

**Briefing**



# **Comprehensive and Progressive Transpacific Partnership**

April 2021

## Introduction

1. *The Trades Union Congress (TUC) bring together more than 5.6 million working people who make up our 48 member unions. We support unions to grow and thrive, and we stand up for everyone who works for a living. Every day, we campaign for more and better jobs, and a more equal, more prosperous country.*
2. The Comprehensive and Progressive Transpacific Partnership (CPTPP) currently consists of 11 countries: Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, Peru, New Zealand, Singapore and Vietnam. It was agreed in 2018. The UK has now started the process of acceding to the deal.
3. The TUC believes the UK should not join CPTPP as we share concerns of trade unions across CPTPP countries that the deal significantly threatens workers' rights, regulatory standards, public services and democratic decision making and puts millions of jobs at risk.<sup>1</sup>
4. As the UK is acceding to a pre-existing agreement it will have limited room to change the terms of the agreement to address these concerns.
5. The TUC believes the government has not presented a convincing case that would suggest it is in the interests of workers, the economy or society to join CPTPP.

### Workers' rights at risk

6. Unions globally have expressed concern that CPTPP has no effective mechanism to enforce fundamental International Labour Organisation (ILO) standards.
7. This is particularly concerning as the agreement contains countries where abuses of labour rights are widespread such as Brunei, Mexico and Vietnam. In Brunei and Vietnam independent trade unions are banned - violating ILO conventions on freedom of association and collective bargaining.
8. Whilst the CPTPP labour chapter contains a mechanism which could in theory impose sanctions for violations of labour standards commitments, it must to be demonstrated that a country's violation of labour standards occurred 'in a manner affecting trade'. This criteria in practice prevents cases being brought against countries as proving a link between labour rights abuses and an impact on trade is very difficult. The labour chapter of the US agreement with Central America (CAFTA) had the same wording, which meant that even when the US took a case against Guatemala for violations of workers' rights, the tribunal found in favour of Guatemala as the panel deemed that the violations could not be proven to be 'affecting trade'.<sup>2</sup>
9. Furthermore, the CPTPP labour chapter requires a government to take a case against another government rather than trade unions being able to file cases to an independent legal body. Few government will have the political will to challenge another on issues of labour standards and indeed to date no government in CPTPP has

---

<sup>1</sup> <https://www.ituc-csi.org/IMG/pdf/tpp.pdf>

<sup>2</sup> <https://aflcio.org/2017/6/26/us-trade-policy-fails-workers>

challenged another government in the agreement for violating labour rights commitments.

### **Threats to democracy**

10. Workers' rights, public services and democratic decision making more broadly are additionally undermined by the presence of Investor-State Dispute Settlement (ISDS) corporate court system in CPTPP.
11. This mechanism allows foreign investors to sue governments for regulations or actions that they believe threaten their ability to make profits. ISDS court systems in the past have been used in the past to challenge minimum wage laws and government attempts to renationalise public services.<sup>3</sup>
12. Whilst some countries involved in CPTPP, such as Australia and New Zealand, have agreed bilateral agreements to exclude ISDS court systems between them, it is by no means certain other countries will agree to such an arrangement with the UK, should the government request it.
13. The TUC is concerned the government has not committed to excluding ISDS in trade deals - unlike other countries such as the US and New Zealand.
14. The presence of ISDS in CPTPP was one of the reasons Joseph Stiglitz, Noble Laureate in Economics and Professor at Columbia University commented in 2015 that the agreement 'is an agreement to manage its members' trade and investment relations – and to do so on behalf of each country's most powerful business lobbies. Make no mistake:...TPP is not about "free" trade.'<sup>4</sup>
15. The experiences of the US and Canada in the North American Free Trade Agreement (NAFTA) show that ISDS cases are just as likely to be used against Global North countries as Global South countries. There have been 21 cases against the US and 15 cases against Canada since 2010 via ISDS court systems in NAFTA.
16. In 2015 the Australian Productivity Commission recommended that the Australian Government avoid the inclusion of ISDS court systems in trade deals. It concluded there was an absence of market failure grounds that necessitated the inclusion of ISDS in trade deals.<sup>5</sup>
17. Trade unions globally have condemned the use of ISDS court systems in trade agreements.<sup>6</sup>

### **Threats to jobs and increasing gender inequalities**

18. The TUC is concerned that CPTPP may lead to job losses in some sectors due to increased imports from CPTPP countries.

