

# EU-US Deal Or No Deal

Some small but significant steps have been made against the threat to the National Health Service from the proposed EU-USA trade deal. Most importantly Ed Miliband appears to be backing Labour's health spokesperson Andy Burnham's stand on the issue.

On the other side of the Atlantic the whole future of the proposed deal has been put in doubt by Congressional Democrat leaders Harry Reid and Nancy Pelosi. They are refusing to vote through so-called 'fast-track' powers for President Obama's treaty negotiators.

The treaty – officially the Transatlantic Trade and Investment Partnership – has also stumbled in Brussels. The treaty's proposed enforcement tribunals have come under such sustained criticism that the EU's trade commissioner Karel De Gucht announced a pause for consulting on this aspect of the negotiations. The tribunals are one of the ways in which the treaty will give corporations the power to challenge national laws and regulations.

Supporters of the EU-US treaty argue that it will create the world's largest free-trade area with massive benefits for economic growth. Critics stress that because tariff barriers between Europe and the US are already low, the treaty will mainly work by overriding rules imposing national standards for products, services, employment and the environment.

Stop TTIP campaigners in the UK say European public services will be thrown open to providers from the US, and it could become impossible to reverse privatisations.

The British Labour Party generally supports the treaty but Andy Burnham is demanding that health services be exempted. Burnham has spoken out against the Government's accelerated privatisation of the NHS; he intends to reverse it by reinstating NHS Trusts as the preferred providers of the service. Such a policy could collide head on with a trade treaty and even breach the EU's own rules.

## Miliband's pledge

Until Labour publishes its platform for next year's general election, doubts will remain about whether Burnham's declarations are endorsed by the Party. Burnham himself has highlighted a sentence in Ed Miliband's big speech on Europe on March 12 that "the next Labour government will work to make sure the NHS is protected from EU competition law". By implication, this could apply to an EU-US treaty as well as the EU's own stripping away of protection from public services.

In Brussels there must be suspicion about the sincerity of Karel De Gucht's pause for consultation on the treaty's planned enforcement tribunals. The three months of the pause were up even before an online consultation was launched last week.

The proposed enforcement tribunals, officially the "investor-state dispute settlement mechanism", are already common in trade treaties. The Cato Institute think tank in the US reports that corporate cases in such tribunals have rocketed this century, including the notorious Philip Morris challenge to Australia's plain cigarette packaging.

April 9th 2014

Even if the tribunals were left out of the EU-US treaty, corporations could still use other legal avenues to challenge exclusion from contracts for the National Health Service.

The Cato Institute has suggested that dropping the tribunals from the treaty could make it more palatable to the US Congress. In the States, the EU treaty is suffering from being bracketed with unpopular Pacific trade talks.

If Democrats on Capitol Hill stand firm against President Obama's request for fast-track powers for his negotiators, Senators and Representatives will be able to amend the final draft of the treaty, sending it back for more talks. The treaty must also be endorsed by legislators in the European Assembly and European nations. The original aim of completing the treaty next year looks increasingly difficult. Lewisham was being told to sacrifice services as part of a salvage scheme for the South London Healthcare Trust, yet another casualty of PFI. Through Private Finance Initiatives, the private sector turns out to be problem rather than solution for the NHS.