

TUC

Changing the world
of work for good

Response to trade white paper

**Submission to the Department of
International Trade**

November 2017

Introduction

The Trades Union Congress (TUC) exists to make the working world a better place for everyone.

Working people joining together can change things. For more than 150 years, unions have fought for safer workplaces and wages you can build a life on. And today we're needed more than ever to make sure every job is a decent job and everyone at work is treated with respect.

We bring together more than 5.6 million working people who make up our 50 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.

Our values guide us in all our work. We stand for equality, fairness and justice, and for dignity and respect for all working people. We believe in solidarity: that working people can achieve more acting together than they can do on their own. And we are internationalists, acting with trade unionists around the world to promote working people's interests.

The TUC welcomes the opportunity to respond to the government's white paper on the trade bill.¹ We believe trade must promote decent work and employment rights and protect public services and have a number of concerns about the government's approach outlined in the paper. In particular, we believe the stated intention to leave the customs union and single market and potentially continue to trade with the EU only on WTO terms threatens jobs, the economy and workers' rights. We also have concerns about the absence of commitments in the paper for future UK trade deals to protect labour rights and public services, or support the needs of developing countries.

1. No cliff edge

The TUC Congress 2017 General Council statement on Brexit resolved that the best way to ensure workers in the UK are covered by the same employment rights as those in the EU and ensure tariff and barrier free trade is for the UK to continue to be a member of the single market and the customs union.²

1 Department of International Trade (2017), 'Preparing for our future trade policy', www.gov.uk/government/uploads/system/uploads/attachment_data/file/651192/CCS207_CCS0917000298-1_Preparing_for_our_future_UK_trade_policy_Report_H....pdf

2 TUC (2017), General Council statement on Brexit, www.tuc.org.uk/news/making-jobs-first-rights-first-brex-it-reality-general-council-statement-congress-2017

The TUC agrees with the overwhelming majority of research that indicates trade deals with countries outside the EU cannot make up for the shortfall in trade that would result from a shallow free trade deal or no deal with the EU.³

The TUC is concerned by the suggestion in the white paper that the government is willing to leave the EU without a deal on trade, defaulting to WTO tariffs. This 'no deal' scenario would be the worst possible deal due to:

- The impact on jobs

Over four million jobs depend on tariff and barrier free trade with the EU single market.⁴ If the UK defaulted to trade on WTO terms with the EU it would face damagingly high tariffs in EU markets, as well as delays due to customs checks and other paperwork. This would hurt businesses and put jobs on the line. We have outlined our concerns about delays caused by additional customs checks more fully in our response to the government's customs white paper.

- The impact on workers' rights

Trading on WTO terms would also mean UK workers have no assurance that they would continue to be protected by EU levels of rights. The paper states that 'as we leave the EU, in line with our WTO commitments, the Government will continue to maintain our high level of protections of ...employees'. However, as there are no requirements for WTO members to respect workers' rights, there is no guarantee that workers' rights in the UK won't be stripped away after Brexit.

- The impact on prices

Trading on WTO terms would mean workers would be faced with additional costs on goods imported from the EU. Research by UKTPO and the Resolution Foundation estimate that WTO tariffs would add 1.1% to the cost of living for the poorest 20% of households, compared to 0.8% for the richest 20% of households. This would add approximately £260 on average to household costs, with prices for everyday food items like dairy and meat particularly forecast to increase.⁵

3 LSE (2017), 'Global trade can't replace the value of the EU single market', <http://blogs.lse.ac.uk/brexit/2017/05/22/global-trade-cant-replace-the-value-of-the-eu-single-market-for-the-uk/>

4 CEPR (2014), 'British jobs and the single market', <https://cepr.com/reports/british-jobs-and-the-single-market/>

5 Resolution Foundation (2017) Changing Lanes, <http://www.resolutionfoundation.org/app/uploads/2017/10/Changing-Lanes.pdf>

2. Future trade deals

Labour standards

The TUC is concerned that there is no commitment in the trade white paper to uphold labour standards as part of any EU-UK deal or free trade deal with non-EU countries.

