**What does Brexit mean for trade deals and the NHS?**

**A. EU trade deals under negotiation**

While the UK remains in the European Union (EU), the NHS is at risk from a number of multilateral trade deals currently under negotiation.

1. The *Comprehensive Economic and Trade Agreement* (CETA) has been agreed by the European Parliament and is now awaiting ratification by the EU member states’ parliaments. Should CETA come to the UK Parliament for ratification before Brexit takes place, it is unlikely it will be opposed. In any event, there is no parliament process by which UK MPs can definitively veto trade deals like CETA.[[1]](#footnote-1) However, there is some hope that the treaty will be opposed elsewhere (e.g. by Germany or the federal government of Wallonia). In the interim, most of CETA (but not, e.g., the provision for investment protection, or labour rights) can be implemented on a provisional basis before full ratification.[[2]](#footnote-2)

2. *The Trade in Services Agreement* (TiSA) between the EU member states and 22 other countries is concerned with about 70% of the global trade in services. Although the election of Donald Trump creates problems for this kind of multilateral deal, TiSA may be looked on more favourably by the US than deals covering trade in goods. There are some indications that TiSA negotiations may be completed in 2017.

3. *The Transatlantic Trade and Investment Partnership* (TTIP) negotiations between the EU and the US have stalled, although they may be reinvigorated, for example if the Trump administration recasts TTIP as a bilateral deal with the EU.

**B. Implications of existing trade deals for the NHS**

These treaties pose significant threats to public healthcare services. For example, CETA and TTIP use a ‘negative list’ approach: anything not explicitly excluded from the treaty will be included. (The position is less clear with TiSA.) Excluding the NHS is difficult, not least because finding the legal wording that will really safeguard the NHS is almost impossible. And to make exclusion really effective also requires a whole raft of additional goods and services relevant the NHS to be made exempt, such as pharmaceuticals and medical devices.

All these treaties aim to harmonise regulations between trading partners, which may mean standards (such as those governing labour rights) are reduced to the lowest common denominator. They can also mean the downgrading of public health measures governing the use of food labeling, pesticides, chemicals, the presence of hormones in meat production and so on.

The treaties contain ‘ratchet’ clauses that will lock in any privatisation of public services – making it impossible to restore public control, even where private service delivery has failed. CETA and TTIP also include measures (such as Investment Court System or ICS) to protect investors’ assets, allowing corporations to challenge government initiatives (such as new regulations for health and safety) that might affect business profits. The threat of having to pay massive compensation to corporations will inhibit most governments in regulating in the public interest, and reversing the privatisation of the NHS.

**C. What will Brexit mean?**

1. **Brexit and existing treaties**

EU law and treaties will continue to apply to the UK until it has formally left the EU, a process that may take over two years. This means, for example, that the UK will be temporarily included in CETA if the treaty is fully ratified (i.e. agreed by all EU member states’ parliaments) before Brexit.[[3]](#footnote-3) Investments by Canadian corporations (or those multinationals with subsidiaries in Canada) made between the implementation of CETA and the UK’s departure from the EU will continue to be protected by ICS, the investment protection measure, for a further 20 years.[[4]](#footnote-4)

If we leave the EU before full ratification, or if (as may prove to be the case) the provisional CETA agreement still applies, even if full ratification does not take place its provisional aspects *could* still apply to the UK – possibly for up to 3 years.

1. **Brexit and future trade deals**

Shortly after the referendum the new Secretary of State for International Trade announced that 10 ‘economic powerhouses’ including China, Australia and Canada had already committed informally to developing strong trade deals with the UK. It is thought that CETA is likely to provide a template for these. If so, we can expect these new deals to include provisions to open up the NHS to competition from foreign investors, and investment protection measures like ICS, that will make it hugely difficult to reverse privatisation of the NHS.

The Trump administration has also indicated that the US wants to fast track a trade deal with the UK, giving rise to concern that this could pose even more of a threat to the NHS than TTIP: the UK will have less clout than if it was in the EU and a rushed deal may lead to the UK opening up its domestic markets to US corporations without proper scrutiny and, for example, allowing goods into the UK that are currently prohibited on public health grounds. [[5]](#footnote-5)

The UK government consulted on the kind of new, bilateral trade deals the UK might want in future. For KONP’s submissions to these consultations, see our website.

**E. Further information**

<http://www.patients4nhs.org.uk/free-trade-agreements-like-ttip-and-the-nhs/>

<https://corporateeurope.org/sites/default/files/attachments/public-services-under-attack.pdf>

<http://www.unitetheunion.org/uploaded/documents/FINAL%20Legal%20implications%20of%20TTIP%20for%20the%20NHS%2012%20Feb%20201511-21864.pdf>

<http://www.jeanlambertmep.org.uk/wp-content/uploads/2017/01/JL-UK-trade-after-the-Brexit-vote.pdf>.

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1. The Constitutional Reform and Governance Act 2010, Section 20. [↑](#footnote-ref-1)
2. http://www.europarl.europa.eu/news/en/news-room/20170124IPR59704/ceta-trade-committee-meps-back-eu-canada-agreement [↑](#footnote-ref-2)
3. <http://www.cbc.ca/news/politics/brexit-ceta-canada-eu-trade-deal-1.3650708> [↑](#footnote-ref-3)
4. <http://www.mishcon.com/assets/managed/docs/downloads/doc_2850/TTIP_Project_v6_PJ_PROOF.pdf> [↑](#footnote-ref-4)
5. <http://www.independent.co.uk/news/uk/politics/brexit-latest-news-trade-deal-us-uk-donald-trump-theresa-may-threat-nhs-environment-food-safety-a7529836.html> [↑](#footnote-ref-5)