

Mr. Douglas Bell
Chairman, Trade Policy Staff Committee
Office of the U.S. Trade Representative
600 17th Street NW
Washington, DC 20508

Trade Policy Staff Docket #USTR-2013-0019

May 10, 2013

Dear Mr. Bell:

On behalf of Food & Water Watch, a national consumer advocacy organization headquartered in Washington, DC, and our 500,000 members and supporters, I am submitting the following comments in response to the April 1, 2013, Federal Register “Request for Comments Concerning Proposed Transatlantic Trade and Investment Agreement.” Food & Water Watch is opposed to the Transatlantic Trade and Investment Partnership (TTIP) and we urge you to cease negotiations on the TTIP. At a minimum any pursuit of TTIP negotiations should carve out the issues outlined below, as well as other public interest protections, to ensure public and environmental health and social well being.

Because of the generally low tariffs between the U.S. and EU, the TTIP will focus on regulatory and non-tariff issues. Because of this focus, the proposed TTIP would not only undermine the ability of the federal, state and local governments to determine what laws they wish to establish to protect their citizens. In addition, standards established within the European Union (EU) will be undermined as well. The TTIP would also constrain federal, state and local as well as EU governments’ ability to strengthen consumer protections. Any trade deal that undermines these protections is unacceptable.

Moving forward with the TTIP would weaken standards both here and in the EU, seeking the lowest common denominator that will jeopardize the safety of our environment and the food we eat, and could undermine efforts to rebuild local food systems across the United States. The TTIP would also raise the risk of local communities losing control of their water resources to EU based corporations looking to lease U.S. municipal water systems. Adoption of the TTIP would also undermine domestic regulations on the financial services industry, especially rolling back the much-needed advances made under the Dodd–Frank Wall Street Reform and Consumer Protection Act.

The regulatory convergence and harmonization proposed under the TTIP is especially troubling to Food & Water Watch because it will undermine the application of the precautionary principle to protect consumers and the environment from emerging threats, especially in relation to new and emerging technologies. The EU use the precautionary

principle in different regulatory areas to ensure that new technologies, pharmaceutical products or food additives or processes can demonstrate that they are affirmatively safe before they are approved. The United States has largely failed to incorporate the precautionary principle into our regulatory system, a critical gap that could be made worse by the pressure to harmonize standards. International trade deals like the World Trade Organization have historically turned this sensible principle, based on how to deal with uncertainty in the face of potentially irreversible impacts, on its head, and required governments to irrefutably prove demonstrable harm from new products in order to safeguard public health. The precautionary principle should be the rule, not the exception, used to assess many new technologies including nanotechnology, cloning and genetically engineered animals and crops.

Liquefied Natural Gas Exports/ Hydraulic Fracturing

Opening a new free trade agreement between the United States and the EU would drive pressure to drill for shale gas in the United States. for shipment to the EU as liquefied natural gas (LNG). U.S. shale gas developments are being exploited using the inherently dangerous method of hydraulic fracturing. Thus, an increase in demand for LNG by the EU would push the use of this dangerous practice in the United States.

Of the ten countries with the largest LNG imports in 2011, four are members of the EU. Those four countries (the United Kingdom, Spain, France and Italy) accounted for 22 percent of global LNG imports.¹ Approval of the TTIP would open up a large market for LNG exports from the United States that would exacerbate the hazards of hydraulic fracturing here in the United States.

Already, our domestic oil and gas industry has rushed forward without adequate oversight and local communities have suffered the consequences.

For example, natural gas fracking extraction emits greenhouse gases, smog-inducing compounds and potential carcinogens causing dangerous health and environmental effects. A 2011 Cornell University study found that shale gas has a greater greenhouse gas footprint than conventional gas or oil.² Methane released by fracking is also highly flammable and a serious safety hazard. Methanol, formaldehyde and carbon disulfide are known hazardous air pollutants found near fracking sites. Texas regulators found that air samples contained high levels of neurotoxins and carcinogens such as airborne benzene near wells in the Barnett Shale. Some of the airborne pollutants from fracked gas wells, like volatile organic compounds, can react with sunlight to create smog. Air pollution is already evident in areas near unconventional drilling sites in Colorado, Texas and Wyoming. Sublette County, a rural Wyoming community with a high concentration of gas wells, has recorded higher ozone levels than those in Houston and Los Angeles.

