OMC ORGANIZACIÓN MÉDICA COLEGIAL DE ESPAÑA | CONSEJO GENERAL DE COLEGIOS OFICIALES DE MEDICOS

Plaza de las Cortes, 11
28014 Madrid
Tel. +34 914 317 780
cgcom@cgcom.es
www.cgcom.es

LISBON CONFERENCE ON THE TRANSATLANTIC TRADE AND INVESTMENT PARTNERSHIP (TTIP)

Salón de Actos da Ordem dos Médicos de Portugal,
Lisbon, 7 October 2016

Attended and honoured by the presence of the Honourable: Mr Jorge Sampaio, ex-President of the Portuguese Republic, Mr José Bono Martínez, ex-President of the Congress of Deputies of Spain, Dr José Manuel Silva, Bâtonnier of the Ordem dos Médicos de Portugal, Mr Juan José Rodríguez Sendín, President of the Consejo General de Colegios Oficiales de Médicos de España.

INTRODUCTION

With it being understood that the declared aim of the Transatlantic Trade and Investment Partnership (TTIP) is to improve trade between countries by removing the barriers/tariffs involved in the sale of products and services, we particularly value the economic advantages the Treaty may bring for peoples. However, it is our obligation and responsibility as the Medical Orders of Portugal and Spain to analyse, at this Conference, the impact and possible consequences said Treaty may have on European health care systems.

Civil society and the medical profession agree unanimously on the need for an informed public debate with full transparency regarding the purpose of the negotiation and protection of essential public services and the rights of European citizens, patients, users and consumers; aspects that, until now, have not been addressed and that have been expressly denounced.

When we refer to health, not only do we refer to medicines, accessibility, prices and patents, nor merely health care systems that can fairly protect the population; we also refer to food, pesticides, genetically modified crops, etc. and consequently the existing differences in classification between the European Union (EU) and the United States of America (USA) regarding processed foods, the use of medication in animals that will later be dedicated to food consumption, and regulations regarding protection against toxic products (whether in the composition or labelling of tobacco or alcohol). In short, we refer to the whole framework for action of public health.

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It constitutes a need that continues to maintain the commitment of explicitly excluding the TTIP from all that affects health systems (public health, health care, health insurance, pharmaceutical distribution, pharmaceutical product patents, selective financing systems, etc.).

Additionally, we demand that the true scope and possible consequences of application of the TTIP for European citizens, to which negotiators explicitly committed in the conclusions of the EU Council that were adopted on 20 March 2015, be communicated with transparency in order to guarantee a wide public debate in Europe based on facts and aimed at exploring the genuine concerns raised by the TTIP.

RECITALS

1) WHEREAS, the regulations regarding health care and public health, "competency of member States" may not be understood, under any circumstances, as barriers to the commercialisation of products and services;

2) WHEREAS, in the scope of health and medicines, the TTIP may limit patients' right to transparency and information with regards to clinical trials and medical devices, information that, in any case, must guarantee the current legislation of each country and that, in the case of these commercial negotiations, has been developed with full opacity and secrecy;

3) WHEREAS, upon undertaking the commercialisation and liberalisation imposed by the TTIP, the progressive privatisation of the National Health System (Sistema Nacional de Salud – SNS) would force investment funds and insurance groups from the USA to enter hospitals, health centres, pharmacies and other health services in the EU space;

4) WHEREAS, this process would imply increases in costs to citizens and an increase in the inequality of access to services, resulting in an image similar to the American health model where health is seen as a business and not as a right;

5) WHEREAS, citizens, doctors and researchers have the right to access full information about the medicines they take, prescribe, research and develop, but the TTIP could strengthen "commercial confidentiality" regulations to hinder further the transparency of clinical data. Even if the industry agenda were partially involved, the consequences for European health systems and access to medicines would be significant;

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6) WHEREAS, the TTIP hopes to: a) safeguard the current patents system and strengthen it; b) focus the setting of prices "according to value", in other words, the maximum it can impose on the health service; and c) prevent selective financing and efficient purchasing mechanisms for the buyer (what the industry defines as "predictable and transparent access to the market"). The lack of access to necessary and essential medicines implies a violation of the human right to health and health care;

7) WHEREAS, the consequences of the current patent model and the abuse of these are creating barriers to the access to medicines for millions of patients across the world and resulting in an increase in unsustainable prices for health systems. The example of Hepatitis C in Spain, in which the SNS has paid more than 1.3 billion in two years for a product that costs 30 million, underlines the need to change this model. To do this, it is important to prevent the TTIP from strengthening and safeguarding it.

RECOMMENDATIONS/PROPOSALS

1) We reject essential/basic aspects of the procedure used that are related to the NON-transparency of the established mechanisms of regulating cooperation, technical advice and ad hoc arbitration mechanisms. The investor protection mechanisms present in the TTIP cannot be placed above the regulatory standards of governments in the framework of the EU. The right to regulation must be able to achieve public health objectives.

2) We request, once again, a clear exclusion of essential public services (education, health, medicines, food and phytosanitary products) from the scope of application of the TTIP as the regulatory standards applied in EU countries are more demanding and provide greater guarantees as well as environmental and social standards that are expressly defined and protected from any liberalisation.

3) Any free trade treaty must explicitly exclude any aspect that affects health systems: public health, health care, health insurance (both public and private), pharmaceutical distribution, pharmaceutical product patents, selective financing systems, etc. No provision in any article of the treaty, although referring to general issues, may be applicable to issues related to health services. Governments will have sovereignty to decide what matters should not be applied due to their relationship with health and health care (foundational treaties of the EU and principle of subsidiarity).

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4) In the last decades of the previous century, companies have managed to achieve the outlook that governments "interfere in the market", prohibiting competition for a certain period of time via the patent system. As such, the company exercises a monopoly, free of competition, meaning the current patent system must be reformed due to the serious problems regarding access to essential medicines that may occur, especially in poor countries, and regarding unnecessary costs due to overmedication in more developed countries. The TTIP implies exponentially aggravating the adverse effects of this situation.

5) If a patent is granted to protect investment, then a price must be set according to production costs, including research and development (R+D) costs and a reasonable but non-abusive profit. On the other hand, if a company is left to set the price of a product according to its value, the maximum price possible, then a patent preventing competition should not be granted, or it should be removed after being granted.

6) Patent rights and profits cannot come before health results or the value of life. Commercial and economic interests must never take precedence over health interests and health care.

7) EU Member States must promote changes in systems of negotiating and setting prices for medicines, adjusting them to costs, including R+D costs; they must make use of the granting of obligatory licenses due to reasons of public interest, when it is proven that abuse of the patent may generate harm to public health; and they must promote a new financing model for R+D and professional training that is independent, open and which enables the development of medicines at an accessible price for all.

8) The governments of Portugal and Spain must demand that the European Commission issue all documents related to the TTIP treaty and, in particular, all those that may explicitly or implicitly affect matters related to health or health services, and that it host a public consultation prior to approving the TTIP treaty. Additionally, they must demand greater unity and cohesion in shared policies and those responsible for these essential areas of action for the wellbeing of citizens as they constitute the basis of the State of Law on which the EU is founded.

9) European medical orders must be present, actively participate and be listened to in the debate about the TTIP in the defence of the protection of citizens and public health systems in Europe. Our commitment as Medical Orders and as public associations of medical professionals is also to preserve the values of the European social model – which may be threatened by the TTIP – as a professional exercise in responsible citizenship.

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