

## **NHS and Future Trade Deals Debate on 4 July 2019**

### **Summary**

On 4 July 2019, the House of Lords is due to debate a motion tabled by Lord Brooke of Alverthorpe (Labour) that “this House takes note of the case for protecting the National Health Service in future trade deals entered into by the United Kingdom”.

One of the Government’s main Brexit objectives has been to enable the UK to pursue an independent trade policy once it has left the EU. The Government’s policy is to replicate as far as possible the current trading arrangements with countries that have a trade agreement with the EU. It also wants to negotiate new trade agreements with countries that do not have a deal with the EU. It has begun some preparatory work on this, including launching public consultations on future free trade agreements with the United States, Canada and New Zealand.

The prospect of a trade agreement with the US in particular has raised concerns about what impact future trade terms might have on the NHS. During his state visit to the UK at the beginning of June, President Trump said the NHS would be “on the table” in trade talks. He later appeared to backtrack, explaining that although “everything’s up for negotiation”, the NHS was not something he would “consider being part of trade”. The Government has consistently said that the NHS is not up for sale. It maintains that a trade deal would not force the Government to privatise any public service or remove the ability of the UK and devolved governments to decide how to run publicly funded health services.

Private companies can already bid for contracts to provide services in the NHS in England, and some US-owned companies have won such contracts. Some campaigners fear that the terms of a trade deal with the US would allow investors to claim compensation if they lost access to the NHS market, and that this would prevent any policy changes in future to reduce the current level of privatisation within the NHS. Similar concerns arose during the failed Transatlantic Trade and Investment Partnership (TTIP) talks between the EU and the US. There have been calls, for example from the British Medical Association, for the Government to specifically exclude the NHS from future trade deals and from investor protection mechanisms.

Drug pricing is another issue that could arise during trade talks with the US. Donald Trump has blamed countries with socialised healthcare systems for negotiating “unreasonably low” prices from US drug makers, which he argues pushes up the price of prescription drugs for American patients. US negotiating objectives for a future trade deal with the UK, published in February 2019, said the US would seek to ensure transparent government reimbursement regimes for pharmaceuticals that would provide full market access for US products. The price the NHS pays for branded medicines is controlled through voluntary and statutory schemes. These arrangements limit how much the amount that the NHS spends on branded medicines can rise year-on-year.

## UK's Post-Brexit Trade Policy

One of the Government's main Brexit objectives has been to enable the UK to pursue an independent trade policy once it has left the EU. Currently, the UK enters into trade agreements with third countries as a member of the EU. Trade policy is an exclusive EU competence, meaning that the EU legislates on trade matters and concludes international trade agreements with non-EU countries on behalf of all EU member states. In his foreword to the October 2017 trade white paper, Liam Fox, Secretary of State for International Trade, wrote that leaving the EU meant that "for the first time in over forty years, the UK will have its own independent trade policy".<sup>1</sup>

The Government's policy is to conclude 'trade continuity agreements' with countries that have an existing trade agreement with the EU. The intention is to replicate current trading arrangements as far as possible and allow trade to "continue with minimal disruption after the UK leaves the EU".<sup>2</sup>

The Government has also begun some preparatory work for future trade negotiations with countries that do not currently have a trade agreement with the EU. The UK cannot begin formal negotiations on new trade deals until it has left the EU.<sup>3</sup> If there is a transition period, under the terms of the withdrawal agreement the UK can negotiate, sign and ratify international trade agreements, provided they do not enter into force until after the end of the transition period.<sup>4</sup>

In July 2018, Liam Fox announced public consultations on future free trade negotiations with the United States, Canada and New Zealand, which he described as "some of our closest strategic allies".<sup>5</sup> He also launched a consultation on whether the UK should accede to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP).<sup>6</sup> Launching the consultations, the Government outlined that potential benefits of free trade agreements (FTAs) could include:<sup>7</sup>

- enabling increased trade and investment;
- securing access for UK exporters to the key markets of today and the future;
- giving consumers access to a greater range of products; and
- making the UK more innovative, competitive and prosperous.

In information packs published as part of the consultation, the Government sought to provide reassurance that negotiating new FTAs would not restrict or harm the provision of public services:

FTAs do not prevent governments from regulating in the public interest—for example, to protect consumers, the environment, animal welfare and health and safety. Equally, trade agreements do not require governments to privatise any service or prevent governments from expanding the range of services they supply to the public. For example, the UK Government has been clear about its commitment to protecting public services, particularly including the NHS. No future free trade agreement would affect the fact that it would remain up to the UK and devolved governments to decide how to run our publicly funded health services.<sup>8</sup>

However, this has not prevented concerns, particularly about the possible impact on the NHS of a future FTA with the US.

