



DEBATE PACK

Number CDP-2019-0190, 16 July 2019

Future trade deals and the National Health Service

By Ilze Jozepa, Tom Powell, Matthew Ward

Summary

The House of Commons Petitions Committee has scheduled a debate in Westminster Hall on the motion “That this House has considered e-petition 242300 relating to future trade deals and the National Health Service” on Monday 22 July at 4.30pm.

Mike Hill MP will open the debate.

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The House of Commons Library prepares a briefing in hard copy and/or online for most non-legislative debates in the Chamber and Westminster Hall other than half-hour debates. Debate Packs are produced quickly after the announcement of parliamentary business. They are intended to provide a summary or overview of the issue being debated and identify relevant briefings and useful documents, including press and parliamentary material. More detailed briefing can be prepared for Members on request to the Library.

1. Background

UK trade policy after Brexit

One of the Government's main Brexit objectives has been for the UK to pursue an independent trade policy. The Government's policy is focused on replicating the existing EU trade agreements with third countries as closely as possible in UK stand-alone trade agreements with those countries. The Government is also exploring the options for new agreements with other trade partners. It has held consultations on future free trade agreements with the US, Australia, New Zealand as well as joining the Trans Pacific Partnership.

The effects of future trade agreements on the NHS, especially the consequences of agreeing a trade deal with the US, have been widely debated. There are particular concerns that trading terms agreed with other countries would limit the ability of the government and devolved administrations to organise and publicly fund their health services or change the way the public access NHS services.

Two issues feature most prominently in this debate: a potential privatisation of the NHS and effects on drug pricing in the NHS.

Privatisation of the NHS?

Private companies can already bid for some contracts to provide NHS services in England. Some campaigners fear that future trade deals would allow foreign investors to claim compensation if they lost their NHS contracts. They say this would limit the government if in the future it wished to reverse the current level of private involvement in the NHS.

Drug Pricing

The US has indicated that it would seek to negotiate better trading terms for its pharmaceutical companies. The US negotiating objectives for a future trade deal with the UK, published in February 2019, state that the US would try to ensure that Government regulatory reimbursement regimes are transparent, provide procedural fairness, are non-discriminatory and provide full market access for US products. Trade commentators have suggested that given the global significance and market power of the NHS, there are incentives for the US to attempt influencing the way drugs are currently priced in the NHS.

Government position

The Government has consistently said that it is committed to protecting public services and that there will be nothing in the UK's future agreements that will stop it from being able to regulate public services, including the NHS.

Background briefing

The House of Lords Library Briefing Paper [NHS and Future Trade Deals](#) gives a comprehensive overview of the main issues regarding the NHS in future UK trade agreements.

Debates

The effects of future UK trade agreements on the National Health Service have been debated on numerous occasions including the two most recent ones

- On 4 July 2019, the House of Lords debated a motion that “this House takes note of the case for protecting the National Health Service in future trade deals entered into by the United Kingdom”. [HL Deb \[NHS: Future UK Trade Deals\], 4 July 2019 vol 798](#)
- During its inquiry into UK trade in services, on 25 June 2019 the House of Commons International Trade Committee held an [evidence session](#) focusing on the potential impact of trade policy on public services, including the NHS. Among other aspects, the Committee explored the likelihood of the US seeking provisions on healthcare and pharmaceuticals in a future UK-US trade deal. [International Trade Committee, Oral evidence: Trade in services, HC 177](#)

2. Additional sources

2.1 NHS expenditure allocated to private providers

Information on the proportion of NHS resource expenditure allocated to non-NHS providers is shown in the [DHSC Annual Report and Accounts](#). In particular, table 37 of the [DHSC Annual Report and Accounts for 2018/19](#) shows that in 2018/19 7.3% of overall NHS resource expenditure was spent on private sector providers (a total of £9,180 million). 11.0% of resource expenditure was spent on purchase of healthcare from all non-NHS providers (including voluntary sector providers and local authorities). It should be noted that this represents the proportion of expenditure allocated to non-NHS providers, not the proportion of contracts currently held by the private sector, or the number of contracts secured following a competitive tender (not all NHS services are put out to competitive tender and those that are will vary widely in size). Responses to Parliamentary Questions note that information on the proportion of NHS contracts secured by private sector providers is not collected centrally (see for example, [PQ 135922, 24 April 2018](#)).

Other, non-government, reports on the extent of private sector involvement in the provision of NHS funded health services in England can be found below, although please note this is not a comprehensive list:

- The King's Fund, [Is the NHS being privatised?](#) (dated October 2018 – although it appears have been first published in 2017).
- The British Medical Association, [Hidden figures: private care in the English NHS](#) (March 2017)
- The Health Foundation, [Evolution, revolution or confusion?: competition and privatisation in the NHS](#) (March 2015)

There is no official data on expenditure on NHS services provided by foreign owned healthcare companies nor a central register of foreign companies operating within the NHS in England.

