

# Preempting the Public Interest How TTIP Will Limit US States' Pesticide Protections



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The Trans-Atlantic Trade and Investment Partnership (TTIP) -- a giant free trade deal currently under negotiation between the United States and the European Union -- could threaten the continuing viability of U.S. state pesticide laws and regulations that are more protective than federal standards.

Specific threats in TTIP include:

- The primary objective of regulatory compatibility (“regulatory cooperation”)
- A private legal system just for corporations (Investor-State Dispute Settlement, or ISDS)

# Pesticide regulation in the United States

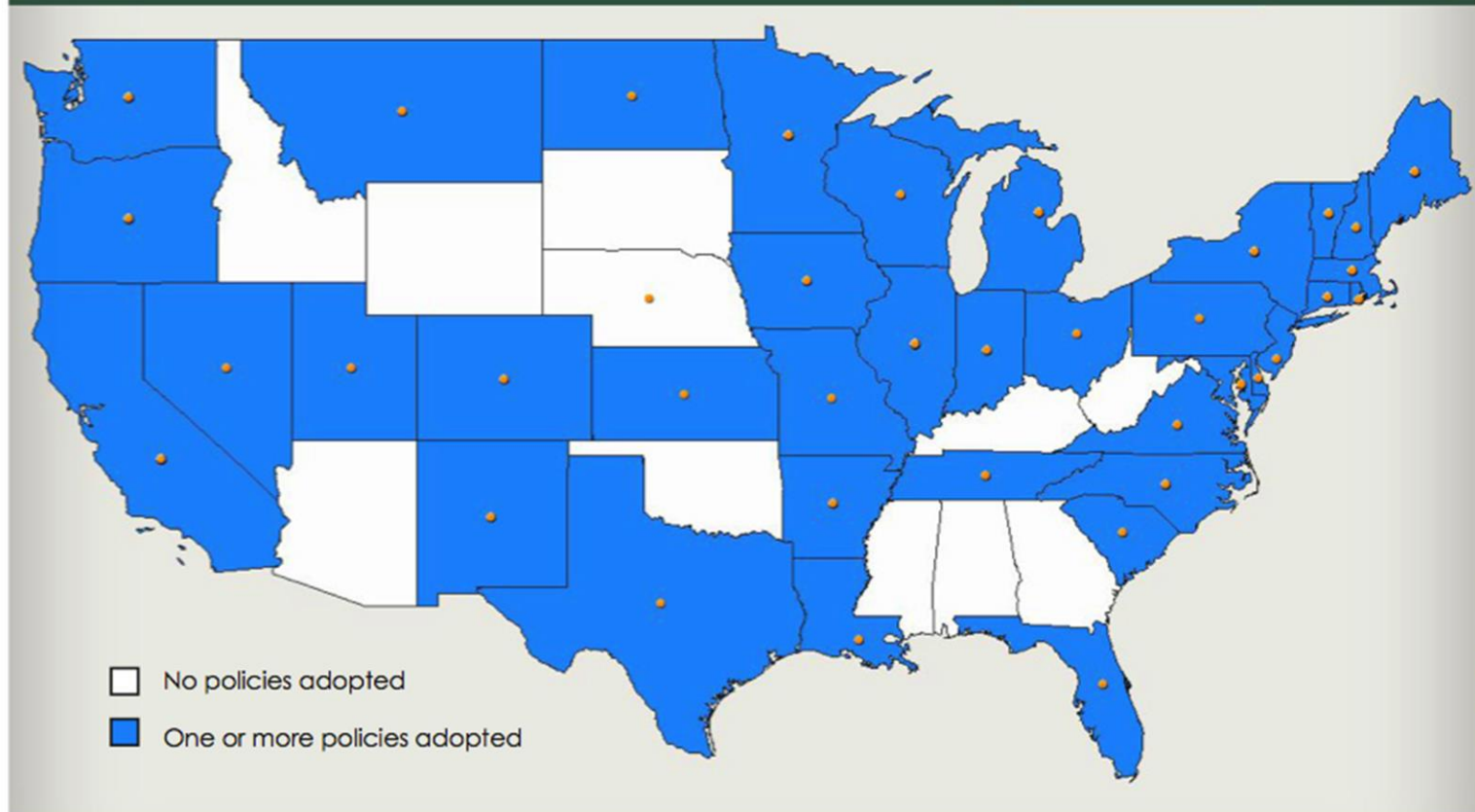
- New York State passed first pesticide law in the nation in 1898; many states acted before the federal government to regulate highly toxic pesticides and monitor pesticide residues on food crops.
- Under Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), states co-regulate pesticides with federal agencies, and can be more restrictive than federal law
- The U.S. Constitution also authorizes state action to protect public health and the environment - particularly when federal laws are ineffective or nonexistent.

# US states actively regulate pesticides, because US federal regulation is lax.

- EPA often allows a pesticide to enter the market pending approval – in other words, without health and safety evaluations.
- Many potentially extremely dangerous pesticides that are banned in other countries are marketed in the US
- For example 82 pesticides banned for use in the EU may be used in the US

# State Chemical Policies (including Pesticide Regulation)

BOX 1  
Map of State Chemical Policies



Source: Center for Effective Government ©

# NEONICOTINOIDS

- US states and localities have jumped into a void created by a lack of regulation at the federal level and started regulating bee-killing pesticides that threaten the food supply and ecological balance.
- **Minnesota, California, Oregon & Vermont** are among the states that have already taken action.