## US Position: Comments by President Trump and the US Ambassador to the UK

Recent comments by President Trump and the US Ambassador to the UK caused some confusion about whether the US would seek to include the NHS in a future trade deal with the UK. Ambassador Woody Johnson was interviewed by the BBC ahead of President Trump's state visit to the UK at the beginning of June. Mr Johnson said that "the entire economy" and "all things that are traded" would be "on the table" in a UK-US trade deal.<sup>9</sup> When pressed, he said he "would think" this would include healthcare. The interviewer, Andrew Marr, asked specifically whether a UK-US trade deal would mean American pharmaceutical and medical corporations "getting a slice of the NHS". Mr Johnson said he did not think "they'd be put in any particular position regarding that". He acknowledged the NHS was "the pride of the country" and was "a highly emotionally charged issue".

At a press conference during the state visit, a journalist asked President Trump whether he agreed with Ambassador Johnson's comments. The President replied that "when you're dealing in trade, everything is on the table", including the "NHS or anything else".<sup>10</sup> However, in an interview the following day, President Trump returned to the subject, saying that he did not see the NHS "being on the table".<sup>11</sup> He explained that, in answer to the question at the press conference, he had said "everything's up for negotiation because everything is". But he elaborated that the NHS was "not something that I would consider being part of trade".

UK ministers and officials responded to reject suggestions in some press coverage that a trade deal with the US would mean putting the NHS 'up for sale'. Speaking at the press conference, the Prime Minister, Theresa May, stated that: "The point about making trade deals is of course that both sides negotiate and come to an agreement about what should or should not be in that trade deal".<sup>12</sup> Standing in for Mrs May at Prime Minister's questions the following day, David Lidington, Chancellor of the Duchy of Lancaster, said:

The Prime Minister has been very clear and she spoke for everyone in the Government and on this side of the House: when it comes to trade negotiations, the NHS is not, and will not be, up for sale.<sup>13</sup>

The relevant UK secretaries of state took similar positions. Matt Hancock, Secretary of State for Health and Social Care, tweeted: "The NHS isn't on the table during trade talks—and never will be".<sup>14</sup> Liam Fox, Secretary of State for International Trade, said in the Commons that "under this Government, the NHS will not be for sale".<sup>15</sup> In addition, Simon Stevens, chief executive of NHS England, declared there was "no possibility whatsoever" that the NHS would be "undermined in a way that would be unacceptable to the people in this country".<sup>16</sup>

## Privatisation of the NHS

The comments of President Trump and Ambassador Johnson heightened existing concerns that a trade deal with the US could force the privatisation of the NHS or changes to its model of universal healthcare. John Ashworth, Shadow Health Secretary, described US corporations "taking over" the NHS as "a nightmare scenario", which would "undermine it as a free, universal public service".<sup>17</sup> Speaking at a 'Together Against Trump' rally, Labour leader Jeremy Corbyn said that his party "would not stand for" the Government "offering up" the NHS to American companies.<sup>18</sup> He said Labour would "fight with every last breath" to "defend the principle of a healthcare system free at the point of need for everybody as a human right".

A public petition started by a junior doctor on behalf of the campaign organisation Keep Our NHS Public, argued that:

Opening up the NHS to US corporations would mean that the profit motive invades our NHS, patient data is up for sale, access to healthcare is rationed and we would be staring at a system, as in the USA, where if you can't pay you don't get care.<sup>19</sup>

This petition has attracted more than half a million signatures. Another public petition on the UK Parliament website, calling for “watertight protections that will keep our NHS off the negotiating table”, has attracted more than 160,000 signatures and is awaiting a date for debate.<sup>20</sup>

