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IFMSA European Region Regional Policy Paper on the Transatlantic Trade and Investment Partnership (TTIP)

This paper is a European regional addition to the IFMSA policy statement on Trade and Health. The expiration date of the paper is April 19th 2016.

Introduction

On the 14th of July in 2014, the EU received the mandate from all its 28 member states to start negotiations with the USA to establish the Transatlantic Trade and Investment Partnership (TTIP) which aims to create a free trade area between the EU and USA.¹ The declared goal is to promote economic growth and to create new jobs.² The negotiations are still largely³ kept from public scrutiny⁴. The TTIP will likely influence many areas directly or indirectly connected to health and education locally and globally as well as the environment. Therefore, the European Region of the IFMSA considers it absolutely necessary to find a common position towards the treaty.

Mainly due to the lack of transparency of the negotiations, finding official information proves to be difficult. This regional policy paper includes information from leaked documents, other position papers, studies, the press and public discussion.

Main text

The areas of concern include:

- Consumer Protection
- Pharmaceuticals and Access to Medicines
- Public Services
 - Public Health
 - Health Care
 - Human Resources for Health
 - University Education
- Investor State Dispute Settlements (ISDS)
- Climate Change and the Environment
- Consequences for global health and countries not included in the treaty

Consumer Protection

Following the precautionary principle⁵, European authorities require the industry to prove that their products are not harmful to health. Contrarily, in the USA, food is considered harmless and can be sold until proven otherwise.

A leaked document by the European Commission sets the mandate of the negotiations and also addresses sanitary and phytosanitary measures. Here it says that the “sanitary and phytosanitary measures [...] have to be determined based on scientific principles and international norms or scientific risk evaluation.” However, the parties of the treaty



can define risk by their own measures under certain circumstances.⁶ It is apparent the EU is generally willing to refrain from their precautionary principles to some degree in favor of an adapted common market. NGOs like Friends of the Earth Europe and the American based Institute for Agriculture and Trade Policy (IATP) share this concern in a well-researched joint position paper and add a statement by the US chief negotiator Michael Froman, that EU regulatory processes should become more like the US industry-dominated regulatory process⁷⁸. The Transatlantic Consumer Dialogue (TACD) recommends preserving the precautionary principle as well⁹.

Fears are that the TTIP negotiations will lead to a convergence around the lowest existing standards in both the EU and the US.¹⁰ This “race to the bottom” of regulatory principles concerns all goods produced and consumed in the EU and USA. With regards to food, the following areas are in the center of debate:

- Antimicrobial resistance and food
- Food products from cloned animals
- Tackling obesity and diet related disease
- Genetically Modified Crops (GMCs)
- Chemical carcass treatments
- Growth Promoter/Hormones^{11,12}

All of these are either directly linked to public health and environmental issues or are likely to affect these.

The European Region of the IFMSA therefore advocates for a strong adherence to the precautionary principle which stands for the “fundamental difference between the US and EU approach towards evaluating food safety”¹³.

We demand the negotiating parties to consider all of the points above in their negotiations and to make the discussion transparent so that results can be subject to public scrutiny.

Pharmaceuticals and Access to Medicines

The EU Commission’s expectations towards a stronger collaboration are thoroughly positive. They include cost reduction due to redundant clinical trials, acknowledgement of biologically similar active ingredients and easier terminology.¹⁴

On the other side, a position paper by Universities Allied for Essential Medicines (UAEM), Salud por Derecho, the Medicine in Europe Forum, Commons Network, the International Society of Drug Bulletins and Health Action International (HAI) Europe¹⁵ assess the “five most worrying proposals of the pharmaceutical industry’s wish list¹⁶”. The “wish list” is a leaked document that lists the goals the pharmaceutical industry wants to achieve in the TTIP negotiations. Their five points of most concern are (listed together with the possible implications):

- Change in intellectual property regulations
 - Longer monopoly periods, higher prices and an increase of new drugs with limited therapeutic value
- Limits on pricing and reimbursement policies
 - Undermining government policies to organize and contain cost of medicines in their national health systems
- Attempts to limit transparency of clinical trials



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- A strategy to undermine the new European Medicine Agency's (EMA) policy and neutralize the new EU Clinical Trials Regulation policy, which call for clinical trial disclosure for public safety
- Increased corporate involvement in policy making and dispute resolution mechanisms
 - Private sector interests trumping legitimate public policy making
- Setting a global standard on intellectual property
 - Negative impact on Low- and Middle-Income Countries¹⁷

Other consequences of the current TTIP draft are extended patents and data exclusivity which will delay generic production and reduce access to medicine.

