

Briefing



UK-New Zealand 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-New Zealand trade.¹
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 New Zealand, and why?

3. The TUC joins with the NZCTU, New Zealand's national union centre, in calling for trade deals involving the UK and New Zealand 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 New Zealand could substitute for a good Brexit deal with the EU.² 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.³
5. Currently New Zealand receives only 0.2 per cent of UK goods and services exports. The UK's trade with New Zealand is 60 times less valuable than the trade the UK has currently has with Germany by virtue of being in the single market and customs union. Even a deal that significantly liberalised trade flows could not replace current 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.⁴ Crucially for the TUC, continued membership of the single market provides legal assurance that workers in the UK will continue to be protected by EU standards of employment rights.

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

² Fox (2018) Speech: 'Global Britain at the Crossroads'. <https://www.gov.uk/government/speeches/at-the-crossroads-britain-and-global-trade>

³ <https://www.tuc.org.uk/news/making-jobs-first-rights-first-brex-it-reality-general-council-statement-congress-2017>

⁴ Lis (2018), The Harsh Realities of Going it Alone as Global Britain. https://d3n8a8pro7vhmx.cloudfront.net/in/pages/14844/attachments/original/1528189406/tradeoffs_harshreality_2.pdf?1528189406

6. We have concerns that a trade deal with New Zealand along the lines of deals it has recently signed, such as the Comprehensive Progressive Agreement for Transpacific Partnership (CPTPP), may threaten workers' rights, public services and democracy, as detailed further below.
7. The TUC calls for engagement by the government with trade unions in key sectors likely to be impacted by any trade deal with New Zealand. The key sectors that have been identified as strategically important for New Zealand is meat and agriculture, 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.

A workers' trade agenda

8. The TUC and the NZCTU call on our governments to ensure any trade deal between our countries:
 - Contains enforceable 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 are abused
 - Protects the right of central and local governments to use public procurement to support economic development, improve working conditions and pursue social and environmental objectives
 - Protects the ability of both governments to regulate our tax systems and financial services, and take action against abusive tax practices and potential financial crises.
 - Excludes all public services
 - Does not reduce existing standards or impinge on public authorities' right to regulate as they see fit in the public interest
 - Excludes special courts for foreign investors such as Investor-State Dispute Settlement (ISDS) or the Investment Court System (ICS)
 - The UK and New Zealand governments should make trade negotiations a model of openness with public consultation on the negotiating mandates at the start and the release of draft texts throughout, with independent and transparent assessments of an agreement's economic, environmental, social and human rights impacts produced before any deal is signed.
9. The TUC and NZCTU request our governments involve trade unions in the working group they have established to explore future trade relations between our countries. 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.

What concerns, if any, does your organisation have about a free trade agreement (or related trade talks) with New

Zealand, and why?

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

Threats to workers' rights and regulatory standards

11. The TUC is concerned that the New Zealand government has consistently pushed a deregulatory agenda at the WTO as well as in trade agreements like CPTPP which broadly defines 'non-tariff barriers', providing 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 New Zealand union movement that CPTPP also threatens workers' rights as it contains no mechanism to monitor that parties promote the ILO Decent Work agenda and promotes 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 committed to respect when it signed the deal.³
14. Meanwhile the 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'.⁵
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).⁶ The TUC regrets that these proposals were ignored by CPTPP governments.⁷

⁵ <https://aflcio.org/2017/6/26/us-trade-policy-fails-workers>

⁶ <https://www.ituc-csi.org/the-union-proposal-for-the-labour>

⁷ <https://www.ituc-csi.org/the-union-proposal-for-the-labour?lang=en>

Threats to democracy

16. Workers' rights - as well as democratic decision making more broadly - would additionally undermined if any deal between the UK and New Zealand contained an Investor-State Dispute Settlement-style court system. 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 on health and safety.⁸
17. The existence of these ISDS courts in trade deals is also likely to have a 'chilling effect' on policy making as governments avoid implementing policies that risk provoking an ISDS case being brought against them. New Zealand has direct experience of this. In 2013, the government stated it would not introduce plain packaging for cigarettes until it knew if there was a danger it could be sued via ISDS in one of its trade treaties, as the Australian government had been sued by Philip Morris via ISDS in the Hong Kong-Australia Bilateral Investment Treaty for bringing in similar plain packaging laws.⁹

Threats to public services

18. The TUC shares concerns of New Zealand unions that CPTPP would expose 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.¹⁰
19. The TUC believes any trade deal with New Zealand must have a complete exemption for public services as well as cultural sectors and intellectual property rules.

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.¹¹
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.

⁸ <https://touchstoneblog.org.uk/2017/03/drop-the-mic/>

⁹ <https://www.beehive.govt.nz/release/government-moves-forward-plain-packaging-tobacco-products>

¹⁰ <https://www.union.org.nz/economist-still-concerned-about-tpa-11s-implications-for-working-people/>

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