¹ International Gas Union. *World Gas Report 2011*. 2012 at 11.

² Howarth, Robert W. et al. "Methane and the greenhouse-gas footprint of natural gas from shale formations: A letter." *Climatic Change*. Vol. 106, iss. 4. June 2011 at 679.

The rapid increase in fracking wells has also polluted drinking water supplies and waterways. The wells can experience a rupture or blowback under tremendous pressure, spilling chemical-laden water into surface water or groundwater. Natural gas and chemicals can migrate into aquifers and wells. In fact, the public interest media group ProPublica identified more than 1,000 cases of water contamination near drilling sites documented by courts, states and local governments around the country prior to 2009.³ Affected communities include Pavillion Wyoming; Dimock, Pennsylvania; Garfield County, Colorado; and Parker County, Texas.⁴

This is potentially very dangerous to human health. Three recent studies have documented the human health risks from commonly used chemicals in fracking fluids, including diesel fuels and benzene, a known carcinogen. The methane itself can also present a health hazard because when methane saturates drinking water wells, a home's tap water can become explosive. A 2011 Duke University study demonstrated that groundwater near fracking operations has higher methane concentrations.⁵ If methane can migrate, it is likely that other chemicals can as well.

All of these dangers to public health will only increase with the approval of the TTIP. Under current law, companies seeking to export liquefied natural gas (LNG) must obtain authorization from the U.S. Department of Energy (DOE). Applications for authorization to export do not typically specify the importing country. Rather, there are two tracks. Applications for authorization to export to countries with which the United States has a Free Trade Agreement (FTA) are effectively rubber-stamped. However, before authorizing companies to export LNG to countries with which there is no FTA, the DOE must first determine whether the proposed exports would be inconsistent with the public interest. Of course, this is a lower bar than having companies demonstrate that their proposed exports would actually be in the public interest. If the proposed exports are deemed not inconsistent with the public interest, then DOE is required to authorize the exports. Again, the importing country need not be specified in the application, and it may or may not be a factor in DOE's determination. The DOE considers economic, energy security, and environmental impacts as factors in each application, but with each factor there is a risk of a narrow review. Approval of TTIP would thus make shipments to EU member countries much more attractive and would increase the pressure to expand hydraulic fracturing for shale gas across the United States.

³ Lustgarten, Abrahm. "Buried Secrets: Is natural gas drilling endangering U.S. water supplies?" *ProPublica*. November 13, 2008.

⁴ Clayton, Mark. "Fracking for natural gas: EPA hearings bring protests." *Christian Science Monitor*. September 13, 2010; Mouawad, Jad and Clifford Krauss. "Dark side of natural gas." *The New York Times*. December 8, 2009; Harman, Greg. "Fracking's short, dirty history." *San Antonio Current*. January 5, 2011-January 11, 2011; Loftis, Randy Lee. "EPA: 2 homes at risk of explosion." *Dallas Morning News*. December 8, 2010.

⁵ Osborn, Stephen G. et al. "Methane contamination of drinking water accompanying gas-well drilling and hydraulic fracturing." *Proceedings of the National Academy of Sciences*. April 14, 2011 at 1.

Already under the North American Free Trade Agreement, we have seen the oil and gas industry sue a subnational government for damages because of a moratorium on the process of hydraulic fracturing. Under the TTIP this scenario will be more frequent as both EU-based companies seeking to drill in the U.S. and U.S. companies seeking to drill in the EU would be able to sue governments that have halted hydraulic fracturing.

It is also important to note that the supposed economic benefits of expanding exports of LNG, such as those contained in the 2012 LNG Export Study by the Department of Energy's Office of Fossil Energy produced, do not exist. The study suggests that any net economic benefits will not be enjoyed by a majority of the American public, stating in the executive summary that those Americans who rely on income from wages (as opposed to investment dividends, for example) "might not participate in these benefits."⁶ The study further acknowledges that LNG exports will mean higher natural gas prices for American consumers and notes "In fact, most of the changes in real worker compensation are likely to take the form of lower than expected real wage growth, due to the increase in natural gas prices relative to nominal wage growth."⁷ Thus, working families already struggling to make ends meet will only be further hurt by adding a vast new market for LNG exports that will drive up their energy costs.

