

LABOUR'S TRADE POLICY: PUTTING WORKERS FIRST

September 2021

Foreword by the Rt Hon Emily Thornberry MP

Since taking on the job of Shadow Trade Secretary in April 2020, I have consistently said that – whatever else Brexit has done – it has given us a chance as a country to look afresh at our trade policy after almost 50 years when those decisions were made at European level.

It has allowed us to prioritise the exports that will drive growth and create jobs across every region and nation of our country, and enable British business to lead the world in the fastest-growing sectors and industries of the future, from green technology to professional services.

It has also given us an opportunity – and I would argue an obligation – to take issues which were barely a consideration five decades ago, from climate change to international development, and put them at the heart of our trade policy for the first time.

And during a period when the scramble to maintain our existing trade arrangements has made the UK responsible for more than three-quarters of the world's new trade deals, it offered us a chance to show the world what modern trade agreements should look like.

The government has utterly wasted all those opportunities. Rather than take the time to agree new, ambitious treaties with our non-EU partners, shaped in British interests, they waited until days before the Brexit deadline to cut and paste deals negotiated decades ago by Brussels.

And rather than develop a trade policy geared around creating new jobs, supporting growth industries, tackling climate change, and promoting British standards and values, they have instead rushed around looking for the quickest new deals they can sign, no questions asked.

In that context, it comes as no surprise that the government has ignored the views of British workers and unions when it comes to shaping its domestic trade policy, and has treated the denial of workers' rights overseas as a total irrelevance.

We could have said to every country wishing to maintain free trade with us after Brexit that that they had to respect the fundamental rights to which every worker should be entitled, from the right to collective bargaining to the right to equal pay for equal work.

We could have told them that they needed policies to prevent child labour and forced labour, and to pay women fairly for their work, and that if they instead allowed their workers to be exploited and union activists to be murdered, they would not get an agreement with us.

But in their scramble to sign as many trade deals as possible, Liz Truss and her colleagues did the exact opposite, sending a message to every other government in the world which simply said: “We want your trade, and how you treat your workers is none of our business.”

Liz Truss did not even know – until I told her – that her department had signed trade deals with five of the worst ten countries in the world for workers’ rights. She speaks constantly about the growth of Asia’s middle class, but never about the growth in Asia’s forced labour.

The government apparently has no concern for the historic truth that a global race to the bottom on workers’ rights, wages and conditions – and the descent into hell that is modern slavery – will ultimately undermine the jobs and living standards of British workers as well.

But the Labour Party and the British Trade Union movement does know that, and has been making the argument for more than a century. Fundamentally, we know that promoting the rights of workers at home goes hand in hand with protecting the rights of workers abroad.

And now, in the United States, we have a growing consensus behind that truth as well. The Biden Administration’s ‘Worker-Centred Trade Policy’ is based on the notion that we get better deals when the representatives of our workers are at the table, and having their voices heard.

This document sets out Labour’s vision for those same objectives, and will form the basis not just of how we will change the UK’s trade policy, but how we will work with other like-minded governments to transform the approach of the international community as well.

I truly believe that trade can be a global force for good, driving progress on climate change and international development, demanding respect for human rights and gender equality, and raising standards and prosperity throughout the world.

But we must start with a trade policy that will create decent, well-paid jobs here at home, raise standards around the world, and ensure every trade agreement the UK signs is used to protect, promote and enforce the rights of workers, wherever they may live.

The government may be wasting the opportunity they have been given to re-shape our trade policy as a force for good and an example to the world, but this document shows that Labour is ready to fill that void and show what is possible instead.

I hope you will join us in making it a reality.



The Rt Hon Emily Thornberry MP
Shadow Secretary of State for International Trade



1. Introduction

For decades, global trade policy has been geared around the interests of major corporations, with the central objective of making it easier, cheaper and more profitable for them to invest their income overseas, and buy and sell goods and services around the world.

Too often, other important considerations – such as environmental protection, human rights, social justice, animal welfare and a fair tax system – have been treated as inconveniences to be ignored, and even overruled, in the pursuit of that central objective.

