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Briefing on TUC recommendations on
**Domestic Advisory
Group under the
EU-UK TCA**

March 2021

The TUC exists to make the working world a better place for everyone. We bring together more than 5.5 million working people who make up our 48 member unions.

Introduction

The TUC considers the EU-UK deal avoided a no deal scenario but has several concerns that are being raised with relevant government ministers with regards to the protection of jobs, rights and peace in Northern Ireland.

The TUC notes the governance section of the TCA and believes that trade unions should be given their rightful place in overseeing the implementation of the agreement.

To this end the TUC recommends that the UK sets up an economic and social council to act as a civil society forum, and a domestic advisory group where all stakeholders are equally represented, can voice their concerns and discuss appropriate solutions to the issues that may arise with the implementation of the agreement.

This briefing sets out the TUC recommendations.

Provisions in the agreement

The EU-UK TCA recently agreed provides for, among other things, the establishment of a domestic advisory group (DAG, part 1, title III, art.INST.7) comprising representation of business organisations, trade unions and civil society and tasked with monitoring and discussing the implementation of the whole agreement as well as any eventual supplementary agreements. The DAG would meet at least once a year, whether physically or remotely, and will also liaise with its equivalent on the EU side. The DAG will adopt recommendations which the government, as a party to the agreement, shall consider; and may submit observations to the Trade Specialised Committee on Level Playing Field for Open and Fair Competition and Sustainable Development when the latter monitors the follow-up to the report of the panel of experts (part 2, title XI, ch.9, art.9.2.17).

The agreement also foresees the facilitation of a civil society forum (CSF) to conduct dialogue on the implementation of part 2 (the trade and investment part of the TCA). The body shall consist of a balanced representation of civil society, employers and trade union organisations.

Established practice:

- the European Economic and Social Committee

Within the EU, the body that provides many of the representatives of Domestic Advisory Groups in EU trade agreements and acts as a secretariat for these groups is the European Economic and Social Committee (EESC). The EESC also convenes the Civil Society Dialogue meeting under EU trade agreements.

The EESC comprises one-third employers/business representatives, one-third trade union representatives and one-third civil society/third sector representatives. Its role is to maintain

a permanent structured dialogue with civil society and social partners. This model exists in 72 countries worldwide and in 21 of the 27 EU countries.

When the UK was a member of the EU, our delegation to the EESC also ensured regional balance with representatives from England, Scotland, Wales and N. Ireland. The TUC would provide the Foreign Office with a list of candidates for the workers' delegation, which was then put forward as a formal UK government nomination and validated by the Council of Ministers. We believe employers and civil society organisations followed a similar process.

Moreover, DAGs have been set up by the EU to provide for civil society oversight of the sustainable development chapters of EU Free Trade agreements as a result of the Lisbon Treaty 2009. Thus, when it comes to establishing a civil society forum or a DAG, on the EU side there is already a body that offers balanced representation of stakeholders in society, from which members of the TCA bodies can be selected, and that acts as the secretariat to the DAG.

On the other hand, in the UK this work would have to start from scratch as there are no pre-existing bodies that ensure a balanced representation of all stakeholders in a manner akin to the EESC. There exist a Strategic Trade Advisory Group¹, various sector specific advisory groups² and a Trade Union advisory group³ that are being convened in the framework of international trade policy, but none of these have responsibility to oversee a particular trade agreement.

The TUC has been calling for more joined up working between government and social partners. We have been calling for a National Recovery Council – bringing unions, business and government together to agree and implement an economic recovery strategy for the UK as we emerge from the Covid-19 crisis. And this call has been echoed by business organisations, with the CBI recently making the case for partnership between government, business, unions and civil society on establishing a vision and strategy for economic recovery⁴. Clearly there is appetite to see us working together constructively.

- Domestic Advisory Groups

A number of UK trade agreements including those with Canada, Japan, South Korea and Colombia require the government to create independent Domestic Advisory Groups (DAGs). DAGs must be comprised of civil society organisations including employer and trade union organisations to monitor the impact of trade agreements on labour and

¹ For information on role and membership see <https://www.gov.uk/government/groups/strategic-trade-advisory-group>

² For information on role and membership see <https://www.gov.uk/government/publications/trade-advisory-groups-tags/trade-advisory-groups-membership>

³ For information on role and membership see <https://www.gov.uk/government/publications/trade-union-advisory-group/trade-union-advisory-group-membership#:~:text=The%20trade%20union%20advisory%20group%20provides%20a%20key%20forum%20for,people%20of%20the%20United%20Kingdom.>

⁴ CBI Director-General Tony Danker, keynote speech on the future of the UK economy, Bloomberg 3 February 2021: <https://www.cbi.org.uk/media-centre/articles/we-must-not-make-same-mistakes-as-2008-d-g-bloomberg-economy-speech/>

environmental standards contained in the Trade and Sustainable development chapters of trade agreements. The UK government has yet to establish any DAGs contained in its trade agreements with other countries.

