

Trade Justice Movement – Written Evidence (AUT0009)

1. The Trade Justice Movement (TJM) is a UK-wide network of sixty civil society organisations calling for trade rules that work for people and planet. Our members include trade unions, NGOs, consumer groups and faith organisations.
2. This document sets out TJM’s written evidence to the House of Lords International Agreements Sub-Committee Inquiry on UK-Australia trade negotiations. Our response includes answers to selected questions taken from the inquiry’s Terms of Reference.
3. TJM firmly believes that the UK needs a new framework for parliamentary scrutiny of international trade agreements. While this inquiry is welcome, Parliament must be empowered to properly scrutinise new trade deals, with full debates and votes on the government’s negotiation objectives, transparency and access to texts during negotiations, and a debate and vote in Parliament after deals are signed. The government should produce an independent impact assessment for each trade deal which looks at social and environmental factors, and includes consultation with civil society organisations. The Trade Bill offers an upcoming opportunity for parliamentarians to push for a reform to these processes.¹

1. Does the Department for International Trade (DIT)’s strategic approach, published on 17 June 2020, set out the right objectives for negotiations? How effectively does that strategic approach represent the interests of different groups and regions across the country, including the devolved nations, businesses, civil society, and individuals?

4. We have a number of concerns about the negotiation objectives outlined by DIT. First, the objectives give insufficient regard to the disparity between food and animal welfare standards in Australia and the UK. While the UK is a world leader in sustainable farming and high animal welfare standards, Australian agriculture lags behind in a number of areas.² This is damaging to the environment, risky for human health and bad for animals. Evidence from Animals Australia

¹ See [TJM’s most recent Trade Bill briefing here](#).

² See Sustain, [Trade with Australia, response to Department for International Trade](#), 2018

and Sustain shows that Australia allows various practices which are either banned or rare in the UK, including chlorine-washed chicken, hormone-impregnated beef and inhumane livestock transportation.³

5. Second, Australia lags behind the UK in terms of environmental standards and ambitions. While Australia is a signatory of the Paris climate change agreement, there is limited evidence of this translating into tangible targets in domestic legislation, while the UK has set a clear target of net zero carbon emissions by 2050.⁴ Australia's trade deals tend not to include environmental chapters (unlike the UK's, through EU membership), and its former Prime Minister, who was recently appointed to the UK Board of Trade, described environmental concerns as "peripheral" to trade deals.⁵ Australia is the home of many large energy and mining operations, which have been criticised for their environmental impact.⁶
6. Third, Australia's trade policy tends to seek liberalisation of public services.⁷ This can make it harder for governments to regulate and bring into public control industries which are essential to the economy and social welfare. Trade unions have criticised services chapters of trade agreements for failing to capture the social cost - including on workers as well as recipients of public services - of liberalising public services.⁸ The use of negative listing, standstill and ratchet clauses must be avoided to ensure that public services, particularly the NHS, are ring fenced from liberalisation measures.⁹
7. Fourth, the government's outline approach should have been approved by Parliament. Despite criticism from five parliamentary committees, academics and campaigners, the UK is yet to introduce a transparent and democratic process for parliamentary scrutiny of trade agreements. MPs have no say over negotiating objectives, no access to negotiation texts and very little time to read agreements after they have been signed. There is no guaranteed vote prior to ratification, and MPs can

³ Ibid., and Animals Australia, '["We see you": These are the 'invisible' animals hidden from view in factory farms](#)', 2020

⁴ Climate Council (Australia), '[Australia is not on track to meet its Paris climate target](#)', 2018

⁵ Guardian, '[Fresh controversy over Tony Abbott's Brexit trade role](#)', 30 August 2020

⁶ Guardian, '[Full of holes: why Australia's mining boom will leave permanent scars](#)', 19 July 2016

⁷ AFTINET, '[Submission to DFAT on the Australia-UK Free Trade Agreement](#)', 2020

⁸ See, for example, Trade Unions Congress, '[TUC position on the Trade in Services Agreement \(TiSA\)](#)', 2016

⁹ Trade Justice Movement, '[Protecting the NHS in UK Trade Policy](#)', 2020

only delay trade agreements, not amend or block them.¹⁰ This system differs starkly from processes in other countries, including the EU Parliament and US Congress, and requires urgent reform.¹¹

2. How reliable do you find the DIT's assessment of the potential impacts of the proposed agreement with Australia, either as set out in the strategic approach or elsewhere?