Food Safety and Labeling: Sanitary and Phytosanitary Issues and Technical Barriers to Trade

Food & Water Watch believes that every nation has the right to establish food safety and food labeling laws that meet the needs of their citizens to ensure every consumer has access to safe and nutritious food. International trade agreements should not trump food safety and food labeling laws. After nearly a quarter century of corporate-driven globalization, every effort to "harmonize" or achieve "regulatory coherence" in the food safety arena has reduced protections for consumers and endangered public health. The harmonization process has weakened food safety standards to the lowest-common denominator of the trading parties. For the United States and the EU, the proposed TTIP and the demands by both parties would serve to weaken the best standards instead of strengthening the weaker standards.

The TTIP must carve out all sanitary and phytosanitary measures designed to ensure food safety and prevent harmonization efforts from attacking food safety and other consumer labels that provide necessary and publically supported consumer information as technical barriers to trade. Countries should have the right to not only set food safety and labeling standards but also to ensure that all imported foods meet those standards through rigorous import inspection, as well as government inspection and/or government certification of food production and exporting facilities. At a minimum, any effort to address these vital

⁶ National Economic Research Associates. *Macroeconomic Impacts of LNG Exports from the United States*. December 2012 at 2.

⁷ NERA at 9.

issues should ensure that no food safety regulation, rule or policy could be weakened through the TTIP negotiations.

Food & Water Watch opposes the efforts by the United States and the EU to use the cloak of the TTIP to unravel the food safety standards of the other parties either through negotiation or trade dispute resolution. Both countries have already expressed interest in pursuing regulatory harmonization efforts that would significantly weaken the other party's food safety and labeling regimes.

The EU has targeted several important U.S. food safety measures targeted for weakening under the negotiations. The EU is seeking to overturn the U.S. ban on the import of cattle and cattle products from the EU.⁸ The United States bans the import of feed ingredients that include ruminant materials that are known to transmit Bovine Spongiform Encephalopathy, commonly known as mad cow disease.⁹ The EU and its member states' policies governing the use of ruminant materials in livestock feed are insufficiently stringent and inconsistently applied to prevent BSE contamination, but the EU is already considering relaxing its ineffective measures which would certainly increase the risk of BSE contamination and transmission.¹⁰ The United States must not bow to EU pressure and weaken its stronger protection against mad cow disease in the U.S. cattle herd.

Second, the EU has identified the regulatory approach and structures now contained in the Food Safety Modernization Act (FSMA) including certification of imports, increased food safety standards, certification of exporting facilities and increased import inspections as potential targets of downward harmonization.¹¹ FSMA was enacted to address significant lapses in food safety oversight at processing plants, border inspections and overseas manufacturing, production and export facilities that exposed U.S. consumers to repeated foodborne illness outbreaks and exposure to chemical and pharmaceutical adulterants that are illegal under U.S. law.

These measures are necessary to increase oversight of an increasingly globalized and deregulated food system. The flow of imported food products has skyrocketed over the past two decades without the capacity or infrastructure for U.S. food safety regimes or inspectors to ensure that these imports do not pose a hazard for U.S. consumers. The role of federal inspectors to provide independent oversight to ensure consumer safety through border inspection, foreign facility inspection and export certification must not be compromised as part of any trade negotiations. Although the regulations to implement the import safety provisions are still being developed, Food & Water Watch believes that

⁸ ECORYS Nederland BV. "Non-Tariff Measures in EU-US Trade and Investment—An Economic Analysis." OJ 2007/S 1980-219493. December 11, 2009 at 80.

⁹ 73 Fed. Reg. 81. April 25, 2008.

¹⁰ International Forum for Transmissible Animal Diseases and Food Safety. "TAFS Position Paper on Relaxation of the Feed Ban in the EU." 2010.

¹¹ European Commission. United States Barriers to Trade and Investment Report for 2008. July 2009 at 41; ECORYS at 81.

these measures must be carved out from any trade negotiations with the EU or any other potential trade negotiation partners.