Instead, we support generic medicine production and support new platforms and initiatives for developing new medicine that meets the needs of the population, and is not primarily driven by the interest of the pharmaceutical companies.

We therefore demand that The European Commission evaluates carefully the effects of the TTIP on national health systems in the USA, EU and third countries. The proposals of the wish list have to be analyzed carefully and must neither harm national health systems of the EU and USA nor health systems of Low- and Middle-Income Countries (for example due to high pricing of pharmaceuticals¹⁸) nor the individual's health.

Public Services

"In the EU, public services such as healthcare and education are amongst the best in the world [...] All EU trade deals provide three important guarantees for public services [...]"¹⁹

- Monopolies
 - If they wish, EU governments can organize public services so that just one supplier provides the service.
- National treatment and Market access
 - For publicly funded health care, social services, education or water services, EU governments do not have to treat companies or individuals from outside the EU the same as those from within Europe and do not have to provide access to their markets.
- Regulation
 - EU trade agreements leave EU governments free to regulate whatever they consider to be public services.²⁰

However, according to the European Federation of Public Service Unions (EPSU), Public services are not generally excluded from the TTIP negotiations. As an example, public services like "waste water services are committed for market opening"²¹²². European public health systems, such as the UK National Health Service, are similarly open for liberalisation²³. Negotiations from 1st of August 2014, that EPSU had access to, show that the principles listed above can be circumvented by redefining the term "public". As an example, EPSU "repeatedly point[s] out that it is not possible to distinguish 'publicly-funded' healthcare from 'privately-funded' healthcare."²⁴ Furthermore, not only health care is at risk of being declared more open to the market. The article on a debate by the SocialPlatform, SOLIDAR, EPSU, European Public Health Alliance (EPHA) titled "Health care, social services and education are not

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businesses” concludes that “TTIP could have a detrimental impact on essential public services”. A “liberalization agenda” seems to drive the TTIP talks.²⁵

Current EU law must not be bypassed. Public services are embedded into systems that have carefully evolved over decades and must not be put out of balance by decisions that have been made in negotiations kept from public scrutiny²⁶. We ask the negotiating parties to both make the talk transparent and deliver solutions that clearly protect European public services.

University Education

As a Public Service, Public Education enjoys the guarantees of Public Services concerning monopolies, market access and regulation as listed above. What remains are concerns about a stronger and more profit-oriented private education market due to an opening for private US for-profit education providers in the course of TTIP. This new and stronger concurrence will compete with public education over teachers and students. The current public education system in the EU could, if not be put out of balance, at least be challenged.

If the TTIP is to include Education, a liberalization of the University market could be a consequence. Eventually, education will be threatened to become a good where the individual's financial situation decides about the college education.²⁷ The European Students Union fears that TTIP could threaten public education as an ordinary economic service²⁸

We therefore urge the national governments to closely monitor the development of the education market and to provide any necessary resources to keep up the current high quality and accessibility of public education in Europe if TTIP should be implemented.

Investor-state dispute settlements (ISDS)

In a letter from the 8th of July 2014, the EU's chief TTIP negotiator Mr. Ignacio Garcia Bercero confirms that “TTIP [...] will leave EU countries entirely free to control how they run their public health systems.”²⁹ One of the main points of concern about the TTIP are the so-called Investor-State Dispute Settlements. “(ISDS) allow [...] an investor from one country to bring a case directly against the country in which they have invested before an arbitration tribunal.”³⁰ That way, “ISDS clauses allow businessmen to bypass national court systems and sue governments directly [...] over measures that can jeopardize future profits – typically laws designed to protect the public”³¹. The inclusion of ISDS in the TTIP in general has been strongly criticized by numerous NGOs³², and parties of the European Parliament (for example Socialists and Democrats (S&D)) have strong reservations³³. The European Commission acknowledges need for improvement³⁴ but that is not enough. The European Public Health Alliance (EPHA), which counts several NGOs of the Health sector as its members, demands a complete exclusion of the ISDS from the TTIP. It would “undermine public health” because ISDS [...] allows companies to challenge legislative and administrative measures - even judicial decisions taken by EU member states to safeguard public health and other public interest concerns.”³⁵

Judicial measures taken to safeguard public health and other public interest concerns can be undermined by ISDS. Affirmations that EU countries will remain “entirely free to control how they run their public health systems”³⁶ cannot fully exclude negative effects



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by ISDS on public health. There exists fully reliable legal systems in both the EU and USA that are capable of providing the legal framework the TTIP negotiations call for³⁷ ISDS also has severe impact on and consequences for health. ISDS can undermine national health legislation as was seen in the case of Phillip Morris suing the Australian government for introducing plain packaging for cigarette packs.³⁸

We therefore believe that ISDS mechanisms are anti-democratic and could pose a threat to the autonomy of EU member states' as well as to their efforts to safeguard public health. As the European Region of IFMSA, we demand The European Commission to guarantee an exclusion of ISDS provisions in the TTIP negotiations.