8. Our main concern with regards to DIT's impact assessment is its scope. The focus of the assessment is on economic impact and the effect of a trade deal on UK price levels and exports. While this is important, it should not be at the expense of taking seriously the potential impact of a trade deal on the environment, social and animal welfare. Ideally, such assessments would be made by an independent body prior to the commencement of negotiations, with an opportunity for MPs to review the assessment and make recommendations based on its conclusions.
9. Furthermore, DIT's assessment does not form the product of a particularly thorough or transparent process of civil society consultation. The EU's Sustainability Impact Assessments, while imperfect, have a wider scope and offer more opportunity for civil society engagement. The US's processes of business and civil society consultation is also more thorough and open. DIT's consultation process was criticised by various civil society organisations for its lack of transparency, and a lack of clarity about how recommendations were taken forward to inform the UK's negotiation objectives.
10. One particular area of concern is regulatory cooperation. Regulatory cooperation provisions aim to facilitate the alignment of regulations between trade partners through the establishment of councils of trade experts who have the power to scrutinise proposed regulation and suggest amendments. Such councils were proposed in the Transatlantic Trade and Investment Partnership (TTIP) and are present in the Comprehensive Economic and Trade Agreement (CETA) between the EU and Canada.
11. Regulatory cooperation councils are problematic for a number of reasons; (1) they are an undemocratic way of making regulations, since they empower unelected bureaucrats rather than MPs to influence

¹⁰ Trade Justice Movement, '[Securing Democracy in UK Trade Policy](#)', 2019

¹¹ Ibid.

regulations; (2) there is evidence that business groups have a particularly high level of influence over the functioning of these councils, while trade unions, environmental groups and civil society are excluded; and (3) most importantly, alignment of regulations between parties can lead to a mutual diminishing of standards to the lowest common denominator, and present a barrier to the introduction of new regulations. Good regulation is essential for tackling the climate crisis, as well as upholding labour rights, social rights and animal welfare.

12. Another area of concern, not explored in DIT's assessment, is the potential inclusion of Investor-State Dispute Settlement (ISDS) provisions in the trade agreement. ISDS empowers foreign investors to sue governments for measures which affect their profits. Australian firms, including mining companies, have used ISDS aggressively against trade partners, leading to lawsuits which cost taxpayers millions and have the potential to 'chill' important policy decisions for fear of litigation. ISDS has particularly been used to challenge environmental regulations.¹² ISDS should not be included in a UK-Australia FTA.

4. The UK Government has expressed a strong interest in using a potential FTA with Australia as a key step to joining to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). How might a trade deal with Australia help the UK to join the CPTPP and what benefits would there be in joining? More broadly, what effect could a UK-Australia trade deal have on the UK's future ability to negotiate deals with other countries?

13. The CPTPP does not constitute a viable economic strategy for the UK. The UK's geographical distance from the Trans-Pacific area means that we are unlikely to trade with CPTPP partners for fresh agricultural produce and just-in-time manufacturing supply chains. The CPTPP does not offer an alternative to a close trade and regulatory partnership with the EU.
14. Furthermore, there are concerns about the level of environmental, labour and human rights protections in the CPTPP. Certain CPTPP members have have been found to violate international labour standards,¹³ and the provisions with CPTPP lack the level enforceability

¹² Trade Justice Movement, '[Investor-State Dispute Settlement \(ISDS\) - Briefing](#)', 2019

¹³ European Commission, '[EU-Korea dispute settlement over workers' rights in Korea](#)'

needed to ensure high standards (compared, for instance, to the enforceability of environmental, labour and human rights within the EU's judicial system). CPTPP also includes ISDS, though New Zealand has successfully negotiated an exemption from this. The UK must not sign an agreement with the CPTPP which includes ISDS, for the reasons given earlier about the threats posed by ISDS.

5. How can the specific interests of the devolved nations of the UK be best protected as part of the negotiation of a UK-wide trade deal with Australia?

15. Devolved nations have very little say in the development of trade policy, since it is a UK-wide competence held by the Executive. This means that trade deals may not adequately take into account the impact of provisions on devolved nations, and may not represent the industries or preferences of those in devolved nations.
16. One particular area where trade rules interact with devolved competencies is Investor State Dispute Settlement (ISDS). ISDS clauses in trade deals allow investors to sue governments for measures which harm their profits. Historically this has been used to challenge the policy decisions of regional governments; for example, US firm Lone Pine sued the Quebecois government for introducing a moratorium on fracking. While devolved governments have no say in the approval of ISDS provisions, they can end up bearing the costs of cases brought against them for policy areas over which they have competence.

14. How might negotiated digital trade provisions serve as enablers for businesses in the UK? What provisions would bring the most benefit and so should be the highest priority in this area?

17. Australia and the UK both express strong ambitions on digital trade. These provisions could hasten a UK departure from the EU's rigorous GDPR system of data protection, and make it harder for the government to regulate technology companies, including through localisation requirements and protection against online harms.¹⁴ TJM has concerns about rushing ahead with strong digital trade provisions, whose effects are underexplored and could increase the power and influence of technology companies at the expense of ordinary people.

[enters next stage](#), 2019

¹⁴ See Trade Justice Movement, '[Digital trade \(e-commerce\)](#)'

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