

# Transatlantic Trade and Investment Partnership International Trade Law, Health Systems and Public Health - Summary -

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## *Study Overview*

Free trade agreements (FTAs) have the declared aim of seeking to increase global trade and promote economic growth. Historically, economic growth has led to improved population health. Yet this link is now weakening, and attention is being focussed on assessing the effect of FTAs on health and the ability of government to mitigate against negative impact. Within this context, this study presents an assessment of the health impact of the proposed FTA between the United States and the European Union. Evidence suggests that both the US and the EU are seeking regulatory reform from TTIP, and are additionally viewing the TTIP as a vehicle for post 2008 recession recovery. For proponents, these three features will help to deliver growth alongside improved regulation, whilst critics argue that they could lead to a reduction in regulatory standards as well as restricting the ability of the state to regulate in the public interest.

## *Overall Impact of TTIP*

Proponents estimate that benefits in excess of €200bn could be realised within two decades of the TTIP agreement being signed, the majority of which would come from non-tariff based reform. Critics have challenged the methods and assumptions used to develop these estimates, and evidence from other FTAs suggests that economic impact is difficult to measure and attribute. Consequently, projections of net economic benefit should be treated with caution.

## *Thematic Impact of TTIP*

The health impact of TTIP will emanate from both goods and services - particularly food, pharmaceuticals and the delivery of health services. Few overall specific health benefits were identified, while the scale and impact of disbenefits will be dependent on a highly complex interplay of factors.

### *1. Trade in Goods*

There appears to be limited health related benefits that could accrue from the TTIP in relation to trade in goods, while the largest single health risk will arise from tariff reductions leading to increased consumption of unhealthy foods.

### *2. Technical Barriers to Trade (TBT)*

Health related TBTs primarily relate to pharmaceuticals and agri-food. TBTs could positively impact on health if pharmaceutical regulatory efficiencies were realised, yet such benefits might be offset

by concomitant increases in pharmaceutical costs resulting from other provisions within the TBT chapter. No estimates of the overall impact were identified during the evidence review.

### *3. Sanitary and Phytosanitary Issues (SPS)*

Short- to medium-term health-related risks associated with the SPS chapter of TTIP appear to be limited. Whilst there are different food safety systems operating in the US and the EU, the evidence of there being differential health impact is inconclusive. Although increased cross-border trade could increase health risks, it is difficult to estimate overall potential impact. Longer term rationalisation of SPS provisions offer both opportunities and risks.

### *4. Trade in Services*

The main health focus within the Trade in Services chapter relates to public procurement and the exclusion of health services from TTIP. The impact of privatisation on efficiency, quality and employment terms and conditions is well evidenced. Consequently, as the boundaries between 'social' and 'commercial' services continue to blur, the precise wording of any 'hard' or 'soft' exclusion will be of importance. The greatest consequence would be to those Member States that choose not to explicitly exclude their health services from TTIP.

### *5. Investor Protection*

The single most contested aspect of the TTIP negotiations relates to the proposed inclusion of an Investor to State Dispute Resolution (ISDS) arbitration system. Evidence of the current operation of ISDS provides only limited substantiation to the assertion that it constitutes a significant new area of risk to public health regulation. At the same time, the ability to legally challenge public health policy will remain in other international law even if a final decision is taken to remove or fundamentally amend the investor protection provisions in TTIP.

### *6. Intellectual Property*

Intellectual property (IP) may have a range of health related impacts, of which the pharmaceutical impact is likely to be the most important. Whilst there is currently a high level of accord between the two trading blocs, there remain some differences. If TTIP were to fully align to US provisions on IP, it may positively impact on innovation yet could also create an upward cost pressure.

### *7. Regulatory Cooperation and Reform*

As a 'living agreement', regulatory cooperation and reform is likely to be an integral on-going aspect of the TTIP agenda. However there is insufficient evidence to make prior determination as to whether long term regulatory cooperation and alignment would have a beneficial or detrimental health impact.

### *8. Regulatory Health Policy Space*

Public health regulation is now increasingly focussed on non-communicable disease issues. TTIP presents only limited additional legal scope for stakeholders to challenge the ability of government to regulate in this area.