

# Trade bill

Evidence to Trade bill committee  
June 2020

## Introduction

*The TUC exists to make the working world a better place for everyone. We bring together more than 5.5 million working people who make up our 48 member unions.*

1. The TUC welcomes the opportunity to provide written evidence to the Trade bill committee to support the oral evidence that will be provided by the TUC on 16 June.
2. The main purpose of the Trade bill is to:
  - enable the implementation of UK 'continuity' trade deals (EU trade deals that have been renegotiated as UK-only trade deals)
  - enable the UK to implement procurement obligations that will arise from the UK acceding to the World Trade Organisation's Government Procurement Agreement (GPA) as an independent member
  - establish the Trade Remedies Authority (TRA), the body that will oversee the UK's system for preventing unfair trade and dumping of cheap imports.
3. The TUC calls on MPs to raise concerns that the Trade bill:
  - makes no mention of role for unions or parliament in negotiations and scrutiny of 'continuity' agreements
  - provides no representation for trade unions on the Trade Remedies Authority
  - makes no commitment that UK trade deals will enforce respect for core International Labour Organisation conventions
  - makes no commitment that UK trade deals will protect public services

- does not affirm that UK public procurement rules will support good work, fair pay, trade union recognition and collective agreements.

## Key concerns

### No democratic scrutiny of trade negotiations

4. The UK is currently negotiating trade deals with countries that have existing deals with the EU to conclude new UK-only trade deals. The government has termed these 'continuity' trade deals. To date, nineteen continuity trade deals have been agreed. The trade bill provides legislation to allow for these and other former EU trade deals to be implemented in UK legislation.
5. The TUC is concerned that the bill provides no role for unions or parliament in negotiations or scrutiny of continuity agreements.
6. Trade unions were not consulted on the text of any of the nineteen continuity agreements that have been finalised. This is particularly concerning as many of these deals were with countries where labour and human rights abuses are widespread, such as Colombia and South Korea. In South Korea, trade union leaders have been thrown in prison for peaceful protest for workers' to claim their rights. Colombia, meanwhile, remains the most dangerous country in the world for trade unionists with around two thirds of murders of trade unionists taking place in Colombia.<sup>1</sup>
7. Whilst the UK's trade deals with South Korea and Colombia have commitments on paper to uphold ILO standards, similar

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<sup>1</sup> ITUC (2019) 'The World's Worst Countries for Workers'  
<https://www.ituc-csi.org/IMG/pdf/2019-06-ituc-global-rights-index-2019-report-en-2.pdf>

commitments in EU trade deals with South Korea and Colombia have not been effective in improving rights as they have no mechanism for effective enforcement.

8. The TUC is also concerned that the UK continuity agreement with Israel does not contain commitments to respect workers' rights in the Occupied Territories.
9. Trade unions in a number of other countries are consulted routinely by their governments in the process of trade negotiations, such as the US, Austria and Sweden.
10. The TUC believes it is crucial for trade unions to be consulted on the text of trade negotiations in order to ensure they have adequate provisions to ensure labour rights commitments are upheld, contain effective protections for public services as well as other social standards and do not contain Investor-State Dispute Settlement Courts that would allow foreign investors to sue governments for enacting policies for the public good.
11. The TUC believes it is also crucial for MPs to be able to see and comment on the text of continuity deals so that negotiations are subject to proper democratic scrutiny.

*The TUC urges MPs to call for the bill to guarantee a role for parliament and trade unions in the negotiation of trade deals.*

## **Threats to workers' rights**

12. The TUC regrets that the bill provides no commitment that UK trade deals will enforce respect for core International Labour Organisation (ILO) conventions and the ILO's Decent Work agenda.
13. The TUC believes all trade deals must contain mechanisms to effectively enforce labour rights and Decent Work to prevent trade deals being used as a way to pressure labour standards to

be lowered. To ensure these mechanism are effective trade unions must be given a role to trigger investigations into abuses of workers' rights.

14. As noted above, the UK has signed continuity trade deals with a number of countries where serious abuses of workers' rights are taking place, such as Colombia and South Korea. None of these continuity agreements contain mechanisms to sanction governments failing to respect fundamental labour and human rights.

