

A CITIZEN'S GUIDE TO TTIP



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A Trade Agreement that Threatens Existing GMO
Regulations and Undermines Local Democratic
Processes

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The rights of nations, states and local governments to regulate threats to their citizens, ecosystems and economies should be stronger than international trade ties that benefit large corporations. Today, the regulation of labeling and cultivating genetically modified organisms* is possible at each of these scales of governance. However these hard-won victories are at risk of being overridden by the Transatlantic Trade and Investment Partnership (TTIP). This proposed agreement between the United States (US) and European Union (EU) aims to harmonize trade between these major global economies in many sectors, including agriculture. However, history has shown that harmonization of standards often defaults to the lowest common denominator – meaning that the lowest regulations become the legal maximum allowed standards under the trade agreement. At the local level, this translates to loss of the peoples' right to participate in shaping democracy and instead, favors corporate influence and economic gains.¹ TTIP also has the potential to negatively impact international markets beyond the US and EU that have taken a strong stance against GMOs.

This issue brief provides concerned global citizens with information about the proposed TTIP agreement and its possible impacts on GMO regulations the US, EU and other sovereign nations. It discusses the historical differences in regulation and risk assessment, as well as cultivation and labeling laws, on both sides of the Atlantic to highlight the potential affects of harmonization. Finally, expected outcomes are explored, especially regarding corporate influence and infringement of democratic rights, to make the case that TTIP is an agreement to be avoided.

The Citizen's Guide to TTIP

A TRADE AGREEMENT THAT THREATENS EXISTING GMO REGULATIONS AND UNDERMINES LOCAL DEMOCRATIC PROCESSES

I. The Transatlantic Trade and Investment Partnership

TTIP is a proposed bilateral agreement that aims to remove barriers to trade and investment, increase market access and liberalize trade between the US and EU.² Both regions have struggled economically since the 2008 recession and look to TTIP to provide a much-needed jumpstart through a robust, yet exclusive international trade regime.³ One of the US's main goals in the agreement is to increase imports and strengthen its valuable agricultural markets.⁴ Beyond economics, this agreement gives the US an opportunity to revitalize its political relationship with the EU. It provides both parties with the opportunity for job development and the potential to regain competitiveness that has been lost to emerging nations like India and China.⁵ One estimate predicts that TTIP will increase economic growth by \$100 billion USD per year in the US and EU.⁶

* For the purposes of this report, the term genetically modified organism (GMO) is used for any organism (plant or animal) whose DNA has been modified, including the mixing of multiple organisms' DNA (transgenics). Biotechnology refers to the sector and industry that conducts research, marketing, development and sale of GMOs.

Since tariffs between the US and EU are already relatively low, this agreement focuses on other issues that impede trade, especially non-tariff and technical barriers to trade (NTBs).⁷ Currently, NTBs force companies on both sides of the Atlantic to comply with varying regulations and different rules for exporting goods, which is said to slow production time and add extra expenses.⁸ US Trade Representatives aim to use TTIP to remove NTBs – including EU import regulations on emerging food and crop varieties.⁹ While European representatives also want to remove NTBs, they are more interested in regulations related to the automotive, chemical and pharmaceutical industries.¹⁰

Trade negotiators representing the US and EU plan to achieve enhanced regulatory coherence and cooperation by harmonizing standards and developing mutual recognition agreements between the two parties.¹¹ It is important to note that these negotiations are taking place behind closed doors, preventing any sort of public participation or media coverage. Civil society groups are concerned that harmonization will negatively affect public health, consumer rights and environmental standards on both sides of the Atlantic, but can do little to fight the agreement with such sparse knowledge of its contents.¹²

While this agreement has the potential to affect intellectual property rights, labor rights and environmental and chemical regulations, the most controversial aspect is likely to be the harmonization of food and agricultural regulations – especially those pertaining to GMOs.¹³ Furthermore, by creating strong bilateral regulations, this document will impede the rights of citizens to engage in local-level democracy and have a voice in regulatory decision-making on issues like GMOs.

II. Agriculture and GMOs in TTIP

TTIP lacks a chapter dedicated specifically to food and agricultural trade. Instead, the topic is woven throughout the agreement. This lack of direct recognition makes it especially hard to monitor this sector that will be significantly impacted by the agreement in both the US and EU.¹⁴ And, while the regions generally have a great deal in common when it comes to trade, GMOs represent a case of extreme divergence.¹⁵ In 2012, the EU exported \$16.6 billion of food and agricultural products to the US, compared to the \$9.9 billion of similar goods exported from the US to EU.¹⁶ This trade imbalance, attributable in part to the EU's strict regulations on GMOs and protection of specialty food items, is used by the US to justify the desire for regulatory coherence in this sector.