Third, Food & Water Watch is particularly concerned that the TTIP will be a backdoor mechanism to impose privatized meat inspection on the United States. Currently, the U.S. Department of Agriculture is considering a proposal that would replace government inspectors with inspection by poultry company employees, a deregulation that has been operating under a pilot program at two-dozen poultry processing and five hog slaughter plants since 1998.¹²

Privatized food inspection creates disincentives for company “inspectors” to ensure that no food that could compromise human health enters the food supply. Food & Water Watch found that company inspectors approved some chickens with infectious conditions and fecal contamination and that nearly a third of the company-approved chickens had blisters, bruises, sores and scabs that do not live up to USDA’s standard of wholesomeness.¹³ The privatized inspection pilot plants also have considerably higher line speeds – from 35 birds per minute in traditionally inspected plants to up to 175 birds per minute – which contributes to significantly higher levels of injury among poultry workers.¹⁴ To accommodate higher line speeds, poultry plants rely on much higher levels of chemical treatments to prevent contamination on the birds that race by processing workers and inspectors, which can further compromise workplace safety.¹⁵

Trade agreements have already sought to establish equivalence between private inspection and government inspection regimes. The USDA has granted Australia’s and New Zealand’s privatized meat inspection systems equivalence status, but already Australia’s meat exports to the United States have had a sharp increase in the number of border rejections because of fecal contamination.¹⁶ European meat inspectors have informed Food & Water Watch that the European Food Safety Agency (EFSA) is considering adopting a privatized system for pork inspection that would be similar to the USDA pilot for poultry. The United States cannot use a pilot program to justify recognizing any future privatized meat or poultry inspection systems for the entire EU. These company inspections threaten workers and consumers and must not be part of any regulatory harmonization under the proposed TTIP.

At the same time, the United States has been aggressive in targeting foreign food safety and labeling regimes as barriers to international trade. The United States has committed

¹² 77 Fed. Reg. 81. April 26, 2012.

¹³ Food & Water Watch. “Privatized Poultry Inspection: USDA’s Pilot Project Results.” March 7, 2012.

¹⁴ Coalition letter to USDA Secretary Tom Vilsack on HACCP-based Inspection Model Project. September 20, 2012.

¹⁵ Kindy, Kimberly. “At chicken plants, chemicals blamed for health ailments are poised to proliferate.” *Washington Post*. April 25, 2013.

¹⁶ Food & Water Watch letter to USDA Secretary Tom Vilsack. January 2, 2013.

to “ambitious ‘SPS-plus’” negotiations in the TTIP that would highlight the U.S. approach to weakening other countries health and safety laws and rules.¹⁷

The EU is a frequent target of the USTR’s efforts to undermine food safety and food labeling laws. The majority of European consumers are opposed to genetically engineered crops and foods, according to a 2010 survey.¹⁸ The EU’s reluctance to approve genetically engineered crops and food for commercialization and import is a high-priority target for the United States, even after a protracted dispute at the World Trade Organization (WTO).¹⁹ Even while the WTO was considering the dispute, the USTR demanded that the United States “get the access that we think we’re entitled to in the EU market” for biotech crops.”²⁰

In 2006, the WTO ruled that the “undue delay” in the EU’s approval process for 24 biotech crop varieties from 1999 to 2003 constituted a *de facto* biotech moratorium that was inconsistent with WTO rules.²¹ It also ruled that individual EU member state bans violated trade rules and were unjustified without adequate risk assessments.²² The ruling did not prohibit the EU from applying its own standards and laws, including restricting biotech crop approvals, provided that the rules were implemented properly. Despite the limited and theoretical ability of countries to regulate GE crops, the WTO’s biotech decision was another attack on the right of countries to ensure food safety and protect the environment. Food & Water Watch believes that the EU approach to GE crops and foods is more sensible than the pro-biotech approach of the U.S. government. The TTIP negotiations must allow each party to adopt the oversight and regulatory approval process for genetically engineered crops, animals and foods that its citizens demand.

The United States has also targeted several EU rules that prohibit chemicals, additives or veterinary treatments that are commonly used in the United States but have not been approved in the EU for animal and human health and safety reasons. The United States has targeted the EU’s refusal to approve a number of chemical pathogen reduction procedures for poultry products and pork produced with the feed additive ractopomine.²³

U.S. poultry plants often use chemicals to reduce the pathogen load on poultry rather than ensuring that each bird is clean and free of potentially contaminating bodily fluids or organs. The USDA sanctions the use of chlorine, tri-sodium phosphate (that is normally used to clean cement) and hypobromous acid (that is used to clean swimming pools) to

¹⁷ “Ag issues visible and hidden in U.S.-EU negotiations.” *Hagstrom Report*. February 15, 2013.

