



**RCN Policy and International Department  
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# **Transatlantic Trade and Investment Partnership (TTIP) - Update on developments and RCN activity**

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## Introduction

With a membership of around 425,000 registered nurses, midwives, health visitors, nursing students, health care assistants and nurse cadets, the Royal College of Nursing (RCN) is the voice of nursing across the UK and the largest professional union of nursing staff in the world. RCN members work in a variety of hospital and community settings in the NHS and the independent sector. The RCN promotes patient and nursing interests on a wide range of issues by working closely with the Government, the UK parliaments and other national and European political institutions, trade unions, professional bodies and voluntary organisations.

## RCN position on TTIP

The Transatlantic Trade and Investment Partnership (TTIP) is a trade agreement that is being negotiated between the European Union and the United States. The stated aims of TTIP are to remove trade barriers to make it easier to buy and sell goods and services between the EU and the US. As part of TTIP, public service standards between the US and EU will be harmonised, with a lowest common denominator approach to make trading easier. Without a carve out for health services, TTIP could further open up the NHS to American private businesses. There is very real concern that this will adversely affect patient care and members' terms and conditions of work.

In October 2014, following an overwhelming Congress resolution vote to lobby against the inclusion of health services in TTIP, the RCN published a position statement<sup>1</sup> setting out its priorities on TTIP. This briefing seeks to provide an update both on developments in the UK, EU and US in relation to TTIP as well as set out RCN activity and future priorities.

## Recent developments on TTIP

Since the RCN published its position statement in October 2014, the level of interest and concern about TTIP has continued to grow. The UK Government, has been keen to emphasise (including on the floor of the House of Commons<sup>2</sup>) that in their view, health services, as publicly funded services, would be excluded from TTIP. Government Ministers have also pointed to a letter they received from Cecilia Mallstrom, who is the lead EU Commissioner responsible for the TTIP deal, which the Government states provides clarity that publicly funded health and public services will not be included within the TTIP deal.<sup>3</sup>

The RCN has received assurances to this effect directly from ministers, but continues to emphasise the importance of greater transparency of the text in TTIP in relation to health services, so that

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<sup>1</sup> <http://www.rcn.org.uk/nursing/internationalwork>

<sup>2</sup> <http://www.publications.parliament.uk/pa/cm201415/cmhansrd/cm150115/debtext/150115-0004.htm>

<sup>3</sup> <https://www.gov.uk/government/publications/nhs-and-ttip-letter-from-eu-trade-commissioner-cecilia-malmstrom>

everyone can be assured that the desire to remove health services from the potential deal is reflected in the legal reality. Transparency is key to ensuring that any carve out of health services will be broad enough to capture all publicly funded health services. This is a core principle within the RCN position statement and will continue to be a key point to emphasise going forward as it will be vital to have a cast iron guarantee to ensure that health services are removed from TTIP

TTIP has also been the subject of extensive debate in the European Parliament. Following a series of discussions in individual committees, the European Parliament voted on their own report on TTIP in July. This vote was not about whether the European Parliament was voting for or against the wider trade deal which is yet to be finalised, but on amendments to their own report on TTIP – which expressed the collective view of the European Parliament in relation to the ongoing negotiations.

The report saw a last minute compromise on ISDS (investor state dispute settlement), the mechanism which allows investors to bring proceedings against a foreign government that is party to the treaty. These cases are heard in tribunals outside the domestic legal system. There has been significant strength of feeling in relation to ISDS with over 150,000 individuals and organisations calling for it to be removed from TTIP when the European Commission conducted its consultation on ISDS at the start of the year.

The compromise ISDS proposal in the Parliaments report, recommends taking forward the idea of ISDS-lite rather than opposing any form of ISDS – the latter being the RCN position. The specific wording agreed by MEPs on ISDS is as follows

***‘to ensure that foreign investors are treated in a non-discriminatory fashion while benefitting from no greater rights than domestic investors, and to replace the ISDS-system with a new system for resolving disputes between investors and states which is subject to democratic principles and scrutiny where potential cases are treated in a transparent manner by publicly appointed, independent professional judges in public hearings and which includes an appellate mechanism, where consistency of judicial decisions is ensured, the jurisdiction of courts of the EU and of the Member States is respected and where private interests cannot undermine public policy objectives’;***

The RCN is seeking clarity about this compromise and continue to highlight the concerns it has about ISDS and call for the ISDS mechanism to be removed from the TTIP deal. This is a key principle for the RCN that members have underlined on many occasions.