Differing food standards have contributed to trade challenges in the past – such as when the EU was brought to the World Trade Organization (WTO) for banning US hormone-laden beef.¹⁷ Similar issues will likely resurface during TTIP negotiations because both regions have very different positions on GMOs and the environmental, social and health concerns around this controversial technology.¹⁸ The US federal government and agricultural industry are largely pro-GMO. This is because most large global producers of GM seeds and associated chemical inputs are based in the US.¹⁹ Conversely, the EU has taken a more cautious approach to the relatively new technology at both the farm and national level.

These “obstacles” represent the local-level democratic processes in place to regulate health and environmental standards, which are being threatened by this international agreement between diverging approaches to food safety and regulation.

Consensus on this topic will be crucial for TTIP to pass, but major obstacles need to be overcome first – labeling requirements, laws restricting cultivation and risk assessments for commercialization of GMOs must all be harmonized.²⁰ These “obstacles” represent the local-level democratic processes in place to regulate health and environmental standards, which are being threatened by this international agreement between diverging approaches to food safety and regulation.²¹

III. Risk Assessment and Regulation in the US and EU

The US and EU have very different approaches to risk assessment and regulation, which has been the main reason for their divergent stances on the cultivation and labeling of GMOs. The United States relies on outdated biotechnology regulations from 1986, which were drafted long before GMO varieties were even commercialized.²² US policies have always considered GMOs to be “substantially equivalent” to non-modified crops and, therefore, not requiring safety inspections prior to public use and consumption.²³ After entering US markets in the mid-1990s, modified crops were rapidly adopted by the industry with support from the US government.²⁴

Although US citizens have a tendency to support minimal government regulation and intervention, they generally trust the existing regulating bodies and the science behind them.²⁵ But, these regulators – including the Food and Drug Administration, Environmental Protection Agency (EPA) and Department of Agriculture – continue to base their decisions on outdated policies and questionable science conducted by the very biotechnology corporations being regulated. The underfunded and overextended EPA is burdened with the responsibility of proving harm to environments or human health.

While the US bases its GMO regulatory framework on cost-benefit analysis and assumes products are safe until proven otherwise, the EU works in a vastly different manner – opting instead to adhere to the precautionary principle.²⁶ This principle is strongly rooted in the EU’s founding Treaty of Lisbon and based on the belief that products and technologies should be regulated or prohibited until proven safe by conclusive and sound scientific evidence.²⁷ Applied to GMOs, the precautionary principle protects against the unknown and unexpected consequences of biotechnology on human health and the environment.²⁸

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Many Europeans are critical of the biotechnology industry and the potential social and economic impacts of its expansion, which has stalled the industry’s infiltration of political and public opinion in the EU. They are also concerned about the agrochemical inputs that must be applied to GM crops – the majority of these crops are bred for traits that tolerate heavy herbicide and insecticide application.²⁹ The EU’s Registration, Evaluation, Authorization and Restriction of Chemicals program limits the growing of GMOs because it requires private companies to prove that their chemicals are safe.³⁰

There is a great deal of public concern over GMOs in the EU that is deeply entrenched in European society’s lack of trust in its regulatory systems and governing bodies.³¹ Regulatory agencies’ failure to properly regulate, protect and inform its people about recent and historical food safety scares in Europe

– the mad cow disease outbreak of the 1990s, for example – has led to massive skepticism of their ability to handle future food issues like GMOs.³²

IV. Growing GMOs in the US

Other than the “generally recognized as safe” standard, there is no federal law in the US that regulates or restricts the growing of GMOs. In 2012, approximately 90% of all corn and soy grown in the United States was genetically modified, across an area of more than 170 billion acres.³³ Many US farmers are pro-GMO, due to the fact that they are entrenched in this wealthy and powerful industry.³⁴ Thus, there is a political unwillingness at the national level to address this issue because of the biotechnology industry’s financial and political influence.³⁵

Conversely, significant progress in regulating the cultivation of GM crops and fish has been made at the state, county and city level, which shows the importance of democratic processes at the local level.³⁶ Eight sub-state entities and one third of the US states have imposed regulations (see Figure 1).³⁷