¹⁸ “Biotechnology Report.” Special Eurobarometer. European Commission. 2010 at 18.

¹⁹ Office of the United States Trade Representative. 2013 Report on Sanitary and Phytosanitary Measures. March 2013 at 43 to 45.

²⁰ Allgeier, Peter and Susan Schwab. Deputy U.S. Trade Representatives. World Trade Organization (WTO) Ministerial press conference transcript. December 17, 2005.

²¹ WTO. “European Communities – Measures Affecting the Approval and Marketing of Biotech Products.” Report of the Panel. WT/DS291/R, WT/DS292/R, WT/DS293/R. September 29, 2006 at 1068.

²² *Ibid.* at 1069.

²³ USTR 2013 Report on SPS Measures at 46 to 47.

treat poultry for Salmonella and sterilize feces that might still be on carcasses because the production line speeds are too excessive and the feces cannot be visually detected. The EU should be allowed to reject food that has been treated with harsh chemicals that may pose food safety risks to consumers.

The U.S. pork industry widely uses the feed additive ractopamine to increase growth and profits – averaging 10 percent more meat and \$2 more revenue per hog.²⁴ Livestock treated with ractopamine can suffer significant adverse health effects. The U.S. Food and Drug Administration (FDA) received over 200,000 reports of adverse effects of ractopamine in pigs since the drug’s approval, far outpacing those for any other livestock drug. Livestock producers reported pigs treated with ractopamine experiencing “hyperactivity, trembling, broken limbs, inability to walk and death.”²⁵ Because ractopamine is fed to livestock in the last few weeks before slaughter, residues of the drug are left behind in the animal’s meat.²⁶ The EU has not approved ractopamine because the human studies on ractopamine were inconclusive, included too few subjects, and failed to address subpopulations like children who might be more vulnerable to ractopamine’s effects.²⁷ These concerns were sufficient for the EFSA to determine that ractopamine has not yet been proven safe for consumers.²⁸

Food & Water Watch believes that food safety rules should be entirely exempt from the purview of international trade agreements. Countries should be free to adopt measures that ensure the safety of food at a level demanded by their citizens without foreign governments unraveling their hard won consumer protections. The EU’s precautionary approach to food safety, endocrine disruptors such as bisphenol A, genetically engineered crops and emerging technologies such as nanotechnology provides needed safeguards for consumers and the environment and is an approach that should be adopted by the United States not attacked as an illegitimate trade barrier.

Local Food Procurement

The TTIP could undermine a significant national movement to develop a marketplace for local and regional foods. Consumer demand for locally produced foods has been growing rapidly in recent years.²⁹ This effort has focused largely on leveraging local, state and federal procurement dollars to increase the aggregate demand for locally farmed crops and livestock and value-added production of local foods. The EU’s draft negotiating mandate for the TTIP includes a demand for “enhanced mutual access to public

²⁴ Bottemiller, Helena. “Dispute over drug in feed limiting U.S. meat exports.” *NBC Business. The Food and Environment Reporting Network*. January 25, 2012.

²⁵ *Ibid.*

²⁶ *Ibid.*

²⁷ European Food Safety Authority. “Safety evaluation of ractopamine. Scientific Opinion of the Panel on Additives and Products or Substances used in Animal Feed (Question No EFSA-Q-2008-433).” *The EFSA Journal*. Vol. 1041. April 2009 at 2.

²⁸ *Ibid.* at 3.

²⁹ USDA. “Know Your Farmer, Know Your Food Compass.” 2012 at 10.

procurement at all administrative levels (national, regional and local)” and “address barriers having a negative impact on each others’ public procurement markets, including localisation requirements.”³⁰ In a February 2013 speech, then-U.S. Trade Representative Ron Kirk favored “new disciplines in emerging areas that have confronted trade” including the “increasing use of localization measures as barriers to trade.”³¹

Most local foods policies are implemented at the local level through programs to encourage the procurement of local foods at public institutions. These “farm-to-school” and “farm-to-cafeteria” programs at hospitals, universities, government offices and facilities and, most significantly, primary and secondary school systems increase demand for locally produced foods, increase the supply of fresh and nutritious foods for underserved populations, conserve farmland from real estate development and generate economic activity and jobs for local communities.³² The increased economic activity surrounding local foods multiplies economic activity by providing higher earnings for farmers and these producers are more likely to buy and buy more from local businesses.³³ Already, local food generates \$5 billion in sales that supports more than 65,000 jobs.³⁴

