



Brexit: a new deal for working people

December 2016

**WORKING PEOPLE
MUST NOT PAY THE
PRICE OF BREXIT**



Contents

3	Introduction
5	Promoting good jobs
8	Protecting workers' rights
10	Managing migration better
12	What's at risk?
14	How to secure these objectives
15	Conclusion

Section one

Introduction

The referendum result was close but clear: Britain is set to leave the European Union.

The Prime Minister has announced her intention to trigger Article 50 to start the negotiations over Brexit by the end of March 2017. Now the government must set out a clear plan for what happens next and tell the British people what terms they are seeking so we get the best result for Britain.

First and foremost, the TUC's job is to stand up for working people whichever way they voted in the referendum. That's why we are calling for a new deal for working people to be put at the heart of the government's Brexit negotiation strategy. Most people agree that the balance of power in our country has swung too far against ordinary people. They see it in pay packets that are too small, too many jobs that are lousy and rights at work that simply haven't kept pace with changes in the real world of work, and which Employment Tribunal fees make too expensive to enforce.

Nobody has a crystal ball to predict the outcome of negotiations and what the new relationship between Britain and the EU will be. The TUC understands that, by definition, any negotiation involves trade-offs and compromise, even while recognising fundamental principles. But we do know what a fair trade deal would look like. A good deal for British workers – and for working people across the rest of Europe – would deliver more skilled jobs, protect rights and strengthen people's voice at work. In contrast, bad trade deals destroy jobs, weaken working people's rights and put public services at risk of privatisation.

Nor does anyone expect a running commentary on negotiations. But the British people do have a right to know what kind of deal the government is seeking and the government should expect to be held to account. That's why the TUC has consistently argued for transparency in trade deals and the negotiations with the EU are no exception. We want the government to give the nations, city mayors and unions, as well as business, seats at the Brexit negotiating table.

At this stage the Government must set out its guiding principles for negotiation. The TUC believes that the Government should:

- promote good jobs by maintaining the EU as our largest trading partner, exporting our goods to the EU tariff-free and without cumbersome rules of origin requirements and other non-tariff barriers, as well as providing services in other EU countries without restrictions;
- protect workers' rights by enforcing the highest regulatory standards in Europe, especially when it comes to employment, but also consumer and environmental protections; and

- manage migration better by guaranteeing local people opportunities for better jobs and apprenticeships, closer to home, especially in towns and communities hit hard by previous recessions; cracking down on bad employers who use migrants to undercut wages; strengthening union voice; and easing pressure on housing, schools, hospitals and other public services by using tax gains to better fund them.

These objectives would, we believe, secure good jobs at good wages for working people in manufacturing and services, including in the supply chains that export industries depend on. That would also provide the taxes to sustain good quality public services including a major expansion of house building,

The government can also act now to improve the ability of the British economy to deliver decent jobs and wages across the country. The TUC has long argued that Britain needs an industrial strategy that combines investment in infrastructure; a plan to develop workforce skills, and the employee engagement needed to ensure that these skills are used effectively at work; smart procurement policy to ensure we are maximising the potential to increase jobs at home, and a clear strategy to take advantage of the opportunities for new technology to help meet our climate commitments.

But without meeting the objectives above around our relationship with the EU, we believe that the nation's economic health and development would be seriously undermined.

This would be a unique British model for a relationship with the rest of the European Union – specifically tailored to the needs of the British economy and British people. At present, the only way that the TUC can see we could achieve the objectives set out above would be through continued membership of the single market, which we should still be seeking to improve even from outside the EU – not just for our own direct benefit, but also so that the rest of the EU remains a rich and growing market where we can export our goods and services.

Section two

Promoting good jobs

We want to promote good jobs by maintaining the EU as our largest trading partner, exporting our goods to the EU tariff-free and without cumbersome rules of origin requirements such as non-tariff barriers, as well as providing services in other EU countries without restrictions.

Many of our industries rely on exports, and this would ensure continued demand for our goods and services. There are several reasons why the rest of the EU should continue to be our main destination for exports and source of imports: proximity is the main one, but there are also many existing supply chains, shared regulatory requirements, and, of course, a fairly common level of household income meaning that Europe's population is more likely to be able to buy UK exports than other potential trading partners¹.