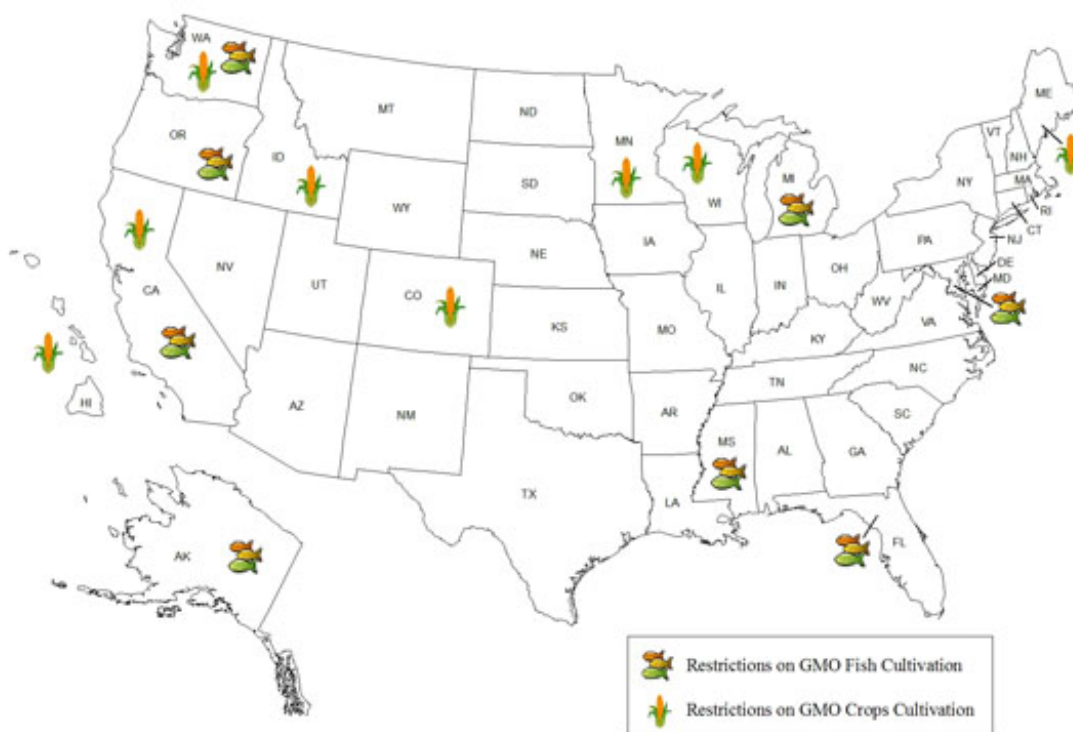


Figure 1: Restrictions on GMO Cultivation in the United States³⁸ Restrictions suggest that cultivation of GMOs is only allowed by permit or restricted to certain areas or specific species.

V. Growing GMOs in the EU

Regulations on growing GMOs in the EU are complex. In 2006, the US brought the European Union to court in the WTO over the region's GMO regulations, where it was ruled that the cultivation bans were illegal barriers to international trade. In 2011, after a few heated years of debate and international confrontation, the EU removed the bans and determined that each of its 28 member countries should choose how to regulate GMOs within their own boundaries.³⁹ Many member states voted to keep the bans in place, which was an open violation of WTO regulations.⁴⁰ These European nations willingly put themselves in danger of receiving sanctions for these violations in order to represent their citizens' strong support for GMO regulation.

Because the biotechnology industry is small in the EU, civil society and the media were able to bring GMO safety concerns into the public discourse long before the products were readily available in the European market. This has, in turn, led to more informed and concerned consumers.⁴¹ Today, European producers, retailers and farmers also largely support strong GMO regulations, because they have developed a niche market for GMO-free products throughout the US and EU. Many European farmers are not interested in transitioning to GMOs as they fear potential consumer backlash and consequent profit loss.⁴²

Due to the strong support of GMO regulation from consumers, farmers and producers, only two GM crops have been approved for cultivation in the EU to date – a pest resistant form of corn (only grown in Spain, Portugal, Czech Republic, Romania and Slovakia) and a potato used in the paper industry. In the EU, ten countries have either banned or placed a moratorium on the cultivation of GMOs or simply do not grow them, while 23 of the 28 member countries have some sort of restriction or ban on cultivation at the sub-state level (see Figure 2). While GMOs are only cultivated on 0.21 percent of the arable land of the 28 countries of the EU, there are many more species being researched and tested in the field.⁴³ If TTIP proceeds in line with the US's wishes, many of these crops will be approved for EU soils with less stringent assessments.

