic properties of chemical substances.);

- REACH offers a hazards based framework for evaluating chemical safety as opposed to the out-dated risk based approach of TOSCA; REACH is the new standard for global negotiations;
- TAFTA seeks to force a lower standard of regulatory coherence such as TOSCA and then override REACH through the use of ISRDs; and
- TAFTA is likely to push for the same efforts for regulatory coherence through clean energy, food safety and GMOs.

The next speaker on the Environment Panel was Ilana Solomon from the Sierra Club. Ms. Solomon made a PowerPoint presentation which emphasized the following points:

- The practice of “eco-labeling” (Energy Star designations etc.) can be an efficient tool to help consumers make informed choices but may be at risk under TAFTA; eco-labeling is cited by the USTR in their 2013 publication “Technical Barriers to Trade”;
- The decreased price of natural gas is due in significant part to the practice of fracking which is very harmful to the environment. The EU approach to fracking is much more cautious than in the U.S. and fracking is banned in many EU countries. The natural gas industry is anxious to increase exports to Europe and as a consequence many natural gas export terminals are being developed on the east coast of the U.S.;
- Recent FTAs exempt the export review of natural gas;
- The use of ISDRs provide industry with the right to sue government and their use is proposed in TAFTA; and
- There is a significant difference in the way that FTAs have been formulated; U.S. FTAs tend to be enforceable through the use of ISDRs whereas FTAs agreed to by EU nations tend not to make use of ISDRs.

The next presentation from the Environmental Panel was from Mr. William Waren of Friends of the Earth U.S. Mr. Waren emphasized the following points:

- The U.S. approach to chemical safety represented by TOSCA is inferior to the European approach represented by REACH;
- REACH is cited as a technical barrier to trade in the 2013 USTR report on that subject;
- TAFTA is likely to use TOSCA to effect a measure of deregulation and to achieve “regulatory coherence”; and
- REACH has several features that are superior to TOSCA: first, the burden of proof is on the chemical company to prove that a chemical is safe; second, unlike TOSCA which grandfathered in thousands of chemicals without a safety review, REACH does not grandfather in chemicals; third, REACH makes use of a strict federal review process; and fourth, REACH provides a substantive review of chemicals based on a cautionary approach whereas the emphasis is TOSCA is reactive and places the burden of proof on outside sources other than the chemical industry.

Food Panel

- **Kathy Ozer, National Family Farm Coalition (Moderator)**
- **Alexis Baden-Mayer, Organic Consumer Association (GMOs)**
- **Karen Hansen-Kuhn, Institute for Trade & Agriculture Policy (emerging technologies)**

In her introductory comments as Moderator for the Food Panel, Ms. Kathy Ozer stated that many of the EU member nations have appropriate regulatory standards in place to safeguard food and overall farm safety. However, these regulatory standards are at risk through various proposals made for TAFTA which would “harmonize regulation” to a lower standard. In addition, the commonly held assumption that increased farm exports are necessary for farm prosperity is a myth. Instead, the direct opposite is true: farm prosperity is largely dependent on the internal regulatory and environmental standards of a particular nation and does not rely on exports.

Ms. Ozer then introduced Alexis Baden-Mayer from the Organic Consumer Association who made a PowerPoint presentation which emphasized the following points:

- TAFTA presents another backdoor opportunity for a large international corporation like Monsanto to sidestep national standards which discourage the use of GMO (genetically modified organisms) seed products;
- Currently the EU bans the use of GMO products;
- The USTR negotiating position is to eliminate or modify the current EU ban on the use of GMO products and this factor is cited in the USTR 2013 publication “Technical Barriers to Trade”;
- Through various embassies in different EU countries, the U.S. State Department is working with Monsanto and other corporations to lessen public resistance in Europe to GMO products; and
- The Chief Agricultural Negotiator for the USTR, Ambassador Islam Siddiqui, is a former VP of a major GMO trade manufacturing group, and while serving in the Clinton administration in the USDA advocated for the use of sewage sludge and irradiation to qualify as organic.

The final presentation for the Food Panel was from Karen Hansen-Kuhn, Institute for Trade & Agriculture Policy. Ms. Hansen-Kuhn made the following points via a PowerPoint presentation:

- The use of nanotechnology (*Staff Note: Nanotechnology is defined as is the manipulation of matter on an atomic and molecular scale*) in agriculture is becoming prevalent but without any documented review of the effect on food safety and human health; like other topics discussed earlier, TAFTA is likely to be used to circumvent and avoid existing regulation pertaining to the use of nanotechnology in agriculture;
- FTAs like TAFTA tend to avoid the proper use of the Precautionary Principle (*Staff Note: The precautionary principle or precautionary approach states if an action or policy has a suspected risk of causing harm to the public or to the environment, in the absence of*

scientific consensus, that the action or policy is harmful, the burden of proof that it is not harmful falls on those taking an act.);

- Existing regulatory standards for food safety in the U.S. avoid use of the Precautionary Principle and have a bias towards evaluating economic benefits;
- It is also likely that TAFTA will be used to end-around existing regulatory standards with regards to controversial and largely untested food additives; and
- TAFTA is also likely to be used to circumvent or weaken procurement standards and requirements pertaining to food including farm to school programs and buy local programs.

The web seminar closed with a discussion in which panelists strongly urged members of the public to oppose the proposed “fast track authority” legislation that President Obama is requesting with regards to approval of FTAs like the TPPA and TAFTA.