In the report, MEPs were able to give a stronger signal in relation to the need for health and public services to be excluded. Whilst the wording could have been even stronger, it does provide a clear steer from the European Parliament about the importance of excluding public services including health and utilises wording that we are supportive of in terms of ensuring an exclusion. The text is as follows

***‘to build on the joint statement reflecting the negotiators’ clear commitment to exclude current and future Services of General Interest as well as Services of General Economic Interest from the scope of application of TTIP, (including but not limited to water, health, social services, social security systems and education), to ensure that national and if applicable local authorities retain the full right to introduce, adopt, maintain or repeal any measures with regards to the commissioning, organisation, funding and provision of public services as provided in the Treaties as well as in the EU's negotiating mandate; this exclusion should apply irrespective of how the services are provided and funded’***

We will be pressing MEPs to ensure that EU negotiators on TTIP are able to act on the European Parliaments recommendations. Additionally we will continue to call for greater transparency to ensure that any final wording on TTIP meets the demands we have on excluding health services

The final report itself was endorsed by an overall majority of MEPs. However many UK MEPs including those from Labour, Greens, Plaid Cymru, SNP and UKIP did not vote in favour of the report echoing similar concerns to our own in relation to the new wording on ISDS, whilst being supportive of the wording on public and health services.

### **RCN Activity and next steps**

Over the last year the RCN has been very active in taking forward work on TTIP to ensure that the principles in our position statement can be met.

Our activity has included the development of more online resources for members to explain the relevance of TTIP for the RCN. These have included audio guides<sup>4</sup> and explanatory texts to ensure members are well informed about TTIP developments.

The RCN has also been influential in shaping the position statements on TTIP of those European organisations that we are members of. These have included the European Federation of Nurse Association TTIP position statement<sup>5</sup> which mirrors many of the issues that the RCN has concerns about. The RCN has also contributed to the ongoing work of the European Public Health Alliance<sup>6</sup>, which has sought to emphasise the public health dimension of TTIP. They have highlighted the risk of regulatory freeze for future progressive public health policy such as plain packaging of cigarettes and have led calls for a health impact assessment of TTIP, issues that the RCN strongly supports.

The level of concern amongst RCN members has been reflected in the level of support for RCN activity on TTIP. Many members attended an RCN organised seminar in March where they were able to hear from MEPs from a range of political parties about TTIP, as well as from health

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<sup>4</sup> <https://audioboom.com/boos/3250336-ttip-what-it-is-and-why-the-rcn-has-concerns>

<sup>5</sup> [http://www.efnweb.be/?page\\_id=6831](http://www.efnweb.be/?page_id=6831)

<sup>6</sup> <http://www.eph.org/a/6388>

stakeholders. The seminar also identified a series of ways in which members can champion the position of the RCN on TTIP and highlight the concerns that members have.

As well as updating its members through internal publications, the RCN has also engaged in external communication activity, with articles on the RCN concerns on TTIP appearing in both the national and trade press as well as articles appearing in pamphlets produced by both the Green Party and Plaid Cymru.

Finally the RCN has taken forward a comprehensive engagement strategy, in all 4 countries, with members being encouraged to contact MEPs and Ministers to set out the RCN position on TTIP. The RCN has also met with a number of MEPs across the UK so they can hear first-hand about the concerns raised on TTIP and hear about the strength of feeling amongst our members and their fears about the potential impact of TTIP on health services and the NHS.

### **Next steps**

EU officials will continue to meet with their US counterparts and it will be crucial for the RCN to keep the pressure up with MEPs and Government in relation to these important issues. The whole package on TTIP must be agreed by both these Institutions (potentially in 2016) – this will be a simple yes or no vote. Had there not been the level of interest and lobbying to date it is clear that TTIP would have gone through unchecked with significant challenges for our NHS. We will continue to work closely with members to raise awareness of TTIP, to use a four country approach to challenging the official position of the UK Government and to call for transparency going forward and for a cast iron guarantee that health services have been removed from the deal.

The RCN will also continue to monitor other trade deals and Directives which may impact on the NHS and health services such as TISA (Trade in Services Directive) and the Trade Secrets Directive to ensure that they do not undermine the NHS

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