2.2 Proposals for legislative reform of NHS competition and procurement rules

The Health and Social Care Committee's recent report NHS Long-term Plan: legislative proposals (HC2000, 24 June 2019) supported the intent behind NHS England and NHS Improvement's recent proposals to ensure that commissioners can exercise greater discretion over when to conduct a procurement process. However, the Committee also noted that the way the NHS in England operates may mean the proposals to change how procurement rules apply could face legal difficulties. In particular, paras 42 to 48 of the report note the varied views about the extent and impact of competitive tendering within the English NHS.

3. Press Articles

[Will the NHS be on Trump's trade table?](#)

Adrian O'Dowd

BMJ, 12 June 2019

[The Special Relationship has never mattered more. After Brexit, let's work together to promote free trade around the world](#)

Liam Fox

Daily Telegraph, 25 June 2019

[Will a Trump trade deal lead to the privatisation of the NHS?](#)

Patrick Worrall

Channel 4, 7 June 2019

[Donald Trump's visit to Britain goes well—at least for him: The president may not have registered the subtle digs from the queen](#)

The Economist, 6 June 2019

[Could the NHS be the price of a US trade deal?](#)

Mark Dayan

Nuffield Trust, 6 June 2019

[Trump state visit: President rows back on NHS trade remarks](#)

BBC, 5 June 2019

[Could the NHS be part of a US-UK trade deal? Donald Trump sparked concern about the health service's future but the reality is more complex](#)

Sarah Neville

Financial Times, 5 June 2019

[UK 'has to resist' opening up NHS to US in post-Brexit trade deal, warns former Tory health secretary](#)

Rob Merrick

The Independent, 5 June 2019

[Trump wavers after saying NHS must be on table in US-UK trade talks: US president says he refused to meet Corbyn, who vows to fight any grab at health services](#)

Rowena Mason

The Guardian, 5 June 2019

[US trade deal will not undermine NHS or food standards, pledges Fox](#)

Callum Jones

The Times, 4 June 2019

[The UK has much to fear from a US trade agreement: Any deal with Trump would likely stray into areas such as food safety and drug pricing — and the president would come back for more](#)

Sam Lowe

New Statesman, 3 June 2019

[Rightwing thinktanks unveil radical plan for US-UK Brexit trade deal: Groups linked to Trump and Fox want foreign competition in NHS and regulations bonfire](#)

Felicity Lawrence, David Pegg and Rob Evans

Guardian, 18 September 2018

[UK trade deal with US could trigger 'break-up' of NHS, leading expert warns: Professor Alex de Ruyter says Britain still has 10 per cent chance of staying in Europe](#)

Tom Embury-Dennis

The Independent, 9 July 2018

[Trump threatens to use US trade talks to force NHS to pay more for drugs](#)

David Millward

Daily Telegraph, 15 May 2018

4. Parliamentary material

4.1 Debates

[NHS: Future UK Trade Deals](#)

HL Deb 4 July 2019, c 1529-56

[Future Free Trade Agreements](#)

HC Deb 21 Feb 2019, c 1619-1690

[Leaving the EU: NHS](#)

HC Deb c 22 March, 2018, c 217WH – 252WH

4.2 Written questions

[Department for International Trade: Trade Agreements: USA: Written question - HL16058](#)

Asked by Lord Taylor of Warwick

Asked on 04 June 2019

To ask Her Majesty's Government what plans they have to include in any post-Brexit trade deal between the UK and the United States provisions to help retain control of regulation of UK public services, including the NHS.

Answered by Viscount Younger of Leckie

Answered on 18 June 2019

Protecting the UK's right to regulate is in the public interest and protecting public services, including the NHS, will be of the utmost importance when negotiating future trade agreements. Our position is definitive: the NHS is not, and never will be, for sale to the private sector, whether overseas or domestic. The government will ensure no trade agreements will ever be able to alter these fundamental facts.

The UK's public services are protected by specific exceptions and reservations in existing EU Free Trade Agreements (FTAs). As we leave the EU, the UK will continue to ensure that rigorous protections are included in all trade agreements to which it is party, whether transitioning existing EU FTAs or resulting from new negotiations.

The government has been consistently clear that it is committed to negotiating an ambitious FTA with the US that maintains our high standards for businesses, workers and consumers.

[Department for International Trade: Trade Agreements: NHS: 231970](#)

Asked by Mr Virendra Sharma

Asked on 13 March 2019

To ask the Secretary of State for International Trade, what discussions he has had with the Secretary of State for Health and Social Care on the needs of the NHS in negotiating future trade deals.

Answered by George Hollingbery

Answered on 18 March 2019

The Department for International Trade works with the Department of Health and Social Care to ensure a clear cross-Government position on the protection of the NHS in future trade agreements. Protecting the UK's right to regulate in the public interest and protect public services, including the NHS, is of the utmost importance. The Government has been consistently clear that we are committed to the fundamental principles of the NHS - that it is universal and free at the point of need. We will ensure that no trade agreements alter these fundamental facts.

[Department of Health and Social Care: NHS: Trade Agreements: 230617](#)

Asked by Mr Jim Cunningham

Asked on 11 March 2019

To ask the Secretary of State for Health and Social Care, what recent discussions he has held with the Secretary of State for International Trade on the potential role of the NHS in future trade deals after the UK leaves the EU.

