

**Briefing**



# **Comprehensive and Progressive Transpacific Partnership**

Submission to the Department for International Trade

## 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 TUC welcomes the opportunity to provide evidence to the Department for International Trade (DIT) consultation on the Comprehensive and Progressive Agreement for Transpacific Partnership.<sup>1</sup>
3. We are, however, concerned about the limited nature of the consultation, consisting mainly of closed tick box questions with only two open questions for respondent to provide fuller answers. This provides little scope for detailed responses which will limit the understanding the government can gain of respondents' concerns.

## **What does your organisation think would be the greatest benefits for individuals/sectors that you represent, or the UK as a whole, were the UK to join the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), and why?**

4. The TUC does not believe it would benefit the UK to join the CPTPP due to the significant threats the deal poses to workers' rights, regulatory standards, public services and democratic decision as well as putting large numbers of jobs at risk.
5. Central to these concerns is the point made in the DIT consultation document that one of the main goals of CPTPP is to increase trade between countries by 'lowering barriers [to] allow for greater market access for foreign services suppliers' and 'tackle pervasive behind the border barriers' such domestic regulations.<sup>2</sup> The broad way in which CPTPP defines 'behind the border' or 'non-tariff barriers' combined with the lack of effective protection for workers' rights in the agreement means there is broad scope for CPTPP to remove regulations that protect workers' rights as well as potentially remove other social, environmental and safety protections.
6. 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.
7. The TUC calls on the government to conduct in-depth engagement with trade unions to address our concerns about the deal before any further discussions take place with CPTPP countries about the prospect of the UK acceding to the deal.

## **What concerns, if any, does your organisation have about the UK potentially joining the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), and why?**

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<sup>1</sup> <https://consultations.trade.gov.uk/policy/consultation-on-uk-accession-to-the-cptpp/>

8. The TUC believes the UK should not join the Comprehensive and Progressive Agreement for Transpacific Partnership (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>2</sup>
9. The TUC is concerned by suggestions from the Trade Secretary that trade deals such as CPTPP could substitute for a trade deal with the EU. Not only would CPTPP not be able to substitute for the current level of trade the UK currently has with EU by virtue of being in the single market and customs union, but poses serious risks to workers' rights.
10. The TUC believes the best option on the table to ensure UK workers continue to be protected by EU levels of employment rights and jobs is for the UK to continue to be a member of the single market and customs union, although we are open to other proposals that meet the same objectives.

#### **Workers' rights at risk**

11. Unions globally have expressed concern that CPTPP contains no mechanism to monitor countries' adherence to core ILO standards or whether they promote Decent Work. The labour chapter has no effective enforceable provisions on workers' rights and no mechanism to ensure that violations of ILO standards result in any penalty. This is a particular concern as CPTPP involves countries such as Vietnam where the fundamental ILO standard on freedom of association is not respected, with independent trade unions forbidden by law.
12. Rather, as with other trade deals, CPTPP puts the onus on governments to take action if the theoretical commitments contained in the deal to respect workers' rights are violated. Such a politicised process has been proven on numerous occasions to result in no action being taken against offending parties, as has been the case with the EU-South Korea free trade agreement. Despite clear evidence being presented by trade unions over a number of years that labour rights are being abused in South Korea, the European Commission has still to act to pressure South Korea to respect the obligations to respect ILO conventions it agreed to respect when it signed the deal.<sup>3</sup>
13. Meanwhile, the CPTPP labour chapter also narrows the number of claims that can be taken against signatories for abuses of workers' rights as it says violations must be 'in a manner affecting trade'. 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 widespread 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>3</sup>
14. CPTPP also contains no meaningful role for trade unions to oversee the impact of the agreement on workers' rights or jobs, or encourage decent jobs in supply chains that involve CPTPP countries. Proposals were put forward in 2012 for an effective

<sup>2</sup> <https://www.ituc-csi.org/IMG/pdf/tpp.pdf>

<sup>3</sup> <https://aflcio.org/2017/6/26/us-trade-policy-fails-workers>

process for trade unions to monitor workers' rights in the deal by trade union centres in Australia (ACTU), Canada (CSN and CLC), Japan (RENGO), Malaysia (MTUC), Mexico (UNT), New Zealand (NZCTU), Peru (CATP, CGTP and CUT), Singapore (NTUC), and the US (AFL-CIO).<sup>4</sup> The TUC regrets that these proposals were ignored by CPTPP governments.<sup>5</sup>