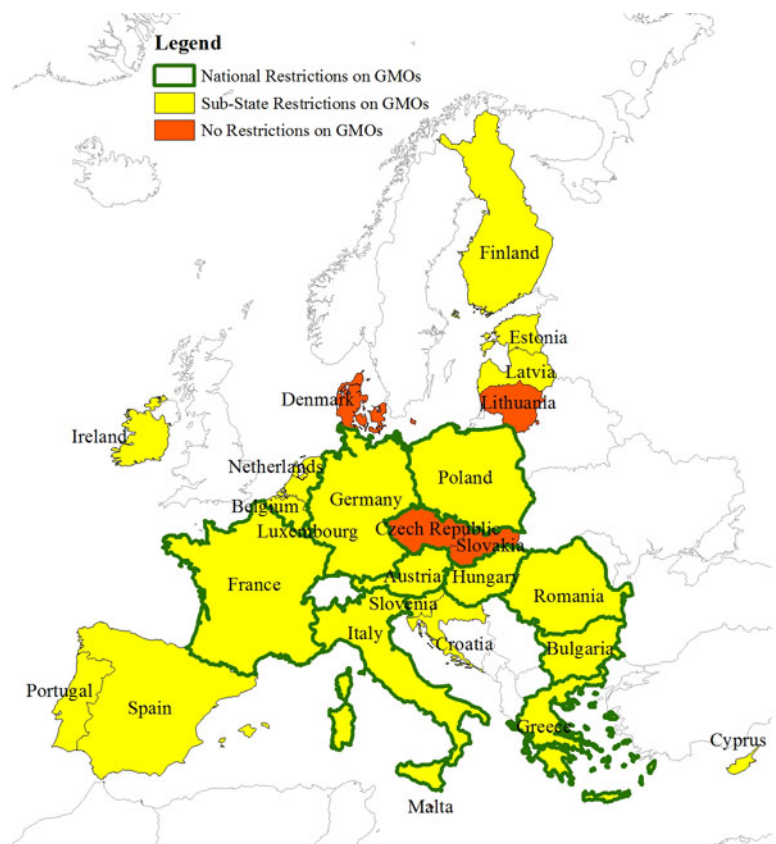


Figure 2: Restrictions on GMO Cultivation in the European Union⁴⁴

VI. Labeling GMOs in the US

Understandably, non-agricultural states may have little interest in regulating the cultivation of GMOs, but all states should be concerned about food labels that enable their citizens to make informed decisions about health and safety.

Many state governments are making an effort – half of the states have tried to pass labeling laws in the past, with just three tentative successes (see Figure 3). Genetically modified fish must be labeled in Alaska. GMO labeling laws passed in Maine and Connecticut are contingent on nearby states passing similar labeling laws. An additional 14 other labeling bills are in progress, which shows growing interest in sub-national level implementation of these regulations.⁴⁵

Efforts to label GMOs in cities and counties in the US have been less successful than cultivation bans because of the logistical challenges for producers and distributors to provide labeled products for small, decentralized GM-free zones.