### ***Existing Arrangements for Private Provision in the NHS***

Private companies are already able to tender to provide services within the NHS. The House of Commons Library has noted that although there are “competing definitions for what constitutes privatisation within the NHS”, the provision of services within the NHS has been opened up over the last few decades since the creation of the NHS internal market in 1991.<sup>21</sup> This separated the purchasers of healthcare (now known as commissioners) from providers of healthcare, and allowed commissioners to purchase from NHS trusts or private providers. Further reforms to the NHS internal market in England have followed since then. The Health and Social Care Act 2012 “extended market-based approaches, emphasising a diverse provider market, competition and patient choice as ways of improving healthcare”.<sup>22</sup> Regulations made under section 75 of the Act require commissioners to improve the quality and efficiency of NHS services by procuring from the providers most capable of meeting that objective and delivering best value for money.<sup>23</sup>

According to the think tank The King's Fund, there is evidence that the Act led to a large number of contracts being awarded to private providers but did not result in a significant increase in spending on the private sector.<sup>24</sup> This was because these contracts tended to be smaller than those awarded to NHS providers. Clinical commissioning groups can buy services from any provider that meets NHS standards and costs.<sup>25</sup> This could be NHS hospitals, social enterprises, voluntary organisations or private sector providers. NHS commissioners spent around £8.8 billion purchasing healthcare from private providers in 2017/18, equivalent to 7.3% of the revenue budget.<sup>26</sup>

Some US companies have been successful in securing NHS contracts, although according to the BBC, this is mostly on a small scale.<sup>27</sup> For example, HCA Healthcare, also known as Hospital Corporation of America, runs some private hospitals, mainly in London. It provides some care to NHS patients, predominantly when the NHS has been “faced with increased pressures in their hospitals”, but this accounts for less than 1% of the care it provides. The Acadia Group, which owns the Priory chain of hospitals, also mainly does private work in the UK, but has beds for NHS patients in 87 of its hospitals, which provide a range of mental health services including for addiction and eating disorders.<sup>28</sup>

Different arrangements apply regarding competition and the use of private providers in the NHS outside England. The governments of Scotland, Wales and Northern Ireland have chosen to restrict competition in their health services.<sup>29</sup> In Scotland, there is no purchaser/provider split and the role of the market is limited.<sup>30</sup> Legislation passed in Wales in 2009 removed “market levers” from the NHS.<sup>31</sup> Legislation passed in Northern Ireland in 2009 created a system that mixes bureaucratic and market levers.<sup>32</sup>

The Scottish and Welsh governments have made clear that they would be opposed to any trade deal that compelled them to privatise the NHS in their area. In its response to the UK Government's

consultation on future trade deals, the Scottish Government said it agreed with stakeholders that “the current arrangements and lack of competition” should be preserved in Scotland.<sup>33</sup> It urged the UK Government to adhere to its commitments that future trade deals would not affect the governance of the health service, and to ensure that the UK’s post-Brexit trade deals “must not open up our NHS to privatisation”. Baroness Morgan of Ely, the Welsh International Relations Minister, said she had made clear to Liam Fox that “devolution must be respected in any new trade deals post-Brexit”.<sup>34</sup> She said this would include “the UK Government respecting the Welsh Government’s determination to preserve the NHS as a public service” and there was “absolutely no prospect whatsoever of us allowing the Welsh NHS to be part of any negotiation on a new trade deal with the US”.

### ***Trade Deal Prospects***

Commentators in the international trade and health sectors have questioned whether the terms of a trade agreement would put the NHS ‘up for sale’ in a way that could force further privatisation or change the way the public access NHS services. Dr Meredith Crowley, university reader in international economics at the University of Cambridge and research fellow at the Centre for Economic Policy Research, said it would be “very strange for a trade agreement to try to require a privatisation of a public service”.<sup>35</sup> She could see “no real reason why they could force some type of privatisation of the NHS”.

Sam Lowe, senior research fellow at the Centre for European Reform think tank, said: “Despite long-running fears of a US trade deal-inspired privatisation of the National Health Service, public services are largely carved out of free trade agreements, and that is unlikely to change”.<sup>36</sup> He noted that the decision to require NHS contracts to be put out to competitive tender was not a requirement of a free trade agreement, but had been “a unilateral decision made by a British government seeking value for money”.

Mark Dayan, head of public affairs at the Nuffield Trust health think tank, argued that a trade deal “would not have the power to stop the NHS being a free, universal service” or to redesign the funding model of a public service.<sup>37</sup> He noted that trade deals the US has already concluded with smaller countries with publicly-funded health systems, such as Australia, do not contain provisions to redesign the funding model.