*The TUC urges MPs to call for the bill to affirm all UK trade deals will contain a mechanism to enforce International Labour Organisation conventions where trade unions are enabled to trigger investigations into suspected abuses of workers' rights.*

## **Threats to public services**

15. The TUC regrets that the bill does not affirm UK trade deals will exempt all public services, thereby protecting them from being locked into privatisation and deregulation.
16. The TUC believes all public services must be explicitly exempted in the text of all trade deals. Unless public services are explicitly exempted (taking what is known as the 'positive list' approach in trade deals), part-privatised services can be included in the commitments made in trade deals to reduce barriers to trade. When part-privatised services are included in this way, they cannot be brought back into public ownership as this would be regarded as a barrier to other countries being able to access the UK market.
17. The government's ability to regulate part-privatised public services included in trade deals is also limited as a trading partner could accuse the government of introducing barriers to its ability

to trade by, for example, introducing new health and safety measures to the health sector.

18. The TUC is particularly concerned about the threat the US poses to public services as US negotiators have stated explicitly that they regard UK regulations on drug pricing as a barrier to trade that they would seek to overturn in a trade deal.<sup>2</sup> All recent US trade deals, such as the US-Mexico-Canada (USMCA) trade deal agreed last year, do not contain exemptions for public services.
19. Most US trade deals also contain forms of Investor-State Dispute Settlement (ISDS) which allows foreign investors to sue the UK government for actions that threaten their profits which could include renationalising parts of the public sector.

*The TUC urges MPs to call for the bill to commit to completely exempt public services from all trade deals and not including any form of Investor-State Dispute Settlement mechanism.*

## **No union representation on the Trade Remedies Authority**

20. The TUC is concerned that the bill provides no guaranteed representation for trade unions on the Trade Remedies Authority (TRA). The TRA is new body that will oversee the UK's system to prevent dumping of imported goods and other unfair trade practices.
21. Schedule 4 states the Secretary of State will appoint the Chair who will in turn appoint chief executive and non-executive members of the TRA. There is no guarantee provided that the

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<sup>2</sup> UK government (2018), US-UK trade and investment working group, online at:  
[https://issuu.com/wdmuk/docs/4\\_official\\_20sensitive\\_20fourth\\_20uk-us\\_20trade\\_20/1?ff](https://issuu.com/wdmuk/docs/4_official_20sensitive_20fourth_20uk-us_20trade_20/1?ff)

non-executive members will represent the interests of workers in manufacturing sectors who will be severely affected by the dumping of cheap goods such as steel, tyres and ceramics.

22. The TUC is concerned that the UK government plans to implement a much weaker trade remedies system to prevent dumping than the UK is currently part of via membership of the EU customs union. Without trade union representation on the TRA, workers have no assurances that adequate measures will be taken to protect thousands of jobs in manufacturing from dumping, particularly from countries such as China whose manufacturing is resurgent after ending its lockdown.

*The TUC urges MPs to call for the bill to guarantee a role for manufacturing trade unions on the Trade Remedies Authority.*

## **Threats of Government Procurement Agreement**

23. Currently the UK is part of the World Trade Organisation's Government Procurement Agreement (GPA) through the EU's membership. The UK government plans to accede to the GPA as an independent country once the transition period ends at the end of December 2020.
24. The GPA aims to liberalise and increase access to member states' public procurement markets.
25. The TUC has concerns that provisions in the GPA are more limited than current measures included within the EU Procurement Directive 2014, which was transposed into the UK domestic law through the Public Contract Regulations 2015. These limitations centre on two areas:
  - The definition of most advantageous tender set out in Article X paragraph 9 of the GPA does not include reference to a

price/quality ratio that includes qualitative, environmental and/or social aspects as currently set out in Section 67(1) to (3) of the Public Contract Regulations 2015 – this should be a minimum requirement.

- There is no condition in the GPA which obliges member states to ensure that when performing public contracts, contractors comply fully with applicable environmental law and with social and labour standards set out in EU and national law and in collective agreements, as well as those safeguarded by international treaties and conventions, including ILO conventions 87 and 98. This is a requirement set out in UK law in Section 56(2) of the Public Contracts Regulations, reflecting Article 18.2 of the EU Directive.

26. The TUC believes provision must be made in the bill to enable contracting authorities in the UK to include the wider definitions of social value and price/quality ratio as well as the obligations set out in respect to social, environmental, labour law and collective agreements and conventions within their tender specifications, contract evaluation and award criteria. These criteria should be incorporated, as a minimum requirement, into the regulations that replace the Public Contract Regulations when they expire in December 2020.

*The TUC urges MPs to call for the bill to guarantee the UK's international commitments on public procurement will support good employment, fair pay, equality, trade union recognition, collective agreements and local economic development.*