# Quiz

Question 1 of 1 ▾

Point Value: 1 | Total Points: 0 out of 1

**Which of these measures are pesticide laws adopted by US states?**

- Restricting how neonic insecticides are applied in order to protect bees
- Regulating pesticides containing a drug
- Requiring extra health and environmental impact data for certain pesticides
- Banning the use of certain dangerous pesticides
- All of the above

Submit

Click the  **Quiz** button to edit this quiz

# Regulatory Cooperation in TTIP

“Regulatory cooperation” threatens the continuing viability of US state and local pesticide laws and regulations that are more protective than federal standards, and threatens US consumers and the environment with increased exposure to toxics







Business groups openly state their interest in using TTIP to thwart state regulations

Regulatory cooperation would also inject foreign governments' concerns into domestic policies and procedures.

TTIP would institutionalize and promote such interference through the early warning system in the regulatory cooperation proposal.

The consequences could extend well beyond increased red tape and imposing new burdens on budget-strapped state agencies and legislatures.

Procedures intended to “harmonize” standards could result in setting federal and international minimum standards as the regulatory ceiling

- Regulatory Cooperation fails to recognize or preserve any right to regulate outside of federal government
- State standards that impose additional or different requirements on businesses will be reined in
- Pesticide requirements stricter than federal regulations, such as neonicotinoid restrictions, are threatened.

# Quiz

Question 1 of 1 ▾ Point Value: 1 | Total Points: 0 out of 1

**Regulatory cooperation would:**

- Limit US state authority to regulate by harmonizing laws between the EU and US and promoting international standards
- Recognize and protect the authority of US states to adopt stricter pesticide regulations than either the EU or US federal government
- Encourage the most protective pesticide standards in both the EU and US

**Submit**

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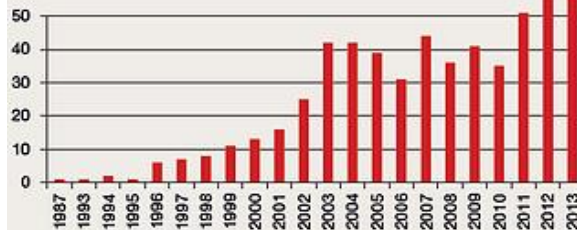
# TTIP will include a private legal system just for corporations

- Investor-State Dispute Settlement (ISDS) could be used to challenge existing or proposed state pesticide requirements that foreign corporations claim would reduce profits
- ISDS bypasses the courts and has been used repeatedly to attack environmental and public health measures including US state and Canadian provincial policies
- Even unsuccessful challenges take years to resolve, cost millions to defend and have a chilling effect on the development of new legislation

# By the Numbers

A numerical look at the ISDS regime

*Known ISDS cases, annual (1987-2013)*



Source: UNCTAD, 2014

In the *first 30 years* that the ISDS regime existed, just 50 cases were launched...

...but in the *last 3 years*, over 50 cases were launched **each** year.

**Tribunals can award corporations unlimited amounts of taxpayer money.**



*Under U.S. pacts alone...*

...governments have been ordered to pay over \$3.6 billion in compensation to foreign firms...



...and more than \$34 billion remains in pending cases.



Learn More at: [www.ISDSCorporateAttacks.org](http://www.ISDSCorporateAttacks.org)

# Quiz

Question 1 of 1 ▾ | Point Value: 1 | Total Points: 0 out of 1

**What is ISDS?**

- The system of pesticide regulation in the European Union
- A corporate arbitration system used to challenge regulations
- Another name for Regulatory Cooperation

**Submit**

Click the  **Quiz** button to edit this quiz



# *There is still time to affect the outcome of the US-EU negotiations on TTIP.*

- The Trans-Atlantic trade deal with the European Union is still being negotiated
- *Both regulatory cooperation and ISDS are extremely controversial in the European Union*
- If people in the US speak up and share their concerns, these provisions could be removed from TTIP, or the entire agreement could be stopped.

State and local policy will be directly and negatively impacted by TTIP.

State and local officials are not at the negotiating table, so its up to you to make your voices heard.

If you're not at the table, you're on the menu!



# Links to Resources & Further Reading

- Center for International Environmental Law, *Preempting the Public Interest* (September 2015):  
<http://www.ciel.org/reports/preempting-the-public-interest-how-ttip-will-limit-us-states-public-health-and-environmental-protections-sep-2015/>
- Center for International Environmental Law, *Lowest Common Denominator* (January 2015): [http://www.ciel.org/wp-content/uploads/2015/06/LCD\\_TTIP\\_Jan2015.pdf](http://www.ciel.org/wp-content/uploads/2015/06/LCD_TTIP_Jan2015.pdf)
- Institute for Agriculture & Trade Policy, *State's Leadership on Healthy Food and Farming at Risk Under Proposed Trade Deals* (November 2015):  
[http://www.iatp.org/files/2015\\_11\\_20\\_FoodFarmingLeadership\\_ST\\_1.pdf](http://www.iatp.org/files/2015_11_20_FoodFarmingLeadership_ST_1.pdf)
- National Caucus of Environmental Legislators, [www.ncel.net](http://www.ncel.net)
- National Conference of State Legislatures, [www.ncsl.org](http://www.ncsl.org)

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