Some concerns have been raised about whether a UK-US free trade agreement would prevent the UK Government from reducing the current level of private provision in the NHS in England, should it wish to do so.<sup>38</sup> This issue also arose during negotiations launched in 2013 on a proposed free trade agreement between the US and the EU, the Transatlantic Trade and Investment Partnership (TTIP). It was originally proposed that TTIP would contain provisions on investor-state dispute settlement (ISDS), which would allow investors to bring legal proceedings against a government that was party to the treaty, in tribunals outside the domestic legal system.<sup>39</sup> It was argued by some that these proposals could effectively make it impossible to reverse the existing level of private provision in the NHS should a UK Government ever wish to do so. Mark Dayan of the Nuffield Trust has summarised the arguments made at the time as follows:

[The TTIP negotiations] saw trade unions in the UK make a more sophisticated argument: “if a future government were to bring parts of the National Health Service back into public ownership... it would be prone to challenge... by American companies that have significant investment in the NHS”.

The logic went that US companies would be able to claim that renationalising the NHS was equivalent to confiscating the assets they owned in the UK, which only had value because they could win health service contracts. The special system of international tribunals, which would have had the right to settle such cases, raised particular concerns.<sup>40</sup>

Both the European Commission and the UK Government argued at the time that TTIP would not prevent outsourced services being brought back into the public sector in future, in accordance with domestic law and any termination provisions in the relevant contracts.<sup>41</sup> The House of Commons Business, Innovation and Skills (BIS) Committee “welcomed the repeated statements given by both the European Commission and the UK Government that public services—including the NHS—will be unaffected by TTIP”.<sup>42</sup> However, the committee also thought that “not all campaigners will accept these statements at face value”. It therefore called on the Government to ensure that an “unequivocal statement protecting public services at present—and the right to expand them in the future” be set out in any ISDS provisions of TTIP. The TTIP negotiations ended in 2016 without the US and the EU reaching an agreement on a trade deal.<sup>43</sup>

In the context of possible new post-Brexit free trade agreements, the Government has emphasised it would protect its own ability to regulate and protect public services, including the NHS. Responding to the public petition on the parliamentary website calling for the NHS to be kept out of future trade deals, the Government said:

The Government has been consistently clear about its commitment to the guiding principles of the NHS—that it is universal and free at the point of need. 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.

[...] protecting the UK’s right to regulate in the public interest and protect public services, including the NHS, is of the utmost importance. As set out in the October 2017 white paper ‘Preparing for our future trade policy’, the Government will continue to ensure that decisions on how to run public services are made by UK Governments, including the devolved administrations, and not our trade partners.

The UK’s public services are protected by specific exceptions and reservations in EU Free Trade Agreements. As we leave the EU, the UK will continue to ensure that rigorous protections are included in all trade agreements it is party to, whether transitioned from an EU context or as a result of new negotiations.

These protections are an integral part of the UK’s future independent trade policy, rather than being at odds with it.<sup>44</sup>

Some stakeholders and campaign groups are seeking specific exemptions for health services from any future trade deals. For example, the British Medical Association (BMA) argued that the inclusion of healthcare services within the scope of an international trade agreement would risk provision “being outsourced to private companies based abroad”.<sup>45</sup> It said this would “further [contribute] to the rising proportion of publicly funded care being delivered by the independent sector”. It called on the Government to make a firm commitment to exclude the provision of UK healthcare services from the scope of all future trade agreements, “ideally through a hard carve-out”. It also asked the Government to commit to completely excluding investor protection mechanisms from its future trade agreements, arguing there was a “significant risk these mechanisms could be used to block future rollback of

privatisation in the NHS". The Keep Our NHS Public campaign group has also called on the Government to guarantee "by law that the NHS is a public service outside of all trade deals".<sup>46</sup> It argued that including the NHS in trade deals with the US and other countries could "escalate" private provision within the NHS. The group is opposed to "the running of our NHS through commercial and competitive clinical contracts" altogether.