The TUC believes that the UK government's primary objective should be to ensure that British business retains the ability to sell goods and provide services across the largest and richest consumer market in the world. This will not only allow British businesses and so jobs to thrive, it will continue to provide a business environment attractive to foreign direct investment in exporting industries. Jobs in exporting sectors tend to have higher skill levels, and higher wages, than those not trade-related, and such employment produces many more jobs in downstream industries.

It is of course unlikely that these would be lost altogether: many countries trade with the EU at present without being members, although often at a cost. And it would of course be possible to replace opportunities provided by EU membership by increasing trade with the rest of the world.

But that is possible now, and there are very few areas where membership of the EU holds us back: one often quoted is the common tariff with third parties that membership of the EU Customs Union requires us to levy. Even if we adopted a much freer trade regime and more vigorous trading activity with countries not already involved in or negotiating free trade agreements with the EU (which, together with the EU itself, already by 90% of all UK exports²), it would take a monumental

¹ India may represent a market three times the size of the EU, but as well as being a long way away, 85% of India's population earns less than \$2 a day – they aren't going to be buying our exports!

² According to Open Britain analysis, in terms of UK goods exports in 2015:

- 47% of UK exports go to the EU.
- 11% of UK exports go to non-EU countries with whom the EU has trade agreements.
- 4% of UK exports go to non-EU countries with whom the EU has an agreement pending ratification.

effort to replace even a fraction of the trade we would lose as a result of exiting the single market.

In the short-term at least, the cost of imports would be likely to rise due to the likely imposition of WTO tariffs, even if these are relatively low on average. And in sectors where the WTO base tariff rate is higher, it would be a serious problem. That would have a significant impact on household budgets, possibly compounded by the increase in the costs affecting domestic production (eg in food).

But it would have a much greater impact on exporting industries, where import tariffs would raise the cost of components and raw materials and the cost of exports would also attract tariffs, a double whammy that could substantially increase the cost of British exports³. The changes in tariffs alone would be likely to significantly affect the profitability of exports: if a car company is making a 6% profit on each car sold abroad, it's not difficult to see the impact of even a small level of tariffs.

More significant than the tariff regime, though, might be the documentary requirements that would result from a significantly altered trade regime with the EU. Outside the single market, UK exporters to the EU would have to demonstrate that their products and services met the regulatory requirements of the single market, as well as providing proof of origin, ie whether the goods contained elements produced in a third country such as components imported from, say, China. These regulatory requirements and other non-tariff barriers could add even more to the cost of exports to the remainder of the EU than tariffs, and would be likely to affect trade significantly even if tariff-free trade was established.

The finance sector has been particularly vociferous about the impact of losing its 'passport' to operate in the rest of the EU. This is important not only in decision-making about the siting of head offices, but also affects where business is conducted, and could impact significantly on the sector which accounts for about 10% of UK GDP (although only a part of that depends on passporting.) Alternatives to passporting such as 'equivalence' are nowhere near as useful to the sector, as it requires considerably more compliance with EU regulations, which, without a seat at the negotiating table, would leave the finance sector changing its arrangements frequently and without being able to plan for the changes – the essence of not taking back control.

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- 28% of UK exports go to non-EU countries with whom the EU is negotiating an agreement.

Sources: ONS, [Trade Data](#); ONS, [Annual UK Trade Exports and Imports by country 1999 to 2015](#)

³ The impact of changes in the exchange rate would be less straightforward. The considerable decline in the value of sterling since the referendum has already added to the costs of imported components and raw materials, but it has reduced the cost of all British exports, which is likely to have an overall positive impact on sales abroad.

Maintaining the ease and low costs which British business experiences currently in exporting goods and services to the rest of the EU is vitally important to preserving good jobs at decent wages for British workers.

Section three

Protecting workers' rights

We want to protect working people's rights by enforcing the highest regulatory standards in Europe, especially when it comes to employment, but also consumer and environmental protections.

