

The position of Keep Our NHS Public (KONP) on the Comprehensive Economic and Trade Agreement (CETA)

Introduction

The European Commission (EC) has been 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 (apparently moribund) ; and
- the Trade in Services Agreement (TISA) between the EU and 22 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 Comprehensive Economic and Trade Agreement (CETA) and its implications for the NHS.

It is claimed that CETA 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

There is huge opposition to CETA 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 CETA 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 CETA but will be subject to most of its obligations.
2. CETA includes an investor protection measure (Investment Court System or ICS) This will give Canadian-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'.

¹ http://www.ase.tufts.edu/gdae/policy_research/ceta_simulations.html

3. CETA aims to 'harmonise' regulations between the EU and Canada. 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 the level of pesticides in food, and the safety of chemicals).²
4. 'Harmonisation' may also mean a general leveling down of labour standards, especially as CETA does not include enforceable provisions that ensure core labour rights set out by the International Labour Organisation are respected, such as the Right to Organise and to Bargain Collectively.³ 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. CETA is a 'living agreement' that continues to evolve even after the treaty is signed through a range of measures, such as regulatory cooperation, to ensure future coherence between EU and Canadian regulations.⁴ 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, CETA commitments 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 ICS may 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 Canadian-based consortium - would not be determined by a UK court but by an off-shore tribunal lacking in independence and democratic legitimacy, and using unpredictable systems of assessment. The use of these tribunals has led to massive levels of compensation in trade agreements between other countries.

Conclusion

CETA was signed by the European Parliament in February 2017, and many of its measures are being provisionally implemented. However, it still has to come before the national and federal parliaments of the EU's member states for ratification.

CETA 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, to reject CETA in its entirety.

Further information

See also KONP's fact sheet on CETA and its information sheet on Brexit and trade deals.

April 2017

² http://media.waronwant.org/sites/default/files/summary-ceta-food-safety-english.pdf?_ga=1.260887245.1574248254.1462269672

³ https://www.foeeurope.org/sites/default/files/eu-us_trade_deal/2016/12_labour_rights.pdf

⁴ https://www.greenpeace.de/sites/www.greenpeace.de/files/publications/20161104_greenpeace_studie_regulatorycooperationunderceta.pdf