Most notably, one of the core tenets of the corporate-centred trade policy – that companies should be able to buy their goods without barriers from the cheapest source available – has surpassed concerns about the effect of that policy on workers at home and abroad.

In that outlook, the global ‘race to the bottom’, where standards and rights are reduced ever further in each country to minimise production costs, is a natural and necessary consequence of a trade policy primarily designed to maximise corporate profits.

As a result, recent years have seen an increase in the use of forced labour in Asia, child labour in Africa, and exploited migrant labour worldwide; and the continued erosion of industrial jobs and wages in wealthier countries, as corporations offshore production to cut their costs.

The current UK government has done nothing to oppose those trends, and – in their recent rush to agree rollover trade deals before the end of the Brexit transition period – they gave tacit approval to some of the worst governments in the world for the denial of workers’ rights.

Rather than supporting domestic industry, the government has sought to sign trade deals – and even scrap tariff safeguards – that make it easier to import goods produced more cheaply in other countries due to lower standards, terrible working conditions or poor wages.

In the Global South, those same trade deals have served to displace workers, particularly women, from good jobs into exploitative factories and farms, where any attempts to stand up for their rights is met with dismissal, or even worse with violence.

What this all reveals is a UK government view of trade policy stuck in a corporate-centred outlook, where – as their Board of Trade adviser Tony Abbott has said – concerns about labour and the environment are ‘peripheral issues’ that should not distract from core goals.

In its accession to the CPTPP, the government is even embracing an ‘Investor State Dispute Settlement’ (ISDS) mechanism rooted in the mindset that major corporations should never have their profits affected by the actions of governments, no matter how justified.

With corporations empowered to set the rules of UK trade deals, protections for the NHS will be eroded, privatisation of public services will be locked in, and companies will be allowed to buy NHS patient data with one hand, and evade responsibility for online harms with the other.

The government knows it would not be able to get away with this approach if trade unions and MPs were able properly to oversee its trade negotiations, and scrutinise its trade agreements, which is why it has fought so resolutely to deny them those rights.

But it does not have to be this way. UK public opinion is firmly on the side of protecting Britain's standards and public services in future trade deals. And, in global opinion, it is the corporate-centred approach of Liz Truss and Tony Abbott that increasingly looks stuck in the past.

The US Trade Representative has set out a compelling alternative vision for a 'Worker-Centred Trade Policy', Jacinda Arden has rejected the inclusion of ISDS in New Zealand's trade deals, and France's due diligence laws are forcing companies to police their supply chains properly.

There is growing international support for the idea that strong labour protections and high standards, far from undermining competitiveness, can allow workers across the world to compete fairly, with high wages, high standards and high growth as the norm in each country.

In this document, the UK Labour Party sets out its own vision for a trade policy that puts workers first, both at home and abroad, and seeks to raise standards around the world as the best long-term means of protecting jobs, wages and working conditions in the UK.

We lay out more than 20 specific policy changes a Labour government would make, and we provide a detailed look at how we would go about making the workers' rights chapters of future UK trade deals comprehensive, enforceable and effective.

Most importantly, this is a document which has been produced in consultation with the UK's trade unions, and which is rooted in the principle that workers everywhere will be better off with their representatives actively involved in shaping the rules and deals that affect them.

Both the Labour Party and our unions believe strongly in the power of trade, exports and investment when it comes to creating decent, well-paid, secure jobs in our communities, and driving the sustained growth and shared success that we all want for the British economy.

But we believe equally strongly in the potential of trade as a force for global good, helping to end poverty and achieve net zero, breaking down the barriers of discrimination and inequality that hold societies back, and raising standards and prosperity across the world.

That is the vision we want to work together to achieve, and this document is the first piece of evidence of what that kind of approach can produce.

Box 1: The International Labour Organisation's Rules and Conventions

The ILO was formed in 1919 as one of the pillars of international reconstruction after the First World War, alongside the League of Nations. The UK government played a central role in its foundation, arguing strongly in favour of international labour laws to which all countries should comply.