Some observers believe that any government procurement provisions of the TTIP would most likely be limited to national or federal procurement, but many of the programs that foster local food systems are applying federal programs that leverage state or local government local food programs. The largest of these is the U.S. Department of Agriculture’s Farm to School program, which included over 2,000 schools in 2009.³⁵ Each year, USDA provides \$5 million to local school districts to plan and implement farm-to-school programs.³⁶ The Department of Defense often helps procure foods for local school districts and local produce comprises 15 to 20 percent of purchases.³⁷

Other federal programs include grants to plan and implement local food system projects to increase access to fresh foods for lower-income people³⁸ and promote local foods with annual grants to coordinate, train, advertise and develop farmers markets.³⁹ Federal nutrition programs dedicate a portion of their funding to allow seniors and women with young children to supplement their diets with fruits and vegetables from farmers markets, roadside stands and community supported agriculture; 20,000 farmers, 4,000 farmers

³⁰ European Union. Text of EU Draft Mandate. Com(2013)136 final. March 3, 2013 at Annex para. 17.

³¹ Office of the U.S. Trade Representative. Transcript of Press Briefing by USTR Ambassador Ron Kirk and Deputy National Security Advisor Mike Froman on U.S.-EU Trade Negotiations. February 13, 2013.

³² USDA. “Know Your Farmer, Know Your Food Compass.” 2012 at 13 to 16.

³³ Martinez, Steve, et al. “Local Food Systems: Concepts, Impacts, and Issues.” USDA Economic Research Service. ERS Report 97. May 2010 at 43, 45.

³⁴ Johnson, Renee, et al. “The Role of Local Food Systems in U.S. Farm Policy.” Congressional Research Service. March 12, 2013 at Summary; USDA. “Know Your Farmer, Know Your Food Compass.” 2012 at 11.

³⁵ Martinez et al. at 14.

³⁶ USDA Farm to School Program. “Farm to School Grant Program.” March 21, 2013.

³⁷ USDA Farm to School Program. “Fact Sheet: Using DoD Fresh to Purchase Fresh Produce.” Undated.

³⁸ Martinez et al. at 35.

³⁹ *Ibid.* at 37.

markets and 3,000 roadside stands participate in these programs.⁴⁰ The federal government also provided technical support and funding to allow Supplemental Nutrition Assistance Program recipients to use their benefits cards to purchase food at farmers markets.⁴¹ USTR must ensure that these local food programs are carved out from any federal, state or local procurement provisions in the TTIP.

Water Privatization

The TTIP could facilitate the privatization of key public services like water and wastewater treatment systems. The EU's draft negotiating goals seek to "bind the existing level of liberalization of both Parties the highest level of liberalization captured in existing" trade agreements on services.⁴² The EU has long aggressively pushed to include service sector liberalization demands for the privatization of water services. Services trade liberalization threatens the ability of local communities to control their water utilities, demand local control of water services, resist privatization efforts from foreign water companies and to restore public control of water services.

Private water services have been a failed experiment in the United States and worldwide. Private companies invest too little in maintenance and upkeep of expensive and often deteriorating older water systems and often significantly reduce staffing levels, which leads to predictable service disruptions, water quality problems that threaten public health and environmental damages from wastewater spills.

Moreover, the alleged efficiencies and lower prices have failed to materialize from privatized water systems. A 2009 Food & Water Watch study of public and private water systems in 22 states found that private water rates were up to 80 percent higher than public water rates and were 29 percent higher on average.⁴³ Private companies also tend to limit universal access to water services by avoiding expanding services to lower-income neighborhoods where water use is lower and bill collection problems reduce profits.⁴⁴

Many of the companies operating private water services in the United States are European and these companies have been involved in the most controversial water privatization efforts. Many communities have brought their water systems back under public control after their experience with foreign water companies. Lee County, Florida

⁴⁰ USDA Food and Nutrition Service (FNS). "Senior FMNP." June 2012; USDA FNS. "WIC FMNP." April 2012.