## **Drug Pricing**

### ***US Negotiating Objectives***

The US has indicated it may seek to target drugs pricing in free trade deals it strikes with other countries. In May 2018, Donald Trump launched a plan for lowering the price of prescription drugs for American patients. One factor he blamed for high prescription drug prices in the US was what he called "global freeloading".<sup>47</sup> He claimed that "when foreign governments extort unreasonably low prices from US drug makers, Americans have to pay more to subsidise the enormous cost of research and development". He particularly blamed countries that "use socialised healthcare to command unfairly low prices from US drug makers".<sup>48</sup> He said he had directed the US Trade Representative, Robert Lighthizer, "to make fixing this injustice a top priority with every trading partner" so that "America will not be cheated any longer".<sup>49</sup> This would be done by "addressing unfair intellectual property and market access policies in our trade agreements, so that partners contribute their fair share to innovation".<sup>50</sup> Alex Azar, US Health and Human Services Secretary, commented that the US would "pressure" other countries through trade negotiations and agreements "so we pay less, they pay more".<sup>51</sup>

In February 2019, the Office of the US Trade Representative published a summary of the US negotiating objectives for a future trade agreement with the UK. A section entitled 'Procedural Fairness for Pharmaceuticals and Medical Devices' said the US would:

Seek to ensure that government regulatory reimbursement regimes are transparent, provide procedural fairness, are non-discriminatory, and provide full market access for US products.<sup>52</sup>

It has been suggested elsewhere that the higher prices paid in the United States may be the result of inefficiencies in the US health market, rather than the US subsidising artificially low prices in other countries. For example, Nigel Edwards, chief executive of the Nuffield Trust, noted that healthcare prices in general in the US were higher than in Europe, and this was exacerbated by the absence of large-scale negotiation by the US Government. He argued there was "no reason to suppose that more expensive prices for drugs in Europe would translate into cheaper prices in the US".<sup>53</sup> Analysts at the Center for Global Development think tank have argued that the US market is distorted by many factors, such as:<sup>54</sup>

- the fragmentation of US healthcare across the public and private sectors;
- the prohibition on the Medicare system negotiating drug prices;
- yearly price rises within the pharmaceutical industry; and
- the extension of drug patents (and thus monopoly power) beyond 20 years.

They argued that these kept US prices "too high", and because of the size of the market this distorted pricing worldwide.

## How are Medicine Prices Set in the NHS?

In the UK, NHS expenditure on branded medicines is controlled within a voluntary and a statutory framework:

- **Voluntary Scheme for Branded Medicines Pricing and Access:** This came into force on 1 January 2019 and will be in place for five years until 2023.<sup>55</sup> It is a UK-wide voluntary agreement between the Department of Health and Social Care and the Association of the British Pharmaceutical Industry (ABPI). A version of the voluntary scheme has been negotiated every five or six years since the mid-1950s.<sup>56</sup> Previous iterations of the scheme worked on the basis that the NHS paid a reduced price compared to the manufacturers' list price.<sup>57</sup> Since 2014 a different mechanism has applied. The voluntary scheme limits the growth in the overall NHS medicines bill for products covered by the scheme. Companies in the scheme make payments to the Department for Health and Social Care to cover NHS expenditure above the agreed growth level, with the payment set as a percentage of their net eligible sales. A similar capping arrangement has been agreed for the 2019 voluntary scheme, so that the NHS's expenditure on branded medicines covered by the scheme will not grow by more than 2% a year for the next five years.<sup>58</sup>
- **Statutory Scheme:** This regulates the price of branded products manufactured by companies that have not signed up to the voluntary scheme. The scheme was reformed in 2017, so that instead of the NHS receiving a discount of 15% on the list price, manufacturers pay a sum to the Department for Health and Social Care equivalent to a percentage of the sales they have made to the NHS.<sup>59</sup> This percentage was initially set at 7.8%. It is subject to annual review. The payment percentage has subsequently been increased to 9.9% for 2019, 14.7% for 2020 and 20.5% for 2021.<sup>60</sup>

When it comes to generic medicines, the Department for Health and Social Care relies on competition in the market between suppliers to control prices.<sup>61</sup> It does not set the price for generic medicines but does set the amount that community pharmacies will be reimbursed by the NHS. It is argued that this gives pharmacists an incentive to source products as cheaply as possible, which helps to stimulate competition among manufacturers.<sup>62</sup> The Government can intervene when competition does not function effectively. The Competition and Markets Authority is responsible for investigating failures of competition and has issued fines in several cases since 2016.<sup>63</sup> In the view of the House of Commons Public Accounts Committee, although the NHS is the main purchaser of generic drugs in the UK, it has "relatively little influence over how much they cost in what is a global market".<sup>64</sup>

The National Institute for Health and Care Excellence (NICE) does not set or negotiate drugs prices. However, it assesses new and existing medicines and treatments within the NHS, looking at:<sup>65</sup>

- clinical evidence, which shows how well the medicine or treatment works; and
- economic evidence, which shows how well the medicine or treatment works in relation to how much it costs the NHS and whether it represents value for money.