This is particularly concerning as the countries the Secretary of State for Trade has established working groups with to explore post-Brexit trade deals include countries such as the USA, South Korea and the Gulf States where there are widespread abuses of workers' rights. In the Gulf States, millions of workers toil in forced labour conditions.⁶ In the USA 'Right to Work' laws in some states make unions effectively illegal.⁷ Meanwhile, in South Korea, union leaders have been locked in jail for years.⁸

The TUC believes that any trade deal the UK is involved in should contain the provisions set out below to ensure there are commitments to workers' rights in trade deals and they are effectively enforced. These calls are in line with the policies of the European Trade Union Confederation (ETUC)⁹ and the International Trade Union Confederation (ITUC)¹⁰.

- *Pre-ratification criteria*

Potential trading partners should be required to demonstrate respect for the ILO's Decent Work agenda¹¹ before negotiations on any trade deal conclude. This includes upholding ILO core conventions as well as other conventions such as those on gender equality, health and safety and social protection.

- *Commitments to ILO core conventions and corporate responsibility*

Trade deals should require countries to show ongoing support for the ILO's Decent Work agenda and ensure companies in their territory respect the Ethical Trading Initiative's

6 ITUC (2016), 'Gulf countries and forced labour', <https://www.ituc-csi.org/gulf-countries-and-forced-labour>

7 AFL-CIO (2017), 'Right to work', <https://aflcio.org/issues/right-work>

8 TUC (2017), Letter to Korean Ambassador calling for release of KCTU President, <https://www.tuc.org.uk/international-issues/tuc-general-secretary-writes-korean-ambassador-call-release-imprisoned-kctu>

9 ETUC (2017), 'Submission to Commission's non-paper on Trade and Sustainable Development', <https://www.etuc.org/documents/etuc-submission-non-paper-commission-services-trade-and-sustainable-development-tsd#.WeYGxVtSxD4>

10 ITUC (2017), 'The Transpacific Partnership Agreement model labour and dispute resolution chapter', <https://www.ituc-csi.org/the-trans-pacific-partnership-16694>

11 ILO (2017), 'Decent Work', <http://www.ilo.org/global/topics/decent-work/lang--en/index.htm>

Base Code.¹² The Base Code, which has been endorsed by many leading UK companies and brands, is compliant with the UN Guiding Principles on Business and Human Rights and has been supported by the UK government, and goes further than the ILO core conventions by including commitments on health and safety, working time and living wages.

- *Committee to monitor compliance*

Trade deals should establish an independent committee responsible for monitoring countries' compliance with commitments on labour standards, with at least equal representation for trade union compared with employers. Adequate resources should be provided for trade unions and civil society representatives, both from the UK and partner countries to participate in these committees.

- *Independent judicial forum and sanctions*

A forum should be established to supervise compliance with the labour commitments in the agreement. This should be composed of experts in labour law, along the lines of the ILO's Committee of Experts.

Third parties and the monitoring committee should have the right to raise complaints to the independent judicial forum when commitments on labour rights are not respected, either by governments or companies in their territory. This should result in investigations being conducted by a tripartite body such as the ILO.

The independent judicial forum should be able to impose sanctions if a breach of commitments on labour rights is found. Countries should be required to impose penalties on companies found to be violating the Base Code, such as fines or withdrawal of export licenses.

- *Clear timelines*

Trade agreements should contain set timeframes for countries to address abuses of labour rights commitments. Should no action be taken, sanctions should be imposed.

Public services

The TUC believes all trade deals involving the UK must contain clear exemptions for public services by taking a 'positive list' approach. The TUC is concerned by the statement in the white paper that the government strongly supports the Trade in Services Agreement (TiSA) and intends to rejoin TiSA negotiations as an independent member after leaving the EU. The TUC is opposed to TiSA, not least because it will expose public services to further liberalisation through its partial use of negative listing for services and the 'ratchet' and 'standstill' clauses it contains that will prevent liberalisation being rolled back.¹³

12 ETI (2017), 'The ETI Base Code', <http://www.ethicaltrade.org/eti-base-code>

13 TUC (2017), 'Position on the Trade in Services Agreement (TiSA)', <https://www.tuc.org.uk/research-analysis/reports/tuc-position-trade-services-agreement-tisa>

Sovereignty

The TUC is concerned that the white paper does not explicitly state that there will be no use of special courts such as the Investor-State Dispute Settlement system in future UK trade deals. In the past, these courts have been used to challenge governments seeking to renationalise public services or change the way these services have been run.¹⁴ ISDS-style courts have also been used to undermine government actions to protect working people. For example, the city of Alexandria was challenged by the company Veolia for raising the minimum wage via an ISDS case. The TUC, the European Trade Union Confederation (ETUC) and the International Trade Union Confederation (ITUC) are all opposed to ISDS provisions being included in trade agreements.