### Threats to democracy

15. Workers' rights - as well as democratic decision making more broadly - is additionally undermined by the presence of Investor-State Dispute Settlement in CPTPP. This mechanism allows foreign investors to sue governments for regulations or actions that they believe threaten their ability to make profits. This mechanism has been used in the past to challenge minimum wage laws as well as other rules that affect workers, such as those on health and safety.<sup>6</sup>
16. The presence of ISDS in the deal was one of the reasons Joseph Stiglitz, Noble Laureate in Economics and Professor at Columbia University commented in 2015 that '[TPP] 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>7</sup>
17. The experiences of the US and Canada in 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 in NAFTA.
18. In 2015 the Australian Productivity Commission recommended that the Australian Government avoid the inclusion of ISDS provisions in trade deals. It concluded there was an absence of market failure grounds that necessitated the inclusion of ISDS in trade deals.<sup>8</sup>
19. Trade unions globally have condemned the use of ISDS-style courts in trade agreements.<sup>9</sup>
20. The TUC has jointly raised concern with sister unions across the world about the dangers of including ISDS-style courts in trade deals. Most recently, the TUC joined with the Japanese trade union centre RENGO to release a position paper that stated: 'any future trade deal involving [the UK and Japan] must have the creation of good jobs, protection of workers' rights and public services at its heart. And it must not include unfair Investor-to-State Dispute Settlement (ISDS) mechanisms which would infringe the rights of governments and other public institutions of both the UK and Japan to legislate in relation to workers' rights, public services, welfare and the environment.'<sup>10</sup>

<sup>4</sup> <https://www.ituc-csi.org/the-union-proposal-for-the-labour>

<sup>5</sup> <https://www.ituc-csi.org/the-union-proposal-for-the-labour?lang=en>

<sup>6</sup> <https://touchstoneblog.org.uk/2017/03/drop-the-mic/>

<sup>7</sup> <https://cgt.columbia.edu/news/stiglitz-the-trans-pacific-free-trade-charade/>

<sup>8</sup> <https://www.pc.gov.au/research/ongoing/trade-assistance/2014-15/trade-assistance-review-2014-15.pdf>

<sup>9</sup> <https://www.ituc-csi.org/trans-pacific-trade-agreement?lang=fr>

<sup>10</sup> <http://www.jtuc-rengo.org/updates/index.cgi?mode=view&no=386&dir=2018/07>

### Threats to jobs and increasing gender inequalities

21. The TUC is concerned that CPTPP may lead to job losses in some sectors due to increased imports from CPTPP countries. The TUC calls on the government to engage with trade unions in the sectors most likely to be affected by CPTPP to establish the measures that would be needed to mitigate any negative impact on jobs.
22. 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>11</sup>
23. 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

24. 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. Last year 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>12</sup>
25. The risk of increased dumping from Vietnam as well as other countries is compounded by the fact the government's current plans for the post-Brexit trade remedies system currently appear 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 would prevent trade effective remedies being applied.<sup>12</sup>
26. The TUC calls on the government to engage with the MTRA and amend the Taxation (cross-border trade) bill and the Trade bill to ensure there is adequate protection for workers in manufacturing industries from dumping and unfair trade practice.

### Threats to public services

27. 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

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<sup>11</sup> <http://www.ase.tufts.edu/gdae/Pubs/wp/16-01Capaldo-IzurietaTPP.pdf>

<sup>12</sup> <https://www.tuc.org.uk/blogs/customs-bill-threatens-uk-industry-and-jobs>

exempted will be opened to further privatisation. Furthermore a 'ratchet clause' in CPTPP would mean that services already opened to privatisation could not be renationalised in the future.

28. The TUC has concerns that 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.
29. In the past the government has not completely excluded public services in deals such as CETA. Furthermore, the government's intention to liberalise public services further was signalled by proposals in the Trade Bill for the UK to seek independent membership of the plurilateral Government Procurement Agreement (GPA). The key aim of the GPA is to open government procurement markets covering goods, services and workers. This also has major implications for the freedom of policy choices for the devolved administrations who have already established devolved powers over public procurement.
30. 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 existing EU procurement law and would encourage more contracting based on lowest price rather than quality, access and integrity of service provision.