The NHS is legally obliged to fund and resource medicines and treatments recommended by NICE's technology appraisals.<sup>66</sup>

## Trade Deal Prospects

Trade commentators have suggested ways in which provisions in a trade deal could influence drugs prices in the UK. Jane Lethbridge, director of the Public Services International Research Unit at the University of Greenwich, told the BBC that trade talks could “attempt to influence” the fixed cost per benefit price used by NICE to decide whether to commission a drug in the NHS.<sup>67</sup> This might open up a market for more US drugs. Mark Dayan of the Nuffield Trust argued that changing the criteria for NICE’s assessments “at the demands of medicine companies” could “simply mean we switch to funding drugs that deliver less benefit for the money we spend, leading to worse outcomes”. Extending patent protections for US-manufactured drugs, limiting the ability of other companies to develop and sell cheaper generic versions for a longer period, could also keep prices higher.<sup>68</sup> Sam Lowe of the Centre for European Reform noted that in trade negotiations with Australia and New Zealand, the US “backed away from trade asks on drug pricing in order to get agreements over the line”.<sup>69</sup> However, he suggested that “due to the NHS’s global significance and power, the incentives for the US to push the UK are more pronounced”.

In March 2019, Lord Hunt of Kings Heath, then Labour’s spokesperson in the Lords for health and social care, asked the Government about its assessment of the US negotiating objectives document, including the possibility of the UK having to pay more for medicines from the US.<sup>70</sup> Responding for the Government, Baroness Manzoor, then a government whip, said: “As with all negotiations, these objectives mark the starting point for the USA, and not the end”.<sup>71</sup> She described them as “entirely in keeping with the objectives mandated in US legislation for all trade negotiations” and said they were “not surprising”. She added that it was “too soon to say exactly what will be included in the future UK-US deal”.

## Further Information

- House of Commons Library, [Trade in Services and Brexit](#), 13 June 2019
- House of Commons Library, [Parliamentary Scrutiny of Replacement Treaties](#), 13 June 2019 (section 3 looks at proposals for parliamentary scrutiny of post-Brexit free trade agreements)
- House of Commons Library, [Future Free Trade Agreements: US, CPTPP, Australia and New Zealand](#), 20 February 2019

<sup>1</sup> Department for International Trade, [Preparing for Our Future UK Trade Policy](#), October 2017, Cm 9470, p 4.

<sup>2</sup> Department for International Trade, [Signed UK Trade Agreements Transitioned from the EU](#), last updated 9 June 2019. See also: House of Commons Library, [UK’s Replacement of the EU’s External Agreements after Brexit](#), 23 May 2019.

<sup>3</sup> House of Lords, [Written Question: Trade Agreements](#), 21 May 2019, HL15740.

<sup>4</sup> HM Government, [Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community](#), March 2019, Article 129(4).

<sup>5</sup> House of Commons, [Written Statement: Launch of Consultations on Potential Future Free Trade Agreements](#), 18 July 2018, HCWS873.

<sup>6</sup> The CPTPP is a trade agreement between Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore and Vietnam. It has not yet entered into force for all parties. The EU has free trade agreements with Canada, Chile, Japan, Mexico and Peru; agreements between the EU and Singapore and Vietnam have been negotiated and are awaiting signature (European Commission, [Negotiations and Agreements—Pending](#), accessed 24 June 2019).

<sup>7</sup> Department for International Trade, [Have Your Say on the UK’s Future Trade Negotiations](#), 18 September 2018.

<sup>8</sup> Department for International Trade, [An Information Pack for the Consultation Relating to a Bilateral Free Trade Agreement Between the United Kingdom and the United States](#), July 2018, p 4.

<sup>9</sup> BBC, [Transcript: Andrew Marr Show 2 June 2019—Woody Johnson](#), 2 June 2019, pp 4–5.