One of the key objectives that has run through the TUC's campaigning on Europe – from David Cameron's renegotiation, to the referendum campaign, and now into the post-Brexit environment – is the defence of working people's rights. Equality for temporary, agency and part-time workers; health and safety protections; work-life balance and measures to prevent discrimination; and protections for people whose jobs are transferred or made redundant are popular with the public, maintain a level playing field across our key markets, and drive good quality jobs and high level performance at the workplace.

Whatever it was a vote for, the referendum result was clearly not a vote to take away workers' rights (as TUC polling showed⁴), and we have therefore demanded that Brexit should not mean any watering down, even if some of the more neo-liberal supporters of leaving and sections of the employers' movement would like a bonfire of workers' rights.

The Prime Minister and the Secretary of State for Exiting the European Union both gave guarantees at the Conservative Party Conference that no workers' rights currently guaranteed by the EU would be scrapped during the PM's tenure, and, as we have been arguing for, went further to pledge better rights at work, including workers on boards.

Workplace rights are not just good for working people, but, as OECD and other research has shown, they are good for business, encouraging the development of high quality workplaces and removing the possibility of competition on grounds of exploitation. They also deliver – as has been the experience in Scandinavia – more equal and more prosperous societies. So there is an unarguable case for Britain after Brexit not just matching, but exceeding the minimum floor of rights at work currently guaranteed by the European Union.

⁴ Our post-Brexit poll of 2,716 adults who voted in the referendum found that the vast majority of both Remain and Leave voters back post-Brexit policies of safeguarding vital rights like maternity leave (73% of Remain and 69% of Leave voters) and maintaining protection against discrimination at work (80% of Remain voters and 77% of Leave voters) and safeguarding vital rights like maternity leave.

<https://www.tuc.org.uk/economic-issues/public-spending/labour-market/economic-analysis/british-people-reject-brexite-cuts>

A similar case – bolstered by access to the standard-setting work of institutions like the EU Medical Standards Agency – can be made for the consumer protections and environmental rules which are part and parcel of the EU's single market rules.

Maintaining membership of the single market would be the simplest way to ensure that we retained a floor of rights common to all of our major trading partners. It would remove any incentive to cut corners or undercut other countries or engage in a race to the bottom. And it would ensure that the businesses which trade with the rest of the EU – and which would, as the Prime Minister admitted in her speech to the Conservative Party Conference, have to meet most if not all the regulatory requirements to access those markets – would not have to operate duplicate systems of regulatory compliance for the goods and services exported to the rest of Europe and those sold in the UK.

Continued compliance with employment rights, including access to the European Court of Justice to enforce those rights, is vital to prevent workers' rights falling behind those in the rest of the EU and ensuring we do not undercut rights elsewhere in Europe.

And there is no reason why we should not lead Europe on these issues, even from inside the single market, as the workplace rules that it requires, for example, are minimums. We should be seeking to exceed the bare minimum across Europe, making the rules and encouraging others to follow, especially on preventing new and old forms of exploitation such as zero hours contracts and modern slavery.

Common regulatory protections are good for business, good for consumers and good for working people, so they are best for Britain.

Section four

Managing migration better

We want to manage migration better by guaranteeing people in local communities opportunities for better jobs and apprenticeships, closer to home, especially in towns and communities hit hard by previous recessions; cracking down on bad employers who use migrants to undercut wages; and easing pressure on housing, schools, hospitals and other public services by using tax gains to better fund them.

Over the economy as a whole, migration benefits Britain, economically and socially. But the government is still letting bad employers get away with exploiting migrant workers to undercut wages, including through abuses such as zero hours and sham self-employment contracts. Many people are still missing out on access to decent jobs, in large part because of a lack of regionally-sensitive economic policy, successive government failure to promote sustainable investment in infrastructure, the lack of an industrial strategy and inadequate skills training. This has led to an imbalance in regional growth, and the use of migration to tackle not only immediate but also long-term skill shortages.