Answered by Stephen Hammond

Answered on 14 March 2019

The Department of Health and Social Care works extensively with the Department for International Trade to ensure that there is a clear cross-Government position on the protection of the National Health Service in future trade agreements. Additionally, the Parliamentary Under Secretary for Innovation (Baroness Blackwood of North Oxford) will be representing the Department of Health and Social Care in upcoming Cabinet-level discussions on future trade deals.

The Government has repeatedly made its position on this clear - protecting public services, including the NHS, is of the utmost importance for the United Kingdom. The NHS is not, and never will be, for sale to the private sector, whether overseas or domestic. We will ensure that no trade agreements alter these fundamental facts.

None of the trade agreements that we are party to as European Union members threaten or allow privatisation of public services, including the

NHS. The Government will ensure that future trade deals include the necessary exclusions, exemptions, and reservations to ensure that decisions on how to run public services, including the NHS, will always remain the sole competence of UK governments, including the devolved administrations, and not our trade partners.

[Department for International Trade: Trade Agreements: NHS: 224364](#)

Asked by Danielle Rowley

Asked on 21 February 2019

To ask the Secretary of State for International Trade, if he will take steps to ensure that future trade deals will not make it easier for private companies to provide NHS services.

Answered by George Hollingbery

Answered on 26 February 2019

The UK will continue to ensure that decisions about the NHS are made by UK Governments, including the Devolved Administrations, not our trade partners. The UK will determine whether private companies should be involved in providing services under contract, and if so to what extent. Trade deals will give no greater access for private companies, domestic or overseas, to NHS services.

[Department for International Trade: Trade Agreements: NHS: 224363](#)

Asked by Danielle Rowley

Asked on 21 February 2019

To ask the Secretary of State for International Trade, what assessment he has made of the potential risks to the NHS as a result of future trade deals after the UK leaves the EU.

Answered by George Hollingbery

Answered on 26 February 2019

Protecting the UK's right to regulate in the public interest and protect public services, including the NHS, is of the utmost importance. The UK's public services are protected by specific exceptions and reservations in EU trade agreements - including the recent EU-Canada agreement (CETA) - and, as we leave the EU, the UK will continue to ensure that rigorous protections are included in all trade agreements it is party to. The Government has been consistently clear that we are committed to the fundamental principles of the NHS - that it is universal and free at the point of need. We will ensure that no trade agreements alter these fundamental facts.

Department for International Trade: Overseas Trade: USA: HL5770

Asked by Lord Brooke of Alverthorpe

Asked on 22 February 2018

To ask Her Majesty's Government whether they have been subject to lobbying to open the NHS market to United States firms as part of any future UK–US trade deals.

Answered by Baroness Fairhead

Answered on 08 March 2018

As outlined in the Trade White Paper, 'Preparing for our Future UK Trade Policy', the UK is committed to a transparent approach to international trade. We have invited views on the UK's approach to future trade agreements, including our future trade relationship with the US, and engagement with stakeholders is ongoing as they continue to feed into our policy development.

The Government has been clear that protecting the NHS is of the utmost importance. Nothing in our future trade agreements, including with the US, will prevent the UK from regulating in the pursuit of legitimate public policy objectives such as the NHS. As we leave the EU, the UK will continue to ensure that rigorous protections for the NHS are included in all trade agreements it is party to.

Department for International Trade: Trade Agreements: Written question - 127317

Asked by **Justin Madders**

Asked on 07 February 2018

To ask the Secretary of State for International Trade, whether it is his policy to include the NHS in his discussions on future trade deals.

Answered by Greg Hands

Answered on 26 February 2018

The Government is committed to protecting the UK's right to regulate public services, including the NHS. The UK's public services, such as services provided by the NHS, are protected by specific exceptions and reservations in all EU trade agreements. As we leave the EU, the UK will maintain our existing rigorous protections for the NHS.

4.3 Oral questions

[Free Trade Agreements: NHS/Public Services](#)

HC Deb 25 April 2019, c 856

[Leaving the EU: Health Services and Legal Action](#)

HC Deb 15 March 2019, c 505

[Future Trade Deals: NHS and Other Public Services](#)

HC Deb 14 March 2019, c 506-07

[United States: Trade Deal](#)

HL Deb 6 March 2019, c 610-12

[NHS: US Companies](#)

HL Deb 22 March 2018, c 410-12

4.4 Library briefings

[NHS and Future Trade Deals](#)

House of Lords Library, 27 June 2019

[Trade in Services and Brexit](#)

House of Commons Library, 13 June 2019

[Parliamentary Scrutiny of Replacement Treaties](#)

House of Commons Library, 13 June 2019

(section 3 looks at proposals for parliamentary scrutiny of post-Brexit free trade agreements)

[Brexit and medicines regulation](#)

House of Commons Library, April 2019

[Future Free Trade Agreements: US, CPTPP, Australia and New Zealand](#)

House of Commons Library, 20 February 2019

5. Further reading

[The private sector and the NHS: not 'on the table', but already in the market](#)

Sarah Nickson

Institute for Government, 7 June 2019

[Beyond Brexit – International trade and health](#)

BMA, 2018

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