- <sup>10</sup> Channel 4 News, '[Trump and May Discuss Brexit, the NHS—and the Future PM](#)', 4 June 2019 [video].
- <sup>11</sup> Jenny Awford, Hugo Gye and Natasha Clark, '["That's Not Trade": Donald Trump Tells Piers Morgan the NHS is Not on the Table Post Brexit Trade Deal After Massive Row](#)', *Sun*, 5 June 2019.
- <sup>12</sup> Channel 4 News, '[Trump and May Discuss Brexit, the NHS—and the Future PM](#)', 4 June 2019 [video].
- <sup>13</sup> [HC Hansard, 5 June 2019, col 135](#).
- <sup>14</sup> Matt Hancock, '[Personal Twitter Account](#)', 4 June 2019.
- <sup>15</sup> [HC Hansard, 6 June 2019, col 254](#).
- <sup>16</sup> Jack Doyle and Eleanor Glover, '[Health Service Chief Hits Back in Trump Row](#)', *Daily Mail*, 6 June 2019.
- <sup>17</sup> Labour Party, '[US Corporations Taking Over NHS is a Nightmare Scenario—Ashworth Responds to Trump](#)', 4 June 2019.
- <sup>18</sup> Robert Wright and Anna Gross, '[Corbyn Vows to Fight US Involvement in NHS at Anti-Trump Protest](#)', *Financial Times*, 4 June 2019.
- <sup>19</sup> Change.org, '[Keep Our NHS Out of US Trade Deals](#)', accessed 24 June 2019; and Keep Our NHS Public, '[Donald Trump: Hands Off Our NHS!](#)', 5 June 2019.
- <sup>20</sup> Parliament website, '[Petitions: Don't Put Our NHS Up For Negotiation](#)', accessed 24 June 2019.
- <sup>21</sup> House of Commons Library, '[E-Petition Relating to the Privatisation of NHS Services](#)', 20 April 2018, p 2 and pp 5–6.
- <sup>22</sup> The King's Fund, '[Is the NHS Being Privatised?](#)', 15 October 2018.
- <sup>23</sup> Department of Health, '[Explanatory Memorandum to the National Health Service \(Procurement, Patient Choice and Competition\) \(No 2\) Regulations 2013](#)', March 2013.
- <sup>24</sup> The King's Fund, '[Is the NHS Being Privatised?](#)', 15 October 2018.
- <sup>25</sup> NHS England, '[Clinical Commissioning Groups](#)', accessed 24 June 2019.
- <sup>26</sup> Department of Health and Social Care, '[Annual Report and Accounts 2017–18](#)', 12 July 2018, HC 1205 of session 2017–19, Table 36, p 199.
- <sup>27</sup> Rachel Schraer, '[Trump Visit: Could US Companies Run NHS Services after Brexit?](#)', BBC News, 8 June 2019.
- <sup>28</sup> *ibid.*
- <sup>29</sup> British Medical Association, '[Brexit Briefing: Beyond Brexit—International Trade and Health](#)', 7 December 2018, p 5.
- <sup>30</sup> Scottish Government, '[Trade Policy: Response to UK Government Consultations on Future Free Trade Agreements](#)', November 2018, p 54.
- <sup>31</sup> National Assembly for Wales, '[The Organisation of the NHS in the UK: Comparing Structures in the Four Countries](#)', May 2015, pp 3–4.
- <sup>32</sup> *ibid.*
- <sup>33</sup> Scottish Government, '[Trade Policy: Response to UK Government Consultations on Future Free Trade Agreements](#)', November 2018, p 54.
- <sup>34</sup> Welsh Government, '["The Welsh NHS is Not For Sale"—Welsh Government](#)', 4 June 2019.
- <sup>35</sup> UK in a Changing Europe, '[Meredith Crowley on BBC One: Will the US Privatised the NHS?](#)', 5 June 2019 [video].
- <sup>36</sup> Sam Lowe, '[The UK Has Much to Fear from a US Trade Agreement](#)', *New Statesman*, 3 June 2019.
- <sup>37</sup> Mark Dayan, '[Could the NHS Be the Price of a US Trade Deal?](#)', Nuffield Trust, 6 June 2019.
- <sup>38</sup> For example: British Medical Association, '[Brexit Briefing: Beyond Brexit—International Trade and Health](#)', 7 December 2018, p 6.
- <sup>39</sup> House of Commons Library, '[The Transatlantic Trade and Investment Partnership \(TTIP\)](#)', 4 December 2015, p 11.
- <sup>40</sup> Mark Dayan, '[Could the NHS Be the Price of a US Trade Deal?](#)', Nuffield Trust, 6 June 2019.
- <sup>41</sup> House of Commons Library, '[The Transatlantic Trade and Investment Partnership \(TTIP\)](#)', 4 December 2015, pp 15–6.
- <sup>42</sup> House of Commons Business, Innovation and Skills Committee, '[Transatlantic Trade and Investment Partnership](#)', 25 March 2015, HC 804 of session 2014–15, pp 16–7.
- <sup>43</sup> European Commission, '[The Transatlantic Trade and Investment Partnership](#)', accessed 24 June 2019.
- <sup>44</sup> Parliament website, '[Petitions: Don't Put Our NHS Up For Negotiation](#)', accessed 24 June 2019.
- <sup>45</sup> British Medical Association, '[Brexit Briefing: Beyond Brexit—International Trade and Health](#)', 7 December 2018, pp 5–6.
- <sup>46</sup> Keep Our NHS Public, '[Trade Agreements: Keep Our NHS out of ALL Trade Deals](#)', accessed 25 June 2019.
- <sup>47</sup> White House, '[Remarks by President Trump on Lowering Drug Prices](#)', 11 May 2018.
- <sup>48</sup> White House, '[President Donald J Trump's Blueprint to Lower Drug Prices](#)', 11 May 2018.
- <sup>49</sup> White House, '[Remarks by President Trump on Lowering Drug Prices](#)', 11 May 2018.
- <sup>50</sup> White House, '[President Donald J Trump's Blueprint to Lower Drug Prices](#)', 11 May 2018.
- <sup>51</sup> Angelica LaVito, '[US Needs to Pressure Foreign Countries to Pay More for Prescription Drugs through Trade Agreements: HHS Chief Azar](#)', CNBC, 11 May 2018.
- <sup>52</sup> Office of the US Trade Representative, '[United States-United Kingdom Negotiations: Summary of Specific Negotiating Objectives](#)', February 2019.
- <sup>53</sup> David Millward, '[Trump Threatens to Use US Trade Talks to Force NHS to Pay More for Drugs](#)', *Telegraph*, 15 May 2018.
- <sup>54</sup> Cassandra Nemzoff and Kalipso Chaldikou, '[Are Other Countries to Blame for High US Drug Prices?](#)', Center for Global Development, 13 November 2018.
- <sup>55</sup> Department of Health and Social Care, '[Voluntary Scheme for Branded Medicines Pricing and Access](#)', 5 December 2018.