CETA

The TUC is concerned by the government's intention to roll over all existing EU trade agreements as this would mean a replication of the EU-Canada agreement (CETA). The TUC is opposed to CETA as it has inadequate exemptions for public services, no enforceable provisions on labour rights and an Investment Court System that will allow foreign investors to challenge the way public services are run and laws protecting workers.¹⁵

3. Trade preferences and development

The TUC welcomes the government's commitment to provide Least Developed Countries (LDCs) with duty-free-quota-free access to the UK market after leaving the EU. It is crucial that all countries currently in the EU's GSP and GSP+ trade preference scheme do not face a cliff edge in their trade with the UK after Brexit. The UK is a key market for many of these countries which means barriers to their trade would harm their economies and workers whose jobs are linked to trade with the UK.

The TUC calls for all trade preferences to be based on commitments to uphold labour standards with an independent process of enforcement that involves trade unions of the kind discussed in Section 2.

The TUC is concerned that the white paper states an intention to replicate the Economic Partnership Agreements (EPAs) the EU is negotiating or has concluded with a number of regional blocs in Asia, Africa and the Caribbean.

¹⁴ The Democracy Campaign (2017), 'Bechtel vs Bolivia', <http://democracyctr.org/archive/the-water-revolt/bechtel-vs-bolivia-details-of-the-case-and-the-campaign/>

¹⁵ TUC (2016), 'Letter to Liam Fox calling on him to oppose CETA', <https://www.tuc.org.uk/research-analysis/reports/tuc-letter-international-trade-secretary-liam-fox-calling-him-oppose-ceta>

Trade unions across Africa¹⁶, supported by the ETUC, ITUC¹⁷ and TUC¹⁸ have raised concerns that EPAs restrict the policy space of governments to implement development and industrial policies, would cause a significant loss of revenue from tariffs and undermine fundamental labour rights.

The TUC believes countries involved in EU EPA negotiations should receive unilateral access to the UK markets without having to make reciprocal commitments to open markets, even on a phased basis.

4. Consultation

Trade union engagement

The TUC welcomes the government's commitment to seek the input of all stakeholders to formulate its trade policy. As part of this process, trade unions must be meaningfully engaged in trade negotiations from the outset. The TUC urges the new network of Trade Commissioners to engage with trade unions in their regions.

The government may consider the template for trade union engagement established in the USA where the government's Trade Representative (USTR) seeks advice from a number of advisory committees on trade policy and ongoing trade negotiations.¹⁹ These committees have access to negotiation texts. Trade unionists are consulted as a group by USTR in the Labour Advisory Committee, as well as in certain sector-specific committees. Such a system needs improvement, however, as there is currently an uneven balance between trade union and employer representatives on the majority of these sectoral committees which limits the insight and representivity these committees can provide. At present, out of sixteen sectoral committees, only the committees on animal products and agriculture have trade union as well as employer representatives.²⁰

Parliamentary scrutiny

The TUC calls for there to be a full process of parliamentary scrutiny for all secondary legislation on trade policy with trade unions properly consulted. Trade deals must always be debated in parliament and parliament must be able to amend or reject trade deals.

16 ITUC Africa (2016), 'ITUC Africa statement on EPAs', <http://www.ituc-africa.org/ITUC-Africa-Statement-on-EPAs.html>

17 ETUC and ITUC (2016), 'Letter calling MEPs to vote against SADC EPA', http://www.actsa.org/Pictures/UpImages/itucaf-ituc-etuc_letter_to_meps%20docx.pdf

18 TUC (2016), 'Letter calling on MEPs to reject SADC EPA', <https://www.tuc.org.uk/research-analysis/reports/tuc-calls-meps-reject-economic-partnership-agreement-between-eu-and>

19 USTR (2017), 'Industry trade advisory committees', <https://ustr.gov/about-us/advisory-committees/industry-trade-advisory-committees-itac>

20 Washington Post (2014), 'Industry dominate the trade advisory system', <http://www.washingtonpost.com/wp-srv/special/business/trade-advisory-committees/>

5. Trade remedies

The TUC calls for stronger trade remedies to be implemented by the government post-Brexit to protect sectors such as steel, glass, cement, ceramics and paper from the dumping they have been exposed to in recent years which has resulted in hundreds of thousands of job losses. The TUC is making this call in alliance with manufacturers associations from agriculture, ceramics, chemicals, glass, paper and steel through the Manufacturing Trade Remedies Alliance (MTRA) of which TUC affiliates Unite, GMB and Community are also members.