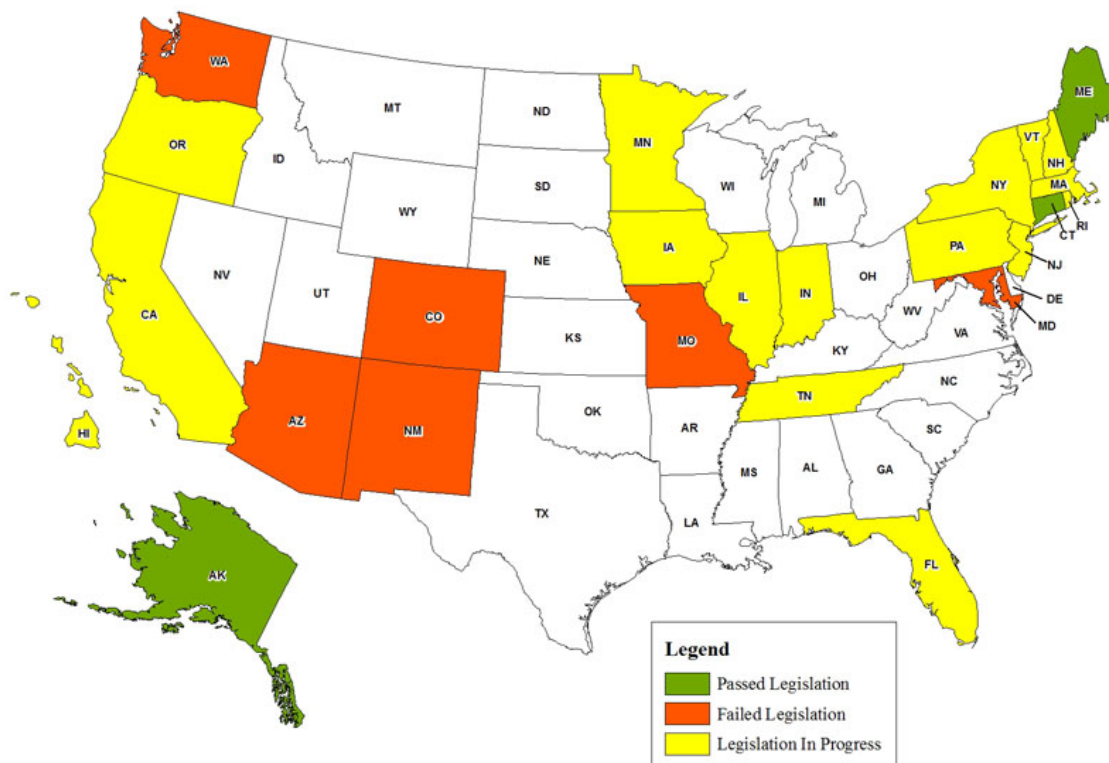


Figure 3: GMO Labeling Legislation in the United States⁴⁶

VII. Labeling GMOs in the EU

GMO labeling regulations are vastly different in the EU. Since 1997, products derived from genetically modified DNA and those containing more than trace amounts of GMOs (0.9 percent or higher) require labels.⁴⁷ By 2013, the EU was importing 49 genetically modified foods, and all these products were clearly labeled.⁴⁸ Extra costs for Europe-specific packaging and additional compliance to European regulations have discouraged many US businesses from exporting to the region.⁴⁹

VII. Expected Outcomes

The long-term goal of both parties is for TTIP to shape future multilateral trade agreements and set the baseline for rules and standards.⁵⁰ TTIP may accomplish this, but only through lowering of standards in the EU and preclusion of local and state efforts in the US. Downward harmonization of GMO regulations is also likely to loosen the regulation of chemicals and increase their use in the EU and abroad.

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However, European trade representatives continue to claim that the EU will not change its stance on GMOs.⁵¹ If this is the case, the US must continue to label products destined for the EU.⁵² One foreseen outcome of TTIP is that the EU will loosen standards on maximum trace amounts for labeling, because many US commodities are comingled or stored in close proximity to GMOs.

Some sources suggest that TTIP is likely to be weaker and more narrowly focused than first expected, due to the multitude of disagreements regarding food regulations.⁵³ GMOs could be left out of the TTIP agreement altogether, and instead standards could be settled in a non-trade related conversation – similar to the organic equivalency agreement that set mutually recognized standards between the US and EU.⁵⁴ Even if GMOs are removed from the negotiations, there are a number of other unsustainable and questionable agriculture practices up for negotiation, such as hormones in meat and chemical washing of poultry.⁵⁵

While TTIP has numerous potential impacts in the US and EU, considerable international effects are also expected. This agreement will present a united bloc of global north influence on present and future WTO trade negotiations.⁵⁶ TTIP is likely to “go beyond” the current WTO rules leading to even looser restrictions, especially related to food and agriculture.⁵⁷ These lower regulations will not just affect the negotiating parties but will set a new international standard likely to influence and force developing countries to bend to the regulatory standards of the first world powers.

VII. Impact on the People’s Democratic Voice

In many ways, TTIP ignores the concerns of the American and European people in favor of corporations and regional economic growth. The negotiations, which started in July 2013 and are expected to conclude in 2015, take place in secret.⁵⁸ Leaked TTIP documents fail to mention the role of the public in the decision-making process.⁵⁹ In the US, there will be no publicly available text of the agreement until

the document is completed, submitted for Congressional approval and signed into effect by the President.⁶⁰ Alternatively, President Obama is requesting Congress to grant him fast track authority, which would prohibit Congress from making any changes to the agreement. Similarly, the completed document will not be released to the European public until it is considered by the European Council, signed by the President and ratified by the European Parliament.⁶¹

In the US, only the US Trade Representatives and the Trade Advisory Commission –largely made up of corporate representatives – will have access to the draft text and dialogue with negotiators.⁶² While there are many active non-governmental organizations and individuals working on the issues being discussed in the agreement, they have been purposely excluded from negotiations. This highlights the corporate control of the food system and much of the political process in the US. Whereas the EU does have some participating industry representatives, their negotiating team is largely made up of government officials.⁶³ The EU has also taken a stronger role in interacting with the public through the @EU_TTIP_team Twitter account and an email address entitled trade-ttip-transparency for public comments and concerns.

