



TAFTA: A Backdoor Plan to Roll Back Clean Energy Policies

[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 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 domestic climate and energy policies, financial 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 could also newly empower foreign corporations, including oil and coal companies, to directly challenge public interest policies and demand taxpayer compensation in extrajudicial tribunals.

The EU/U.S. TAFTA Agenda: Deregulation in Disguise

U.S. and EU TAFTA negotiators, advised by the world’s largest oil and coal corporations, have used coded language in pushing for TAFTA rules that could roll back critical climate and energy initiatives such as:

- **Energy efficiency labels:** To inform consumers who seek climate-friendly, energy-efficient products, the United States and the EU currently use voluntary energy efficiency labeling programs like the U.S. Energy Star and the EU Ecolabel. But the U.S. Trade Representative has [criticized “voluntary labeling programs relating to energy efficiency”](#) as creating “substantial trade barriers,” and has stated that TAFTA should “[seek to eliminate or reduce... unjustified technical barriers to trade.](#)” The proposed TAFTA constraints would be more onerous than those used by the World Trade Organization to [rule against the voluntary U.S. “dolphin-safe” tuna label](#) that has helped reduce dolphin deaths.
- **Fuel efficiency standards:** The [U.S.](#) and [EU](#) governments now are requiring automobile manufacturers to progressively boost fuel efficiency to meet emissions-reducing targets. But a leaked EU position paper reveals that EU negotiators are pushing for TAFTA to [eliminate such mandatory standards](#): “[Such standards ought in principle to be left voluntary](#), in order to allow sufficient flexibility for industry to choose the technical solution that best fits its needs.” That is, corporations should pick their own emissions standards.
- **Buy Green policies:** Leaked EU procurement demands reveal that TAFTA could impose “[disciplines](#)” on environmental requirements that federal and state governments include in procurement contracts. Requirements that taxpayer-funded, government-purchased products be made according to low-carbon standards or that government agencies purchase a share of renewable-source energy, for example, could be exposed to challenge under the deal.
- **Fracking regulation:** A leaked EU position paper [demands](#) that TAFTA require “the elimination of export restrictions” for “natural gas” and other fossil fuels. Indeed, if TAFTA were to take effect, due to a decades-old loophole, the U.S. Department of Energy could lose its authority to determine whether exporting natural gas to the EU – [the world’s largest natural gas importer](#) – is in the public interest. A resulting surge in natural gas exports could raise energy prices for U.S. consumers and ramp up the chemical-laden practice of fracking, threatening our air and water.

Corporations’ TAFTA Agenda: Deregulation without Disguise

European and U.S. oil, auto, airline and other corporations, in their [formal demands](#) issued to TAFTA negotiators, have been remarkably candid in naming the specific U.S. and EU climate regulations that they would like to see dismantled:

- **Tar sands oil:** To reduce greenhouse gas emissions of fuels used in road vehicles and non-road machinery, the [EU Fuel Quality Directive](#) sets reporting rules on fuel suppliers, including a requirement to report the lifecycle greenhouse gas emissions from supplied fuels. A proposed methodology for this lifecycle analysis would identify highly carbon-intensive fuel, such as that slated for shipment from Canadian tar sands to U.S. refineries, including potentially through the proposed Keystone XL pipeline. The American Fuel and Petrochemical Manufacturers, representing oil corporations such as Chevron and Exxon Mobil, [explicitly requested that U.S. negotiators use TAFTA to halt the proposed EU tar sands standard](#), arguing that it “constitutes a discriminatory action against U.S. refiners.” That is, TAFTA should foreclose the use of policies to fully measure and better control emissions while expanding trade in dirty fossil fuels. U.S. Trade Representative Michael Froman has [informed Congress](#) that in TAFTA negotiations, “we continue to press the [European] Commission to take the views of stakeholders, including U.S. refiners, under consideration...”
- **Auto emissions:** The EU and U.S. auto industries, represented by the American Automotive Policy Council and European Automobile Manufacturers Association, have stated that TAFTA negotiators (not the U.S. Congress and the EU Parliament) should have the power to create a new singular set of “environmental regulations.” They specifically recommend [changing domestic regulations in “tailpipe criteria pollutants,”](#) “diesel smoke,” and “real driving emissions” in a way that “could be beneficial for the industry.”
- **Appliance emissions:** The U.S. Association of Home Appliance Manufacturers states that TAFTA negotiators should draft rules [to ensure that hydrofluorocarbons \(HFCs\) – greenhouse gases with far higher climate change potency than carbon dioxide – are exempted from climate stability policies](#). “Banning the use of HFCs in domestic refrigeration would create an unnecessary obstacle to trade for U.S. exports to the European Union... A ban of HFCs in room air conditioners is also problematic.”
- **Airline emissions:** Airlines for America, the biggest U.S. airline industry association, has offered a list of ["needless regulations \[that\] impose a substantial drag on our industry"](#) – regulations that they hope can be dismantled via TAFTA. First on their list is the EU Emissions Trading Scheme, Europe’s central climate change policy, which required airlines to pay for carbon emissions. Airlines for America labeled the policy as a “barrier to progress,” asking that the program’s current temporary suspension be made permanent.
- **Alternative fuels:** BusinessEurope, representing European oil corporations such as BP, has asked that TAFTA be used to [ban U.S. climate initiatives](#) such as tax credits for alternative, climate-friendly fuels. In its formal comments on TAFTA, under the heading of “Climate change and energy,” the business conglomerate states, “US fuel tax credits and Cellulosic Biofuel Producer Credit should become impossible in the future.” The TAFTA-threatened tax credits incentivize producers to invest in algae-based and other emerging fuels that reduce carbon emissions.

Investor Privileges: Dirty Energy Corporations Empowered to Directly Attack Clean Energy 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 climate 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 the “expected future profits” of oil, gas, coal or nuclear firms. This is [not a hypothetical threat](#). Under NAFTA, firms have filed such cases against a renewable energy feed-in tariff and a moratorium on fracking. The Swedish Vattenfall corporation has launched such attacks on Germany’s regulation of coal-fired electricity plants and phase-out of nuclear energy, demanding billions in compensation. Such [extreme “investor-state” rules](#) have already been included in U.S. “free trade” agreements, forcing taxpayers to pay corporations 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 policies. The EU is proposing an even more radical version of these rules for TAFTA, offering firms a new tool to roll back climate policies.

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 to grant him 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