However, the TUC is concerned that the approach outlined in the white paper will not provide the strong protections from dumping and unfair subsidies that are required to protect UK industry and workers.

Transparency

The paper suggests the detail of the future trade remedies system will be set through secondary legislation and, in some cases, guidance. The TUC believes this does not provide for an adequate level of parliamentary scrutiny and transparency for future trade remedies proposals. As noted in section 4, the TUC believes there should be a full process of parliamentary scrutiny for all secondary legislation on trade policy with trade unions properly consulted.

The TUC calls on the new Trade Remedies Authority to closely involve trade unions to assess where there may be cases of dumping and assess the effectiveness of anti-dumping measures once in place. This is essential to ensure that the insights of workers in industries where dumping may be having an impact on wages and jobs is adequately factored into any policies or assessments.

China and other non-market economies

The TUC is concerned by the fact the paper makes no mention of the government's approach towards China and other non-market economies. The TUC supports the position of trade unions across Europe that China is not a market economy and it has been using unfairly state subsidised industries to overproduce goods such as steel and dump them on UK and EU markets.²¹ The TUC believes the government must not treat China as a market economy and must adopt stronger measures to prevent China and other non-market economies from dumping goods on UK markets.

Economic interest test

The TUC is concerned by suggestions in the white paper that the government will apply an 'economic interest test' as part of trade remedies investigations that may weight investigations unduly in favour of consumers and low prices. This would result in

²¹ ETUC (2016) 'China is not a market economy and should not enjoy the privileges', <https://www.etuc.org/press/china-not-market-economy-and-should-not-enjoy-privileges#.WgCAdu0ND5>

insufficiently strong trade remedies being applied in order to keep prices in some sectors low.

Minimum thresholds

The TUC is concerned by the paper's suggestion there will be a minimum threshold applied for initiating cases of dumping – this is not required by the WTO and may serve as a barrier for industries to file cases of dumping with the Trade Remedies Authority.

Lesser duty rule

The TUC is concerned that the paper states it will make use of the Lesser Duty Rule. As part of the 'Save our Steel' motion carried at Congress 2017, the TUC resolved to oppose the use of the lesser duty rule in trade remedies policies as it is not effective in preventing dumping in sectors such as steel.²² This is supported by research prepared for the Manufacturing Trade Remedies Alliance (see Appendix 1).

Labour standards

The TUC is concerned that the paper does not mention labour standards being included in criteria to assess dumping and unfair trade practices. Failure to ensure respect for ILO core conventions²³ is a form of trade distortion, as it allows countries to gain an unfair trading advantage by abusing labour rights. The TUC believes the UK should adopt the criteria around adherence to core ILO conventions similar to those proposed in the EU antidumping methodology.²⁴

²² TUC (2017), 'Congress motion 07 - Save Our Steel', <https://congress.tuc.org.uk/07-save-our-steel/#sthash.FM8xwSYL.dpbs>

²³ The eight fundamental Conventions are: Freedom of Association and Protection of the Right to Organise Convention (No. 87); Right to Organise and Collective Bargaining Convention (No. 98), Forced Labour Convention (No. 29), Abolition of Forced Labour Convention (No. 105), Minimum Age Convention (No. 138), Worst Forms of Child Labour Convention (No. 182), Equal Remuneration Convention (No. 100), Discrimination (Employment and Occupation) Convention (No. 111).

²⁴ European Parliament (2017), Proposals amending Regulation (EU) 2016/1036 and Regulation (EU) 2016/1037 <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2F%2FEP%2F%2FTEXT%2FBREPORT%2BA8-2017-0236%2B0%2BDOC%2BXML%2BV0%2F%2FEN&language=EN>