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EU Negotiators Want TAFTA to Ban "Buy Local" and Other U.S. Procurement Policies, Offshoring Our Tax Dollars and Undermining U.S. Job Creation

The Buy Local policies that create jobs by recycling tax dollars in our communities. The energy and climate policies needed to save our planet. The safety standards on which we rely daily for our food, medicines and cars. The new financial regulations designed to prevent banks from gambling with our money and creating another crisis. These are policies that should be determined in open, democratic venues where we have a say. But a group of the largest U.S. and European corporations want to rewrite these safeguards behind closed doors. For over a decade, they have pushed for a new U.S. "trade" deal with Europe – the Trans-Atlantic Free Trade Agreement (TAFTA), which corporate proponents have tried to rebrand as the Transatlantic Trade and Investment Partnership (TTIP) – a deal that would roll back consumer protections on both sides of the Atlantic. European Union (EU) and U.S. negotiators launched TAFTA negotiations in July 2013 and plan to finish the sweeping deal by 2014.

A "trade" deal only in name, TAFTA would require the United States and EU to conform government procurement programs, climate policies, financial laws and regulations, food and product safety standards, data privacy protections and other non-trade policies to TAFTA rules. This could include obligations for products and services that do not meet domestic standards to be allowed under processes called "equivalence" and "mutual recognition," or obligations to actually alter domestic U.S. and EU policies to conform to existing international standards or to new trans-Atlantic standards negotiated to be more convenient to business. These constraints on policy space would be binding. Failure to comply with TAFTA rules could result in trade sanctions. The pact would also newly empower foreign corporations to directly challenge public interest policies and demand taxpayer compensation in extrajudicial tribunals.

EU Negotiators' Goal: Gut U.S. Programs Fostering Local Job Creation, Reduced Carbon Emissions

A leaked EU position paper on TAFTA makes clear that the EU intends to use the agreement to roll back popular U.S. government procurement policies that ensure that government construction projects and purchases, funded by U.S. taxpayers, are used to create U.S. jobs. These localization policies can also help limit carbon emissions by promoting local sourcing. The European paper states as a goal to: "[e]nsure that rules on…domestic preferences such as, but not limited to, Buy America(n)…do not restrict procurement opportunities between the EU and the U.S." The paper lists specific U.S. states and cities being targeted for the elimination of policies that reinvest U.S. tax dollars at home.

Targets for Gutting U.S. Buy Local Policies
from Leaked EU Negotiating Document

TARGETED STATES		TARGETED CITIES			
Alabama	Alaska	Austin	Baltimore	Charlotte	Columbus
Georgia	Indiana	Denver	El Paso	Fort Worth	Houston
Nevada	New Jersey	Jacksonville	Los Angeles	Louisville	Memphis
New Mexico	North Carolina	Milwaukee	New York	Oklahoma City	Philadelphia
North Dakota	Ohio	Phoenix	Portland	San Diego	San Francisco
South Carolina	Virginia	West Virginia	San Jose	Seattle	Washington

Under this EU plan for TAFTA, U.S. policies that favor domestic companies for government contracts – job creating programs supported by 90 percent of U.S. Democrats, Republicans and independents – would be gutted with a Europe-sized loophole. If TAFTA would mimic the past "free trade" agreements on which it is being modeled, TAFTA's procurement chapter would require that all firms *operating* in any EU country be provided the same access as U.S. firms to U.S. government procurement contracts over a certain dollar threshold. To implement this "national treatment" requirement, the U.S. federal government and the states and cities listed by the EU would agree to not provide any preference to locally-produced goods and services and to treat all corporations doing business in the EU the same as local businesses.

Under a World Trade Organization (WTO) pact, the United States has already waived certain federal-level procurement policies for EU corporations. European negotiators want the United States to expand that waiver of the federal Buy American policy. But they are also seeking much more: the leaked European position paper bluntly seeks to access "sub-central" government contracts by rolling back state and local governments' Buy Local policies, used to prevent offshoring, stimulate local job creation and promote local sourcing. In fact, the EU explicitly names in the paper the 13 specific U.S. states and 23 U.S. cities it is targeting for the dismantling of Buy Local policies. See if your city or state is targeted in the table above.

The EU TAFTA procurement demands could also label as "illegal barriers" the environmental, human rights, and fair labor conditions that federal and state governments often place on procurement contracts. Requirements for recycled content in paper and other goods, or that energy come from renewable sources, could be exposed to challenge. TAFTA procurement terms could also restrict state and local governments' ability to disqualify companies from government contracts because of labor, safety or environmental records or practices, or because of the human rights or labor rights records of the countries in which they operate or are based. Policies requiring companies to agree to pay prevailing or living wages could also be challenged under TAFTA's procurement rules.

Investor Privileges: European Corporations Empowered to Directly Attack Buy Local Policies

U.S. and EU corporations and officials have called for TAFTA to grant foreign firms the power to skirt domestic courts, drag the U.S. and EU governments before extrajudicial tribunals, and directly challenge Buy Local, Buy Green and other procurement policies that they view as violations of TAFTA-created foreign investor "rights." The tribunals, comprised of three private attorneys, would be authorized to order unlimited taxpayer compensation for domestic policies perceived as undermining foreign corporations' "expected future profits." Such extreme "investor-state" rules have already been included in a series of U.S. "free trade" agreements, forcing taxpayers to pay firms more than $400 million for toxics bans, land-use rules, regulatory permits, water and timber policies and more. Just under U.S. pacts, more than $14 billion remains pending in corporate claims against medicine patent policies, pollution cleanup requirements, climate and energy laws, and other public interest polices. The EU is proposing an even more radical version of these rules for TAFTA, offering firms a new tool to roll back policies for local and ethical job creation.

Fast Track: Railroading Democracy to Railroad Safeguards?

How could a deal like TAFTA get past Congress? With a democracy-undermining procedure known as Fast Track – an extreme and rarely-used maneuver that empowered executive branch negotiators, advised by large corporations, to ram through unfair "trade" deals by unilaterally negotiating and signing the deals before sending them to Congress for an expedited, no-amendments, limited-debate vote. As a candidate, President Obama said he would replace this expired, anti-democratic process. But now he is asking Congress for Fast Track's extraordinary authority – in part to sidestep growing public and congressional concern about pacts like TAFTA. We must ensure that Fast Track never again takes effect and instead create an open, inclusive process for negotiating and enacting trade agreements in the public interest.

For more information, visit stop-tafta.org