⁴¹ USDA FNS. "Fiscal Year (FY) 2012 Funding To Increase Farmers' Market Participation in the Supplemental Nutrition Assistance Program (SNAP)." Memo to Regional SNAP and Field Operations Directors. May 2, 2012 at 1.

⁴² European Union. Text of EU Draft Mandate. Com (2013)136 final. March 3, 2013 at Annex para. 14.

⁴³ Food & Water Watch. "Money Down the Drain: How Private Control of Water Wastes Public Resources." 2009 at 5.

⁴⁴ Boland, John J. "The business of water." *Journal of Water Resources Planning and Management*. Vol. 133, no. 3. May/June 2007 at 189 to 191.

brought their water and sewer systems back under public control in 2000 after a 5-year contract with the British company Severn Trent failed to maintain the water system; the county invested \$8 million to restore the system to the condition it was in when the contract was signed.⁴⁵ In 2003, Atlanta canceled a contract with United Water (a subsidiary of the French company Suez Environment) after it amassed a backlog of 14,000 work orders and failed to deliver half of the promised savings.⁴⁶ In 2010, Indianapolis terminated a contract with the French company Veolia a decade before it was due to expire after consumer complaints about overbilling, a contract amendment that cost the city \$144 million and concerns about reduced staffing, maintenance and water quality testing.⁴⁷

As the United States slowly recovers from the economic recession, the inflated promises of the private water companies are increasingly alluring to cash-strapped municipalities. Most water system leases or contracts offer the cities, counties or utility districts upfront payments or concessions that appear to be an almost irresistible financial lifeline for local governments. But most cities do not achieve the promised savings. Instead the local governments are saddled with high annual payments to the private companies, consumers pay considerably higher water rates and the systems deteriorate with less attention to maintenance. The United States must carve out all essential public services, like water and wastewater services, from the TTIP and ensure that local governments and utilities districts have the right to change vendors, cancel contracts or re-establish public water services provisions without any retaliation, sanction or financial penalties.

Financial Services Reform and Dodd-Frank

The USTR should prevent the TTIP from undermining or weakening the landmark Dodd-Frank Wall Street Reform and Consumer Protection Act that addressed systemic risk to the financial system by restoring sensible provisions to reduce excess speculation,

⁴⁵ Melsek, Lee. "Audit questions savings." *Fort Myers News-Press*. September 29, 2000; Melsek, Lee. "County ends privatization of water, sewer, returns operations to staff." *Fort Myers News-Press*. October 18, 2000; Association of Metropolitan Sewerage Agencies and Association of Metropolitan Water Agencies. "Evaluating Privatization II: An AMSA/AMWA Checklist." 2002 at 28.

⁴⁶ Roberts, Kristin. "US water privatization effort trips in Atlanta." *Reuters*. January 23, 2003; Chertoff, Larry. "US private firms shrink from weak deals." *Global Water Intelligence*. August 2003; City of Atlanta, Georgia. "A resolution authorizing the mayor to execute on behalf of the city, a mutual dissolution agreement with United Water Services Unlimited Atlanta LLC." 03-R0192. Approved by Mayor. March 11, 2003; Suggs, Ernie. "Council agrees to end water deal, rejects gag rule." *Atlanta Journal-Constitution*. March 4, 2003.

⁴⁷ Veolia Environment. U.S. Securities and Exchange Commission 2009 Form 20-F. April 19, 2010 at 172; *Jason Bond, et al. v. Veolia Water North America Operating Service LLC, et al.* Marion County Superior Court. (49D07-0804-CC-018081). January 23, 2009 at 7 to 11; The City of Indianapolis and the Department of Waterworks of the City of Indianapolis. "Sellers Disclosure Schedules." August 11, 2010 at 45; Murray Jon. "State begins informal probe of complaints by water users." *Indianapolis Star*. April 27, 2008; O'Shaughnessy, Brendan. "Water company awash in controversy." *Indianapolis Star*. October 7, 2005; Indiana Office of Utility Commissioner Counselor. "OCC's Proposed Order." Indiana Utility Regulatory Commission. (Cause No. 43645.) June 22, 2010 at 22.

especially in the futures and derivatives markets. Some EU officials have explicitly identified financial services liberalization and bringing the regulations that have been enacted to prevent another financial crisis as areas that should be brought under trade disciplines.⁴⁸