Climate Change and the Environment

The "Trade and sustainable development" position paper by the European Commission emphasizes the importance of considerations towards "labor and environmental, including climate change aspects, as well as their inter-linkages" in the TTIP negotiations. It recognizes sustainable development as a "principle that should underlie the TTIP in all areas"³⁹.

However, according to an EU paper on energy policy from 2013⁴⁰ leaked to the Huffington Post, the EU "is pressing the Obama administration to expand U.S. fracking, offshore oil drill and natural gas exploration". "Encouraging trade in dirty fossil fuels would mean more dangerous fracking [...] in the US and would push more climate disrupting fuels into the European Union."⁴¹

An environment committee report for the EU parliament from October 2013 identifies four areas likely to be negatively affected by the trade deal.

- Genetically Modified Organisms (GMOs)
- Chemicals
- Poultry pathogen reduction treatments
- Aviation greenhouse gas emission

The report points out that ISDS covering these areas "could hamper the EU and member states in efforts to establish regulations seeking to protect their citizens or the environment"⁴² The NGOs Friends of the Earth Europe and the American Institute for Agriculture and Trade Policy share this opinion⁴³

In short, the TTIP will verifiably cause damage to the environment. In addition, ISDS mechanisms can force governments to adopt their environmental law jurisdiction to avoid costly lawsuits. Combined, it is a treaty that threatens not only public health and global health but also the environment⁴⁴ in its current form. This has to change. We demand a thorough analysis of the potential consequences of the TTIP on the environment, and an opening of the debate to public scrutiny.

Consequences for global health and countries not included in the treaty

It is taken as given that fewer tariffs and differences in regulations will facilitate trade and thus might spur economic growth. Studies seem to confirm this assumption^{45,46}

While the actual relevance of this effect is debatable (the average tariff is already low at 4%)⁴⁷, a yet bigger question has not been answered: What will be the long term consequences with regard to a globalized world? The European think tank Carnegie Europe points out three possible losses for Low- and Middle-Income Countries:



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- EU exporters will be more competitive in the US market and vice versa. Consequently, Low- and Middle-Income Countries will lose their tariff advantages and therefore some of their competitiveness
- Countries like Turkey have customs unions with the EU. With the TTIP, the US would suddenly enjoy facilitated access to the Turkish market but not the other way around
- New TTIP regulations and standards might force Low- and Middle-Income Countries to costly adapt theirs⁴⁸

We acknowledge a globalized world where decisions made between two parties can have an effect on all others. The TTIP serves as a perfect example for this. A free trade zone that benefits the USA and EU potentially has negative consequences for the rest of the world. This can be for example due to high pharmaceutical prices based on the medication price level of developed countries, as discussed in a position paper by the bvmd on Global Health Politics.⁴⁹ Other parties' health systems must not be harmed by the TTIP.

The IFMSA European Region's Stance

After having considered the potential impact of TTIP on the above listed areas, we, the European Region of the International Federation of Medical Students Associations, in accordance with the IFMSA policy statement on Trade and Health, have the following stance: We are deeply concerned about the TTIP in its current form. Predicted positive effects are outweighed by potential negative ones.

Whereas TTIP might benefit the EU and USA's economies, it will hurt its public health and environment, not to mention Low- and Middle-Income Countries and Global Health generally.

The European Region of IFMSA therefore resolves to seek to coordinate action on this issue with AMSA-USA. We recommend that NMOs share best practice with each other in their respective campaigns.

We also call on governments, both on the EU and US sides, to:

- Prioritize health and social well-being over commercial interests
- Ensure transparency in all future rounds of negotiations
- Release all documents and full negotiating texts of the ongoing negotiations to the public
- Guarantee direct, equitable and meaningful opportunities for stakeholder participation
- Adhere to the precautionary principle and maintain high standards of consumer protection
- Exclude Investor-State Dispute Settlement mechanisms from the TTIP
- Oppose any provisions in the TTIP that may limit access or affordability to pharmaceuticals or medical products
- Safeguard national health systems
- Take potential negative effects on countries not involved in the treaty into greater consideration

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- Take strong measures to protect the Public Education in the EU
- Adopt strong measures to protect the environment





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