Sub-national movements encourage other local mobilizations and may even influence state-level regulation.⁶⁴ On the other hand, national or international agreements – like TTIP – override these efforts and thwart the democratic decision making process at the local level.⁶⁵ Considering the polls and local efforts to regulate GMOs in both the US and EU, the omission of public participation in an agreement that has the potential to preclude these possibilities is a grave infringement of democratic rights. Despite the fact that GMO regulation has been brought to vote in almost half of US states, there has been no federal response to the issue.

VII. The Role of Corporate Interest

With so many corporations represented in the US negotiations, it is unlikely that the growing demand for GMO labeling will be addressed. Although polls show that the American public is largely in favor of labeling GMOs, this hasn't happened in practice and it is improbable that TTIP will accomplish this either.⁶⁶ For example, the defeat of the 2012 Proposition 37, which would have required the labeling of GMOs in California, is largely attributed to a \$45 million pro-GMO campaign funded by the biotechnology industry.⁶⁷

Corporations have also been granted personhood in both the EU and the US, allowing them to make major contributions to political campaigns, including those opposing GMO labeling.⁶⁸ The power behind corporate personhood gives these “individuals” the ability to impede the will of the people by leveraging their power and money against grassroots initiatives. TTIP will only broaden corporate control of the food system and prevent the rise of future initiatives that more clearly represent the will of the people.

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TTIP will result in increased profit shares for large corporations, though it is too early to tell if this will benefit consumers in the form of lower prices. More likely than not, it will result in fewer options for

consumers, as larger firms are able to gain a greater share of the market and push out smaller companies.⁶⁹

Unimpeded trade between the US and EU will also increase capital accumulation in these already wealthy economies at the risk of widespread social and environmental degradation. Many of the proposed changes in TTIP thwart local decision-making and personal choice in favor of providing greater access for large corporations, including seed, chemical and packaged food producers. Ultimately this agreement will have international impacts on the people's democratic voice and the growing movement for food sovereignty. With the current wave of GMO labeling legislation sweeping the US, this agreement is a last ditch effort by corporate US entities to maintain their stronghold on the global food system.

VII. Concluding Remarks

TTIP threatens democracy and environmental health in the US, EU and any countries that trade with these regions. With half of the US actively voting on GMO labeling and the EU's strong stance on the issue, it is clear that there is a lack of consensus in both regions that should be recognized and investigated – not smoothed over in the name of trade. Even the largely pro-GMO United States has much to lose when considering the hard fought victories at the city, county and state levels.

With half of the US actively voting on GMO labeling and the EU's strong stance on the issue, it is clear that there is a lack of consensus in both regions that should be recognized and investigated – not smoother over in the name of trade.

According to the Institute for Agriculture and Trade Policy, changing food and agricultural standards starts at the local level and moves upwards towards national and international levels.⁷⁰ But, this natural progression is impossible if federal or international laws preclude decisions made at the state and sub-state level.⁷¹ For this reason, and countless others, the Transatlantic Trade and Investment Partnership, designed to benefit the already rich and powerful at the expense of local democracy and the environment, should be prohibited.

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- ⁶⁴ Pechlaner, *GMO-free America? Mendocino*, 447-448.
- ⁶⁵ *Ibid.* 459.
- ⁶⁶ Kreibohm, *Who's Afraid of GMOs*, 4.
- ⁶⁷ *Ibid.* 5.
- ⁶⁸ Onusic, *Is the Dream of a GMO*, 4; "Citizens United v. Federal Elections Commission," *Common Cause Holding Power Accountable*, accessed on April 1, 2014, <http://www.commoncause.org/site/pp.asp?c=dkLNK1MQIwG&b=5435601>.
- ⁶⁹ Bruno Henry de Frahan and Mark Vancauteran, "Trade Policy, Competition and Productivity: The Impact of EU Harmonization in the Dutch Food Processing Industry," *De Economist* (2010): 1, accessed March 17, 2014, <http://link.springer.com.proxyau.wrlc.org/article/10.1007%2Fs10645-011-9171-8>.
- ⁷⁰ Hansen-Kuhn, *Trade Secrets-Draft EU*.
- ⁷¹ Hansen-Kuhn and Suppan, *Promises and Perils of the TTIP*, 16. Barker, *Letter to the Office*.