The EU has sought binding commitments to services sector liberalization at least to the level of current services trade deals. The Canadian financial services industry has informed U.S. banking regulators that the Dodd-Frank legislation “may contravene the NAFTA trade agreement.”⁴⁹ The market access provisions of the WTO General Agreement on Trade in Services could allow foreign countries to challenge provisions of Dodd-Frank that prevent or curtail certain risky financial services.⁵⁰

Food & Water Watch supports Dodd-Frank provisions that restore sensible protections to the futures, derivatives and options markets that prevented excess Wall Street speculation in agricultural markets. During 2008, commodity speculation contributed to rising food prices and a global food crisis.⁵¹ The Federal Reserve Bank of St. Louis documented that the “massive” growth in agricultural derivative trading “far outstrips the growth in commodity production and the need for derivatives to hedge risk by commercial producers and users of commodities.”⁵²

The Dodd-Frank legislation aimed to restore three important measures that are essential to prevent excess speculation in agricultural and energy commodity markets. The regulations to implement the law are still being promulgated, but measures to curb the volume of investment money in agricultural and other physical commodities markets and limit exemptions to legitimate end users of these physical commodities are essential to preventing investment money from distorting agricultural markets. Additionally, it requires that all trades occur on regulated exchanges to create transparent markets for all participants, provide regulatory scrutiny for all trades and ensures that all trades have the same level of collateralized margin requirements. These measures should be promptly implemented to convey the spirit and letter of the Dodd-Frank Act. The USTR should carve out this important law and other financial services regulations that protect consumers, investors and the economy from international trade negotiations.

⁴⁸ “EU pushes to include financial services regulations in FTA with U.S.” *Inside U.S. Trade*. May 3, 2013.

⁴⁹ Morgenson, Gretchen. “Barriers to change, from Wall St. and Geneva.” *New York Times*. March 17, 2012.

⁵⁰ Commission of Experts of the President of the UN General Assembly on Reforms of the International Monetary and Financial System. September 2009 at 38 to 39, 104 to 105.

⁵¹ Hernandez, Manuel and Maximo Torero. International Food Policy Research Institute. “Examining the Dynamic Relationship between Spot and Future Prices of Agricultural Commodities.” IFPRI Discussion Paper 00988. June 2010 at 18; Tang, Ke and Wei Xiong. Remnin University of China, Princeton University and NBER. “Index Investment and Financialization of Commodities.” January 2011 version at 27; Mayer, Jörg. United Nations Conference on Trade and Development. “The Growing Interdependence between Financial and Commodity Markets.” UNCTAD/OSG/DP/2009/3. No. 195. October 2009 at 22.

⁵² Basu, Parantap and William T. Gavin. “What explains the growth in commodity derivatives.” *Federal Reserve Bank of St Louis Review*. January/February 2011 at 37-38.

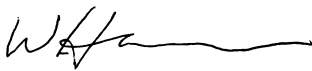
Conclusion

The pursuit of regulatory convergence and harmonization under the Transatlantic Trade and Investment Partnership will undermine precaution in favor of profit. At the same time it will undermine the ability of the citizens of the United States and the EU to democratically decide what laws and regulations they want to establish for their protection.

The TTIP would incentivize environmentally damaging domestic hydraulic fracturing by increasing demands for LNG exports to the EU while at the same time undermining governments' ability to regulate or ban the process. The effect of this would be to damage public health while increasing energy costs. The TTIP would also weaken food safety regulations in the EU while tying the hands of the United States, locking in low standards that will difficult to improve. It would jeopardize government programs that seek to procure local food for schools and other government entities, thus undermining efforts to rebuild local food systems. The TTIP would stop local efforts to keep public control of municipal water systems and allow EU based water companies to privatize these systems. And, it would undermine efforts to protect consumers from another financial crisis by weakening provisions of the Dodd–Frank Wall Street Reform and Consumer Protection Act.

The Transatlantic Trade and Investment Partnership would undermine efforts by both U.S. and EU governments to implement strong consumer and environmental safeguards. Consumer and environmental safeguards should not be undermined in pursuit of securing more profits for corporations. Again, we urge that at a minimum any pursuit of the TTIP should carve out the issues outlined above as well as other public interest protections that ensure public and environmental health and social well being. Food & Water Watch recommends, however, that the United States cease negotiations on the TTIP.

Sincerely,



Wenonah Hauter
Executive Director
Food & Water Watch