We have also experienced many employers who actively discriminate in favour of recruiting migrant workers from poorer parts of the EU who they exploit with long hours, low pay and inadequate living conditions. The use of loopholes in rules protecting agency workers, and the inadequate application of the posted workers directive are just two ways in which bad bosses have exploited migrant labour to their detriment and to that of local workers. Many of the migrants forced by poverty at home to travel across the continent to work for low pay on insecure contracts don't know the employment rights to which they are entitled, so cannot enforce them without assistance from unions. The government must rein back the abuse of corporate power by supporting strong trade unions and collective bargaining, including collective solutions that strengthen worker voice where migrants are exploited.

As populations in certain parts of the country have grown significantly as a result of EU migration, government cuts in public spending and on house building have led to increased pressure on schools, hospitals and accommodation, forcing up the price of the latter and putting greater strain on the former. Government cuts to English as a Second Language (ESOL) classes should be reversed and language training through Unionlearn expanded. Language skills are important to workplace issues such as health and safety and building stronger, more cohesive communities.

The TUC has called for policies which manage migration better for Britain⁵ within the context of genuine freedom of movement. We have argued for action against

⁵ <https://www.tuc.org.uk/sites/default/files/ManagingmigrationbetterforBritain.pdf>

undercutting and exploitation; fairer access to housing, education and health; tackling economic insecurity; and promoting shared values and a shared language. And we have also argued against the racism and xenophobia which a tiny minority believe has been legitimised by the vote to leave the EU, and we are calling for the British government to provide the right to remain⁶ for EU citizens currently living and working in the UK, just as we and the European Trade Union Confederation⁷ do for those British citizens living and working in the rest of the EU⁸.

⁶ <https://www.tuc.org.uk/international-issues/europe/eu-referendum/migration/tuc-submission-british-future-inquiry-calls>

⁷ <https://www.etuc.org/documents/etuc-supports-right-remain-eu-citizens-living-and-working-uk-and-uk-citizens-living-and#.WCjPii2LTIU>

⁸ <http://touchstoneblog.org.uk/2016/08/the-right2remain-must-apply-to-expats-as-well-as-immigrants/>

What's at risk?

As indicated in the previous sections, Britain stands to lose greatly from a badly managed Brexit. Good jobs and good wages would be lost if trade with the rest of the EU declined; and the chance to benefit from higher standards of employment protection and new rights at work (as well as the ability to enforce such rights) would be significantly reduced.

It is difficult to quantify the impact of the reductions in trade that would follow from a 'hard' Brexit, and, as the referendum showed, making firm predictions undermines the believability of the problem. But as Brexit comes closer, we can see various employers making decisions about investment and about employment that highlight the possible problems that would result.

We know that over three million jobs in the UK depend on trade with the rest of the EU, and those jobs and the wages that go with them would at least be put at risk. If just 10% of the jobs were lost, that would mean more than 300,000 job losses, which would clearly be a huge problem not just for the people concerned, but for communities and the whole economy.

Although forecasts are always uncertain, it is concerning that the OBR are indicating that wages in 2020 will now be around £1,000 a year lower than they were predicting in March, in part due to the greater uncertainty and higher inflation resulting from the initial decision to leave the EU.⁹

The risks to workplace rights were set out in the independent legal advice¹⁰ the TUC published just before the referendum campaign began. Leading employment lawyer Michael Ford QC made clear the existing rights that would be at risk, and the loss of access which would result to the European Court of Justice which, far from finding against Britain on numerous employment law cases had in each case actually found for British workers with bosses behaving badly.

He found that the main rights at risk would be:

- collective consultation, including the right for workers' representatives to be consulted if major changes are planned that will change people's jobs or result in redundancies;
- working time rules, including limits on working hours and rules on the amount of holiday pay to which working people are entitled;

⁹ <http://touchstoneblog.org.uk/2016/11/1000-per-year-2020/>

¹⁰ *Workers' rights from Europe: the impact of Brexit*, April 2016, <https://www.tuc.org.uk/sites/default/files/Brexit%20Legal%20Opinion.pdf>

- EU-derived health and safety regulations;
- Transfer of Undertakings (TUPE), i.e. the EU-derived protections to the terms and conditions of working people at an organisation or service that is transferred or outsourced to a new employer;
- protections for agency workers and other ‘atypical’ workers, such as part-time workers; and
- current levels of compensation for discrimination of all kinds, including equal pay awards and age discrimination.