---

<sup>3</sup> <https://touchstoneblog.org.uk/2017/03/drop-the-mic/>

<sup>4</sup> <https://cgt.columbia.edu/news/stiglitz-the-trans-pacific-free-trade-charade/>

<sup>5</sup> <https://www.pc.gov.au/research/ongoing/trade-assistance/2014-15/trade-assistance-review-2014-15.pdf>

<sup>6</sup> <https://www.ituc-csi.org/trans-pacific-trade-agreement?lang=fr>

19. Analysis by Professor Capaldo at Tufts University has projected that millions of jobs will be lost across current CPTPP countries due to the fact the deal will open markets, making some domestic sectors uncompetitive, reducing workers' share of income which will, in turn, reduce domestic demand. Capaldo projects by 2025 the deal will cause 75,000 job losses in Japan, 58,000 job losses in Canada and 39,000 in Australia.<sup>7</sup>
20. Unions are concerned that workers who lose jobs will be forced to take up new employment on precarious terms with low pay in the informal sector. As women are disproportionately likely to be employed in the informal sector already, any increase in the informal economy will increase the disadvantage women suffer in the labour market and increase gender wage gaps.

### **Threats to manufacturing**

21. The TUC has concerns that CPTPP poses threats to jobs in manufacturing sectors as it would make it easier for Vietnam to export goods to the UK which could include cheap Chinese steel or other manufactured goods such as tyres, cement and glass, deliberately routed through Vietnam to avoid trade remedies. The TUC is concerned this would increase the rate of trade dumping in UK manufacturing sectors, putting thousands of jobs in steel and related supply chains at risk. In 2017 the European Commission found that China had been shipping steel from Vietnam to evade tariffs which lead to dumping in the UK steel sector.<sup>8</sup>
22. The risk of increased dumping from Vietnam as well as other countries is compounded by the fact the UK's trade remedies system is currently too weak to be effective. The TUC is part of the Manufacturing Trade Remedies Alliance (MTRA) – with Unite, GMB and Community as well as a number of manufacturing employers' associations - which is calling for stronger measures to deal with dumping from countries such as China and Vietnam in legislation and the removal of the 'public interest test' and 'economic interest test' which prevent trade effective remedies being applied.<sup>9</sup>

### **Threats to public services**

23. CPTPP would also expose public services to further privatisation as it takes the 'negative list' approach to service listing. This means that any services not explicitly exempted will be opened to further privatisation. In the past the government has not adequately excluded public services in trade deals such as the UK-Canada trade agreement.
24. Meanwhile, the government's ability to exempt public services adequately in CPTPP would be severely restricted as the UK would be joining an existing agreement it would have very little power to alter.
25. A 'ratchet clause' in CPTPP would mean that services already opened to privatisation could not be renationalised in the future. Furthermore if the ISDS corporate court

<sup>7</sup> <http://www.ase.tufts.edu/gdae/Pubs/wp/16-01Capaldo-IzurietaTPP.pdf>

<sup>8</sup> <https://www.reuters.com/article/steel-china-vietnam/eu-finds-chinese-steel-sent-via-vietnam-evaded-tariffs-idUSL8N1NK5VY>

<sup>9</sup> <https://committees.parliament.uk/oralevidence/1060/html/>

system (discussed above) is included in the agreement, foreign investors based in any CPTPP country would have the power to sue the UK government for attempts to renationalise public services that have been privatised.

26. The TUC is also concerned that CPTPP would open up public procurement markets, restricting public authorities' ability to support local businesses that recognise trade unions or pay living wages. Award criteria provisions in CPTPP are narrower than UK procurement law and would encourage more contracting based on lowest price rather than quality, access and integrity of service provision.