



## BIOTECHNOLOGY AND GMO TALKING POINTS - VARIOUS CHAPTERS: **First Trade Pact to Subject GMOs to new Trade Rules**

- **The TPP is the first trade agreement to specifically identify agricultural biotechnology/GMO products and policies as subject to new trade rules:** The biotechnology, seed and agribusiness industries lobbied for and secured new trade protections for GMOs in the TPP. The National Treatment chapter includes an all-encompassing definition (all agricultural products including fish developed with a host of biotechnology techniques, including the combination of traits from unrelated plants or animals). (Art. 2.21.)
- **USDA and USTR have long-identified foreign governments' biotechnology oversight as a trade barrier, language in the TPP makes it easier to challenge these rules:** USTR has identified all agricultural biotechnology oversight (including a country's GMO approval process, GMO import monitoring and GMO labeling requirements) as potential trade barriers. Language in the TPP provides more specific avenues of attack for countries and companies to challenge foreign government oversight of agricultural biotechnology. (Art. 2.29 at paras. 4, 9 and 10.)
- **Special language designed to attack rules regulating approval of GMO crops and products:** The TPP requires countries to submit to other countries their regulatory approval process, their scientific documentation used to establish their regulatory approval process and the list of approved agricultural biotech crops or products. The TPP specifically encourages countries to expeditiously approve GMO crops and products. (Art. 2.29 at paras. 4, 8.) These affirmative obligations facilitate foreign governments and agribusiness, biotech and food manufacturing companies to challenge biotechnology regulations under the SPS (food safety) or investor-to-state provisions.
- **Special language on testing for GMO contamination:** Countries that prohibit the import of unapproved GMO crops (or categories of GMO crops) often test imports for unapproved GMO traits (what USDA and the TPP refer to as low-level presence). U.S. companies have exported both GMO corn and rice that were unapproved (even in the U.S.) and recently a GMO corn variety that was unapproved overseas contaminated U.S. corn exports. The TPP requires countries to submit their requirements for regulating and testing for GMO contamination of imports and the scientific basis for these policies — again providing a venue for countries to challenge rules governing unapproved GMO contamination in imports and challenge at TPP tribunals whether any actions taken to stop unapproved GMO contamination are “appropriate.” (Art. 2.29 at paras. 6 to 8.)
- **Specifically allow GMO regulations and safeguards to be challenged at TPP tribunals under pro-industry rules:** The TPP language on food and crop safety establishes limits on permissible regulation of GMOs unless the regulations meet very high thresholds of scientific certainty required by the TPP language on risk assessment. (Art. 7.9 at para. 5.) Regulations will be held to a standard established at a UN body known as the Codex Alimentarius (which means food law in Latin). Agribusinesses, biotechnology companies and pro-GMO governments have effectively used the Codex forum to lower the bar on what GMO regulations are acceptable for international trade. Other TPP provisions adopted from the WTO text make it easier for pro-GMO countries to challenge GMO rules for “discriminating” against “like products” (a corn-is-corn standard) or for being more trade-restrictive than necessary. (Art. 2.3 at paras. 1 and 2.)

- **Leaves state and local GMO measures vulnerable to challenge:** Consumers increasingly want to know what is in their food — including GMO ingredients. Several states (Vermont, Maine and Connecticut) have already passed GMO labeling requirements, dozens of other states are considering GMO labeling laws and some local governments have enacted rules governing the cultivation of GMO crops or the use of GMO-associated herbicides. Foreign countries or companies could use the TPP provisions on labeling and National Treatment to challenge these local and state efforts to increase food chain transparency. (Art. 2.3 at para 2, Art. 8.2 and Art. 8.3 at paras. 1 and *1bis*.)