From the outset, the ILO was seen as a crucial achievement by contemporary figures in the Labour Party, both as recognition of the horrors and sacrifices endured by working people during the War, and as a means of equalising the treatment of workers throughout the industrialised world.

Speaking in a House of Lords debate in 1954, Labour veteran and former miner Jack Lawson, summed up the reasons why such an organisation was considered vital: *"Over the nineteenth century it became clear that the existence of poor wages and low social standards anywhere in the world menaced the better working and social conditions and higher wages that might exist anywhere else."*

In the same debate, his colleague, Lord Grantchester spoke of the role that the ILO must play in protecting human freedom, tackling forced labour, preventing the exploitation of migrant workers, and ensuring that every worker throughout the 'under-developed' countries has their rights upheld.

Under a future Labour government, **the cornerstone of the workers' rights chapter in every UK trade agreement will be the ILO's 1998 Declaration on Fundamental Principles and Rights at Work, and the ILO's Eight Core Conventions**, as laid out below.

The Fundamental Principles and Rights at Work are, in summary:

- (a) Freedom of association and effective recognition of the right to collective bargaining;
- (b) The elimination of all forms of forced or compulsory labour;
- (c) The effective abolition of child labour, a prohibition on the worst forms of child labour, and other labour protections for children and minors;
- (d) The elimination of discrimination in respect of employment and occupation; and
- (e) Acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

The Eight Core ILO conventions are, by title:

- The Freedom of Association and Protection of the Right to Organisation Convention, 1948
- The Right to Organise and Collective Bargaining Convention, 1949
- The Forced Labour Convention, 1930, and its 2014 Protocol
- The Abolition of Forced Labour Convention, 1957
- The Minimum Age Convention, 1973
- The Worst Forms of Child Labour Convention, 1999
- The Equal Remuneration Convention, 1951
- The Discrimination (Employment and Occupation) Convention, 1958

2. Tory failures on Trade and Workers

Following the result of the Brexit referendum in 2016, the government was placed in a position unheard of for any wealthy economy in the modern age to take an entirely fresh approach to its trade policy, after decades when those decisions had been outsourced to the EU.

That could have allowed the government to develop a new trade policy shaped around today's priorities, from tackling the climate crisis and promoting women's empowerment to maximising the growth of UK exports in the service industries.

With the UK responsible for 77 per cent of all the trade deals notified to the World Trade Organisation in 2020, there was also an unprecedented chance to demonstrate to the rest of the world a fresh approach both to the content of trade deals, and their enforcement.

Unfortunately, none of those things have come to fruition, and in relation to promoting the interests of workers through trade, it has been a story of abject failure across the board:

- **Mitigation of Negative Effects:** The October 2020 UK-Japan deal is the only one signed in the last two years for which the government has published a detailed economic impact assessment. This showed negative effects on jobs in the UK chemicals, machinery and motor manufacturing sectors, but no accompanying plans to mitigate the impact on affected communities and industries. Nor is there any sign of such plans to mitigate the impact of deals with Australia and New Zealand on the agricultural sector.
- **The Trade Remedies Authority:** Post-Brexit, the UK needed its own body to investigate unfair trade practices and recommend remedies to penalise them where required. But the government set out to differ from the EU's approach by seeking a balance between the benefits for UK consumers of cheaper imports and the interests of UK producers and workers in effective remedies. After being forced to overturn the new TRA's very first recommendation on steel safeguards, Liz Truss is now reviewing the body's remit.
- **Consultation with Unions:** In August 2020, when Liz Truss established her new Trade Advisory Groups – in theory to consult them on the detail of draft trade agreements and negotiating priorities – she removed the TUC as participants after they refused to sign gagging orders stopping them from consulting their members. Just prior to publication of this report, in September 2021, it was announced that union representatives would be invited to join the TAGs, but whether they will be listened to remains to be seen.
- **Trade Preferences:** Having replicated the EU's trade preferences scheme for poorer countries post-Brexit, the government has since broken with EU decisions to suspend Cambodia's preferences and review Sri Lanka's in light of government abuses in those countries, saying it will only consider such action as a 'last resort'. It is now also proposing to change the rules requiring countries to comply with ILO standards and other conventions as a condition of access to the UK's trade preferences scheme.