A number of EU trade deals also require Domestic Advisory Groups to be created. These contain representative of trade unions, employers and civil society. Many of these have been in operation for almost a decade. The TUC had positions on DAGs monitoring the EU's trade deals with CARIFORUM, Colombia/Peru/Ecuador, Canada and Japan. The EU Commission funds all DAG meetings and travel and accommodation costs of all DAG members.

The DAG that is required to be established by the UK-EU TCA is unique in having oversight of the implementation of the whole trade agreement, not just the Trade and Sustainability chapter.

TUC concerns

The TUC shares the concerns of EU trade unions, employers and civil society groups that DAGs that have been established in EU trade deals have not yet been provided with the powers needed to effectively monitor adherence to sustainability commitments in trade agreements.⁵

As DAGs have lacked the power to trigger investigations into violations of labour and environmental standards, they have not been able to prompt action by the EU and its trading partners to address violations. Trade unions are also concerned that governments in countries such as Colombia, Peru and Ecuador have not supported independent DAGs to be established, with government-controlled organisations being appointed on occasion. These governments have also not resourced participants of these groups to take part in the DAG activities. This has meant the DAGs in these countries have not been able to function properly to hold their governments to account for labour and human rights. In the case of Colombia this has serious implications given the widespread abuses of human rights being committed.

The TUC is also concerned that there was no meaningful engagement with unions during the negotiation of the TCA making it imperative adequate mechanisms for consultation with unions is established to monitor the impact of the TCA now in force.

TUC proposals for DAGs

The TUC calls on the UK government to ensure the DAG established for the TCA, as well as DAGs established for other UK trade deals, are effective in monitoring commitments to workers' rights. Steps the government must take include:

⁵ EESC Opinion 'The role of Domestic Advisory groups in monitoring free trade agreements' adopted in January 2019, online at: [https://www.eesc.europa.eu/en/our-work/opinions-information-reports/opinions/role-domestic-advisory-groups-monitoring-implementation-free-trade-agreements#:~:text=Domestic%20advisory%20groups%20\(DAG\)%20are,cover%20all%20provisions%20of%20FTAs](https://www.eesc.europa.eu/en/our-work/opinions-information-reports/opinions/role-domestic-advisory-groups-monitoring-implementation-free-trade-agreements#:~:text=Domestic%20advisory%20groups%20(DAG)%20are,cover%20all%20provisions%20of%20FTAs).

- Liaising with the TUC and representative employer and other civil society bodies to select the membership of DAGs to ensure there is appropriate representatives of civil society
- ensuring there is balanced representation of trade unions, employer organisations and other civil society groups on DAGs
- ensuring DAGs are convened in a timely manner, with the first meetings taking place as early as possible in 2021
- ensuring DAGs are involved in a process of triggering investigations when labour standards are abused by a party to the deal
- ensuring DAGs have sufficient resources to secure unions' adequate participation (e.g. travel and accommodation costs when the meetings are held in person)
- ensure partner countries establish independent DAGs with genuine representative organisations of unions, employers and civil society and providing adequate resourcing for them to function.

TUC proposals for an economic and social council

While the TCA only sets an obligation to establish a DAG and to facilitate a civil society forum, the TUC would argue that there is a case for a permanent UK economic and social council to embed structured dialogue with civil society in the UK in a way that has never been done before, with dialogue only happening at the whim of the government of the day.

This economic and social council could ensure civil society dialogue in the UK and act as a secretariat for UK DAG. Because the DAG needs to be independent of government, it would not be appropriate for the Department for International Trade to act as the secretariat as it currently does with the various advisory groups listed on p.3.

A UK economic and social council could bring together social partners along with representatives of wider civil society and would be particularly valuable in providing a forum to ensure civil society dialogue in the UK and to liaise with the EESC on the EU side and other international equivalent bodies. It could provide the necessary structure to also relate with any DAG established as part of other free trade agreements.

Governments in countries that have established similar economic and social committees, have found them a useful vehicle for consulting social partners and civil society, as well as an aid to policy formulation and ensuring a wider ownership of government policies generally.

Thus, such a council could advise the government on policy formulation by harnessing the knowledge and experience of key players among social partners and in the wider society. As the Research paper, "Economic and Social Councils of the Members States of the European Union" concludes:

"Economic and social councils are a tool that helps to build trust between citizens and public authorities, forums for participation and consultation of the social partners and organised civil

society, which have contributed and continue to contribute to achieving key objectives such as greater social cohesion, higher productivity and socio-economic development of States.”⁶

Recommendations

The TUC recommends the establishment of a UK economic and social council. Such a body would include representatives of employers' organisations, trade unions and wider civil society in equal number, as is the case in many other countries, including EU member states.

Such a council could also act as the civil society forum required by the TCA to facilitate dialogue with civil society more broadly.

The TUC also recommends that early consideration is given by the government to the nature of any DAG established as part of the trade agreement between the UK and the EU, as well as the nature of any DAG that should be established as a result of other UK trade agreements.

⁶ Ignacio Hoces Íñiguez, study for the EESC 'The Economic and Social Councils of the Member States of the European Union: the different models of dialogue', 2018, p.34:
<https://www.eesc.europa.eu/sites/default/files/files/qe-04-18-193-en-n.pdf>