

**Briefing**



# **Australia-UK trade**

**Submission to the Department of International Trade**

## Introduction

*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.*

1. The TUC welcomes the opportunity to provide evidence to the Department for International Trade consultation on UK-Australia trade.<sup>1</sup>
2. We are however concerned about the limited nature of the consultation, consisting mainly of closed tick box questions with only two open questions for respondents to provide fuller answers. This provides little scope for detailed responses which will limit the understanding the government can gain of respondents' concerns.

## **What would you want the UK government to achieve through a free trade agreement (or related trade talks) with Australia, and why?**

3. The TUC joins with the ACTU Australian national union centre in calling for trade deals involving the UK and Australia to support decent jobs and protect high labour and other safety standards, public services and democratic decision making.
4. The TUC is concerned by suggestions from the Trade Secretary that trade deals with countries like Australia could substitute for a trade deal with the EU. The TUC believes the best option on the table to ensure UK workers continue to be protected by EU levels of employment rights, although we are open to other proposals that meet the same objectives, is for the UK to continue to be a member of the single market.
5. Currently Australia receives only 1.7 per cent of UK goods and services exports – one tenth of UK trade with Germany. Even a deal that significantly liberalised trade flows could not replace current levels of trade between the UK and EU. Leaving the customs union and single market would leave the UK's economy 4.8-7.8 per cent smaller, according to the government's own analysis.<sup>2</sup> Furthermore, continued membership of the single market and customs union provides legal assurance UK workers will continue to be protected by EU standards of employment rights.
6. The TUC calls for engagement by the government with trade unions in sectors likely to be impacted by any trade deal with Australia. The key sectors that have been identified as strategically important for Australia is the meat (principally lamb and beef), although other sectors may also be involved. The government must engage with trade unions and employers to ensure workers whose jobs are lost due to any trade deal will be supported to be reemployed into jobs that have stable contracts and decent pay.

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<sup>1</sup> <https://consultations.trade.gov.uk/policy/consultation-on-trade-negotiations-with-australia/>

<sup>2</sup> <https://www.cer.eu/publications/archive/bulletin-article/2018/dead-or-alive-uk-us-trade-deal>

### **A workers' trade agenda**

7. The TUC and the ACTU call on our governments to ensure any trade deal between the UK and Australia:
  - Contains commitments to respect International Labour Organisation core conventions and the UN Sustainable Development Goals, particularly goal 8 on Decent Work – with penalties if workers' rights commitments are not respected.
  - Excludes all public services, both existing and new
  - 'No-regression' clauses on workers' rights and safety and quality standards
  - Protects government procurement schemes that support good jobs and industry locally
  - Protects the sovereignty of government to implement policies to protect and promote the health rights of citizens; protect the environment and transition to a low-carbon future and adequately regulate financial systems
  - Protects domestic political, legal and judicial systems and collective bargaining agreements;
  - Excludes special courts for foreign investors such as Investor-State Dispute Settlement (ISDS) or the Investment Court System (ICS) that allow foreign investors to sue government for actions that threaten their profits.
8. The TUC and ACTU request that our governments involve trade unions in the working group they have established between the UK and Australia to explore future trade relations between our countries.
9. Involving trade unions throughout the negotiating process is the only way to ensure trade deals reflect the interests of working people and promote decent jobs in all sectors of the economy.

### **Is there anything else that you would want to say about the UK's future trade relationship with the Australia?**

10. The TUC is concerned that a trade deal with Australia that replicates other agreements Australia has recently signed, such as the CPTPP, would pose threats to workers' rights, decent jobs, gender equality, public services and sovereignty.

#### **Threats to workers' rights and other regulatory protections**

11. The TUC is concerned that the Australian government has pushed a deregulatory agenda in trade agreements like CPTPP which broadly defines 'non-tariff barriers' that provides broad scope for regulations that protect workers' rights as well as social, environmental and safety protections to be removed by the agreement.
12. We share concerns the Australian union movement that CPTPP also threatens workers' rights as it contains no mechanism to monitor that parties promote the ILO Decent

Work agenda and respect ILO standards. The deal also has no mechanism to ensure that violations of ILO standards result in any penalty.

13. 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 signed up to when it signed the deal.<sup>3</sup>
14. Meanwhile the labour chapter in CPTPP 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>
15. 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 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>
16. Workers' rights would also be threatened if a trade deal between the UK and Australia contained provisions on labour mobility similar to those found in the Australia- China free trade agreement (CHAFTA). The 'mode 4' clauses on labour mobility in this deal doesn't provide workers that move between countries through the deal to claim fundamental ILO labour standards, enabling bad bosses to exploit migrant workers and encouraging undercutting. Neither does the deal require labour market tests to be conducted before workers are brought over by companies, increasing the risk that labour mobility clauses will be used by companies to bring in workers on lower wages than those in the domestic labour market.

### Threats to democracy

17. Workers' rights - as well as democratic decision making more broadly - would additionally undermined if any deal between the UK and Australia contained an Investor-State Dispute Settlement-style court system. This mechanism allows foreign

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

<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>

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 on health and safety.<sup>6</sup>

18. It was recently revealed that the Australian government had to pay AUS \$39 million in legal fees to defend a challenge from Philip Morris via ISDS in the Hong Kong-Australia Bilateral Investment Treaty about its plain packaging laws. These concerns were also reflected in the Australian parliament's Joint Standing Committee on Treaties.<sup>7</sup>

#### **Threats to public services**

19. The TUC and the ACTU would not want any trade deal between the UK and Australia to replicate the approach towards public services taken in CPTPP. This deal exposes public services to further privatisation and open up government procurement markets which would restrict the ability of government authorities to favour local businesses that support good unionised jobs and living wages.

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

20. 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>8</sup>
21. 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.
22. The TUC has provided more detail about our concerns about CPTPP in our submission to the DIT consultation on this deal.

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

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[https://www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/Treaties/TransPacificPartnership/Report\\_165](https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Treaties/TransPacificPartnership/Report_165)

<sup>8</sup> <http://www.ase.tufts.edu/gdae/Pubs/wp/16-01Capaldo-IzurietaTPP.pdf>