The Prime Minister and the Secretary of State for Exiting the European Union, David Davis MP, both used their speeches at the Conservative Party Conference to say that they would guarantee that such rights would not be undermined when the UK left the EU, and the Secretary of State for Business, Energy and Industrial Strategy, Greg Clark MP, repeated the pledge in a Parliamentary debate on 7 November. We have welcomed those pronouncements but we remain concerned¹¹ that these are so far only unenforceable promises. Other politicians and employers still want to whittle those rights away, and even if these existing rights are protected, British working people’s protections could still fall behind those in the rest of Europe as they improve in future.

Finally, we are concerned that – just as EU citizens living and working in the UK do not yet have a guarantee that they will be able to stay after Brexit – Brits abroad could have to return to the UK or make expensive adjustments to health insurance and so on, should their freedom to live, study and work in the EU be lost.

¹¹ <http://touchstoneblog.org.uk/2016/10/workers-rights-brexite-holding-pm-pledges/>

How to secure these objectives

Much of the debate during and after the referendum has been about which existing model of relationship between the EU and other countries should be adopted by the UK – the Canadian, Norwegian, Swiss or WTO ‘model’. The profusion of models (there are still more that have been canvassed) makes it clear that it would be entirely possible to establish a ‘British model’, as the Prime Minister has advocated. This document sets out what the TUC would want to see in such a bespoke arrangement, based on the practical objectives that would meet the needs of British workers.

However, whilst it might be possible to create a distinct model to fit the UK-EU relationship, the TUC believes that the best way to achieve the objectives set out above (namely protecting good jobs at decent wages, enforcing the highest regulatory standards, and managing migration better) is by remaining a member of the single market. We believe that, because it meets these three key objectives, continued membership of the single market should be a key objective for the British government as it negotiates Britain’s Brexit.

We believe that the objectives we have set out should take priority over other discussions about the future relationship the UK develops with the EU. But even if they are given that priority, it might take some time to develop a unique relationship between the UK and the EU in these as in other areas. The clock will start ticking when the government triggers Article 50, which is why the TUC believes that decision – despite what the Prime Minister pledged to her party conference – should only be taken once a number of key tests have been met¹².

In the event that negotiations on a new relationship are not completed within the two years envisaged under Article 50, as seems more than likely, the TUC believes that a transitional arrangement would be vital, to prevent the UK crashing out of the EU with only the WTO standard arrangements as a safety net (and even that is not certain to provide much protection.) That transitional arrangement could be needed for several years, if the timescales of other trade negotiations are anything to go by.

We therefore believe that, whatever the eventual relationship with the EU, the UK should stay a member of the single market until that new arrangement is in place and ensuring that working people’s jobs and rights are protected.

¹² <https://www.tuc.org.uk/international-issues/europe/eu-referendum/tuc-publishes-5-tests-prime-minister-must-meet-triggering>

Section seven

Conclusion

As explained above, our objective is to secure a deal that preserves Britain's ability to:

- promote good jobs by maintaining the EU as our largest trading partner, exporting our goods to the EU tariff-free and without cumbersome rules of origin requirements, as well as providing services in other EU countries without restrictions;
- protect working people's rights by enforcing the highest regulatory standards in Europe, especially when it comes to employment, but also consumer and environmental protections; and
- manage migration better by guaranteeing local people opportunities for better jobs and apprenticeships, closer to home, especially in towns and communities hit hard by previous recessions; cracking down on bad employers who use migrants to undercut wages; and easing pressure on housing, schools, hospitals and other public services by using tax gains to better fund them.

To maximise the chances of obtaining these objectives, we think that the UK should be seeking continued membership of the single market, at least until a relationship is put in place that would secure the same objectives.

We will work with our unions to build support among their members and working class communities, and we will work with employers and others who share the same objectives. We will lobby government and politicians to promote maintenance of single market membership, and we will work closely with trade unions across Europe through the European Trade Union Confederation to inform and persuade other EU governments to agree to a relationship which will, in the short and longer term, secure these benefits for British workers.



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