- <sup>56</sup> The King's Fund, [The Rising Cost of Medicines to the NHS: What's the Story?](#), April 2018, p 19.
- <sup>57</sup> Department of Health and Social Care, [2018 Statutory Scheme—Branded Medicines Pricing](#), 2 November 2018, p 4.
- <sup>58</sup> Paul Catchpole, '[New Voluntary Scheme for Branded Medicines Pricing and Access 2019](#)', Specialised Commissioning website, February 2019.
- <sup>59</sup> The King's Fund, [The Rising Cost of Medicines to the NHS: What's the Story?](#), April 2018, p 19.
- <sup>60</sup> Department for Health and Social Care, [Explanatory Memorandum to the Branded Health Service Medicines \(Costs\) \(Amendment\) Regulations 2018](#), November 2018, p 1.
- <sup>61</sup> House of Commons Public Accounts Committee, [Price Increases for Generic Medicines](#), 12 October 2018, HC 1184 of session 2017–19, p 4.
- <sup>62</sup> The King's Fund, [The Rising Cost of Medicines to the NHS: What's the Story?](#), April 2018, p 19.
- <sup>63</sup> *ibid.*
- <sup>64</sup> House of Commons Public Accounts Committee, [Price Increases for Generic Medicines](#), 12 October 2018, HC 1184 of session 2017–19, p 4.
- <sup>65</sup> National Institute for Health and Care Excellence, '[NICE Technology Appraisal Guidance](#)', accessed 25 June 2019.
- <sup>66</sup> *ibid.*
- <sup>67</sup> Rachel Schraer, '[Trump Visit: Could US Companies Run NHS Services after Brexit?](#)', BBC News, 8 June 2019.
- <sup>68</sup> *ibid.*, and Jean McHale and Matthew Bevington, 'Drugs and Medical Devices', in UK in a Changing Europe, [Brexit and the NHS](#), 14 March 2018, p 13.
- <sup>69</sup> Sam Lowe, '[The UK Has Much to Fear from a US Trade Agreement](#)', *New Statesman*, 3 June 2019.
- <sup>70</sup> [HL Hansard, 6 March 2019, col 610.](#)
- <sup>71</sup> *ibid.*

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