**The position of Keep Our NHS Public (KONP)**

**on the Transatlantic Trade and Investment Partnership (TTIP)**

**Introduction**

The European Commission (EC) is currently negotiating a number of trade and investment agreements on behalf of EU member states, including

* the Comprehensive Economic and Trade Agreement (CETA) between the EU and Canada;
* the Transatlantic Trade and Investment Partnership (TTIP) between the EU and the USA; and
* the Trade in Services Agreement (TISA) between the EU and 25 other countries.

The different treaties raise many similar concerns, for example about national sovereignty, democracy, and the unnecessary inclusion of investment protection measures. In this position paper we focus specifically on the Transatlantic Trade and Investment Partnership (TTIP) and its implications for the NHS.

It is claimed that TTIP will bring increased trade, investment and jobs, although research suggests that, for the most part, the economic benefits have been exaggerated while the costs (such as job losses, lost tax revenue, and social costs) have been ignored.[[1]](#footnote-1)

There is growing opposition to TTIP from a range of civil society groups. KONP is an organisation campaigning to ensure that health services in the UK are publicly funded and provided through a National Health Service (NHS) that provides comprehensive health care free at the point of delivery to all who need it. As such, we are particularly concerned with the damaging effects that TTIP will have on public services, especially health and social care provision, and on the freedom of future UK governments to protect the health of the public.

**Key issues**

1. Until recently, the NHS was viewed as a non-economic activity. Being purely social in nature meant that it was protected from inclusion in trade agreements. However, following the Health and Social Care Act (2012), NHS services must be put out to competitive tender and are increasingly provided on a market basis. Consequently, NHS services will not be protected from TTIP but will be subject to most of its obligations.
2. TTIP includes an investor protection measure (currently Investor State Dispute Settlement or ISDS). This will give US-based corporations contracted to provide NHS services the right to sue the UK government for loss of profits if their future markets become affected by a change in government policy – even if this policy is in the interests of the public’s health. The fear of being sued under investor protection measures can also prompt governments to suppress future legislation - what is known as ‘regulatory chilling’.
3. Negotiators of TTIP are seeking to ‘harmonise’ regulations between the EU and US. This harmonisation would undercut many of the current and hard-won standards of regulation on health promotion or protection in the UK (e.g. concerning food labeling, and the safety of pesticides and chemicals).
4. ‘Harmonisation’ may also mean a general leveling down of labour standards, especially as the USA has not implemented some of the most fundamental labour rights set out by the International Labour Organisation, such as the rights to freedom of association and collective bargaining. This could have serious implications for the terms and conditions of work for those providing ancillary services to the NHS, as well as health care professionals.
5. TTIP will be a ‘living agreement’ that continues to evolve even after the treaty is signed through a range of measures, such as a Regulatory Cooperation Body, to ensure future coherence between EU and US regulations. These measures will help corporations to re-negotiate existing regulations or to challenge proposed legislation (even before this comes before Parliament) if this conflicts with corporate interests.
6. While, in theory, the management of health services would remain a matter for national governments, TTIP commitments will mean that those services already opened up to the market as a result of the Health and Social Care Act (2012) have to be kept permanently open to international investors. In addition, the redefinition of health as an economic activity and the use of an investor protection measure like ISDS would profoundly influence any decision by a future UK government to attempt the reversal of NHS marketisation. Compensation – e.g. for ending a Private Finance Initiative (PFI) contract with a US-based consortium - would not be determined by a UK court but by a panel of arbitrators lacking in independence and democratic legitimacy, using unpredictable systems of assessment and, in the case of ISDS, acting in secret with no appeal mechanism. The use of these tribunals has led to massive levels of compensation in trade agreements between other countries.

**Recommendations**

* TTIP as a whole should be rejected, as the evidence that it will provide economic benefits is unconvincing and is outweighed by the threats that TTIP poses, not least to democratic process and the future of the NHS.

However, in case TTIP is agreed, as a failsafe mechanism,

* Health, social care and associated services should be completely excluded from the treaty, not just from certain sections of it. (see Further Information, below).
* Investor protection measures, such as ISDS, should be completely removed from TTIP and no compromise measure accepted. Instead, if companies feel their assets have been negatively affected by government actions, they should use their right of recourse to the UK’s domestic courts.
* Plans for undemocratic, on-going regulatory cooperation should be rejected.

**Conclusions**

TTIP raises huge concerns, not least about the future provision of NHS, services, the ability of future UK governments to maintain the public provision of these services, and the freedom of future UK governments to determine policy.

***KONP calls on the UK Government, the European Commission and the European Parliament to reject TTIP in its entirety.***

**Further information**

A general explanation of TTIP, including its potential impact on the NHS – <http://www.patients4nhs.org.uk/free-trade-agreements-like-ttip-and-the-nhs/>

The evidence for and against the economic benefits of TTP - <http://keepournhspublic.com/support-konp/background-material/#TTIP>

The legal position of the NHS in TTIP - <http://www.unitetheunion.org/uploaded/documents/FINAL%20Legal%20implications%20of%20TTIP%20for%20the%20NHS%2012%20Feb%20201511-21864.pdf>

How the NHS can be excluded from TTIP - <http://keepournhspublic.com/support-konp/background-material/#TTIP>

1. Capaldo The Transatlantic Trade and Investment Partnership: European disintegration, unemployment and instability. Global Development and Environment Institute Working Paper No 14-03, Tufts University, USA October 2014. (http://ase.tufts.edu/gdae/Pubs/wp/14-03CapaldoTTIP.pdf) [↑](#footnote-ref-1)