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Title:	TTIP (Transatlantic Trade investments Partnership) and risks for European National Health Services		
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TTIP (Transatlantic Trade Investment Partnership) and risks for European National Health Services

There are ongoing negotiations between the European Union and the United States of America, known as the TTIP (Transatlantic Trade and Investment Partnership) for a free trade agreement and removal of trade barriers.

The European Commission negotiates on behalf of the EU and its 28 Member States and operates in accordance with the guidelines established by the Member States of the European Union. This negotiating mandate was agreed unanimously by all EU Member States.

The Directorate General for Trade of the Commission leads the negotiations and works closely with other Commission services. Since the beginning of the talks, in June 2013, negotiations continued every few weeks. The Council (the representatives of the Governments of the Member States) and the European Parliament are regularly involved in the negotiation process. However, there is not much information on the status of negotiations.

The negotiating parties aim at the removal of trade barriers, which would increase and facilitate the purchase and sale of goods and services and investment in each of the economies.

The agreement has three main elements:

- Access to the market: the removal of custom duties on goods and restrictions on services, thus ensuring better access to public markets and facilitating investments;
- Improving the regulatory coherence and cooperation, dismantling unnecessary regulatory barriers such as bureaucratic duplication;
- Improved cooperation in defining international standards.

On both sides of the Atlantic there are often different regulatory structures and traditions. These result in different regulations that sometimes make it much more difficult for companies to enter a foreign market. The EU puts the United States one condition: that we maintain the level of protection we have in Europe. This also applies to health, to the environment and to consumer protection. Hormones in meat are not allowed in the EU, for example, and the trade agreement will not change the situation. The regulatory alignment



and mutual recognition can only be guaranteed if there is a real convergence on standards of safety and environmental requirements.

One topic of discussion is that the state will deal with public companies (companies in which the state holds a majority share) in the same way as with the other companies.

Therefore, some problems emerge for the European health systems.

It is true that the free trade agreement explicitly excludes the liberalization of public services, and allows the EU to maintain monopolies for the provision of public services at all levels of government. But in many areas, the privatization of the delivery of health services and investment opportunities have been opened to foreign investors.

TTIP negotiators use a 'negative list' approach to determine which areas should be included in the treaty. This means that countries must explicitly indicate the services they wish to exclude. If health services are not explicitly excluded from the mandate of the EU, they could in theory - as well as education, social and cultural services - be recognized as 'sensitive' activities. However, the mandate of the European Commission for the TTIP clarifies that, while recognizing the sensitive nature of some sectors, the goal is to achieve the highest level of liberalization, covering all sectors and demolishing the remaining barriers to market access. There is no indication, so far, that health services should be treated as 'sensitive', or even the extent to which the sensitive sectors will be exempt from the provisions of TTIP.

We can already see some trends in the privatization of National Health Services, hence, the agreements for the TTIP should be approached with great caution.

The harmonization of standards of health and safety could mean the mitigation of public health measures governing the use of food labeling, pesticides, chemicals, the presence of hormones in meat production and so on. The EU generally has higher standards of health and safety regulations than the United States and such regulatory differences arise, in part, from the different methods of setting safety standards: the EU is using the precautionary principle (where tests are to demonstrate that substances are not harmful), while the United States adopt a more relaxed approach: something is safe until proven otherwise. To achieve convergence, it is likely that the standards currently set by the EU will have to be lowered.

Moreover, concerning what FEMS cares most: the United States have not implemented some of the most fundamental work rights proposed by the International Labour Organization (ILO), such as the right to freedom of association and to collective bargaining. This means that standardization across the EU and the United States would be able to bring European labour standards at the level of the United States, rather than improving American standards to the level required in the EU. It could, therefore, affect the standard of working of healthcare professionals with worrying implications for patients care.

Furthermore, the liberalization of investment could mean, for example, that when part of a health service is provided by staff from a different country, it would be more difficult to control the quality and qualifications of the personnel involved.

The TTIP chapter on intellectual property includes provisions that could undermine the protection of public health enshrined in the international commercial laws, giving pharmaceutical companies greater protection of patents for pharmaceutical products. A first effect of this would be a reduced access to generic medicines at affordable prices.

In addition, the TTIP can also have a negative influence on public procurements or negative implications for the equality of the right to health.



The mechanism for the resolution of disputes between the State and the investor (ISDS: Investor State Dispute Settlement) is one of the most controversial aspects of the agreement and many organizations are pushing for its removal.

It gives foreign investors the exclusive right of commercial arbitration as a means of influence.

If included in the contract, the ISDS will allow American companies that invest in the EU to sue the EU and the governments of the Member States directly, for millions of Euros, through an independent tribunal of three judges / business lawyers, if they feel that new laws or regulations interfere with their expected profits.

For example, Eureko, a multinational investor in health insurance, sued the Polish government after the revocation of a decision to sell shares of PZU, the Government owned health insurance company, on the stock market. PZU was originally wholly owned by the government until it sold 33% of its shares to Eureko, with the promise of a future further sale; therefore, it was expected that Eureko got majority control. However, the government annulled the decision and refused to sell additional shares. Eureko claimed compensation through arbitration in accordance with the Netherlands / Poland Treaty on investments and won € 1.8 billion, plus a commitment of the Polish government for the future privatization of PZU through the sale of shares. Safeguard clauses do not apply to investments for the simple maintenance of contracts, but they also limit the ability of governments to move services out of the public markets in which investors have substantial interests.

Experience suggests that the use of private companies to provide health services funded by the State can lead to an increase in costs and the disruption of services and on this basis, some countries (such as Finland) reconsidered some decisions. However, the inclusion of ISDS within TTIP could make it difficult for European governments to reverse the commodification of the NHS even if it proves to be a disaster.

For the Commission to involve stakeholders in the negotiation process of TTIP is of paramount importance. It has, therefore, launched a series of initiatives to encourage the flow and exchange of information.

The Commission has an intense dialogue with civil society. Events take place during and after each round of talks, involving several hundred civil society representatives. The last event was attended by about 700 representatives of trade unions, federations, organizations and non-governmental organizations for the protection of consumers. In addition to these dialogues, the Commission issued three public consultations on TTIP before the start of negotiations and is currently conducting one on the specific issues of investment protection.

In February 2014, the Commission established a new advisory group composed of 14 representatives of the different sectors: business, trade unions, consumers, environment, health, etc. These representatives will advise the Union's chief negotiator and will have access to a wide range of documents.

The Commission has published on its website complete information on all aspects of the negotiations, including the EU's negotiating positions and objectives.

As to the democratic control of the negotiations, TTIP is particularly strong at the end of the process, when the text negotiated by the Commission must be approved by EU member states in the Council and ratified by the European Parliament. Depending on the areas



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covered in the final agreement, the 28 national parliaments of the EU Member States may need to also approve the agreement.

It is, therefore, necessary that pressure groups ensure that national health services are effectively and explicitly excluded by the TTIP Treaty.

In April 2013, the chairman of the British Medical Association, Mark Porter, asked Lord Green, the Minister for Trade and Investment at the time, that health care be explicitly excluded from the negotiations.

Dr. Porter pointed out that in England the commercialization of health care would have a negative impact on patients and caregivers.

Failure to guarantee an exemption would cause, according to Porter, serious damage to the health of European citizens.

In response, Lord Green has explicitly stated that there is no connection between this deal and the health care reform of the British government and the further liberalization of health services is not a topic of these negotiations.

We should continue this kind of pressure.