- **Tony Abbott:** Liz Truss appointed as her personal trade advisor a man who made his name in Australia as a union-busting Minister for Workplace Relations, opposing paid maternity leave, seeking to peel back unfair dismissal laws, and attacking the right to collective bargaining and strike action. In 2017, he boasted that his government's success in securing trade deals with the likes of China was down to his personal role in ensuring *"we weren't sidetracked by peripheral issues such as labour and environmental standards."*
- **The Trade Act 2021:** Throughout the four years it took the government to pass their Trade Bill legislating for the restoration of domestic control over trade policy, Ministers consistently fought against efforts to prevent the agreement of trade deals with overseas governments responsible for abusing human rights and workers' rights, and on multiple occasions from 2017-21 defeated cross-party amendments seeking to give Parliament more power to scrutinise and approve proposed trade agreements (See **Box 5**).
- **The Uighur Genocide:** As part of the above, the government intervened three times in early 2021 to block a cross-party amendment to the Trade Bill allowing UK judges to rule whether the Chinese government is committing acts of genocide against the Uighurs, including mass forced labour, and enabling Parliament to weigh any future trade deal with China against that ruling. Ministers have been similarly reluctant to toughen UK controls against imports from Xinjiang produced using forced Uighur labour.
- **Modern Slavery in NHS Supply Chains:** For years, the government has been warned that forced migrant labour is being used in Malaysian and Thai factories to produce medical gloves for the NHS. As the pandemic has unfolded and demand has rocketed, Ministers have ignored consistent warnings telling them to introduce proper audit controls on their NHS supply chains, and are currently proceeding with a new £6bn contract for 2022-24 without any apparent effort to put those controls in place.
- **The UK-EU Trade Deal:** Throughout the negotiation of the post-Brexit UK-EU deal, one of the government's only core objectives was seeking the right to diverge from existing and future EU protections for workers' rights, eventually securing the freedom to do so provided it does not distort trade. Having launched one abortive review of UK workers' rights immediately following Brexit, the government is returning to the issue more obliquely through a review of regulation conducted by its 'Brexit Opportunities Unit'.
- **The CPTPP:** Despite the repeated concerns that have been raised about the inadequate, self-policing provisions on workers' rights in the current Comprehensive Progressive Trans-Pacific Partnership agreement, which has no teeth to prevent abuse of workers' rights in member states like Brunei, Chile, Peru, Malaysia and Vietnam, the government's

negotiating objectives for accession to the CPTPP contain not a single proposal for any strengthening either of the provisions themselves, or their monitoring and enforcement.¹

Box 2: The Tory government's 'Malaysia Problem'

In its scoping paper on joining the CPTPP, the government projects that UK accession will increase UK trade by £3.3bn and UK GDP by £1.8bn over 15 years. However, even these minimal gains are not what they seem, with more than three-quarters of both dependent on increased trade with Malaysia, one of only two CPTPP economies with whom the government has yet to agree a bilateral trade deal.

With the vast majority of the gains from its flagship trade policy reliant on increased trade with Malaysia, it is no wonder that UK Ministers have ignored the growing evidence of mistreatment and forced labour in the country's factories, which saw Malaysia downgraded into the bottom category in the 2021 Global Rights Index, accused of the 'systematic violation' of workers' rights (see below).

Ministers have argued that Malaysia's record will improve once it ratifies the CPTPP agreement and becomes subject to its provisions on workers' rights, ignoring the fact that there are currently no effective systems to monitor or enforce the compliance of CPTPP members with those provisions.

However, nowhere has the government's failure to put workers first since the referendum been more stark than in the **Rollover Trade Agreements** it negotiated with 67 non-EU states from 2019 onwards, to maintain preferential trade arrangements after Brexit.

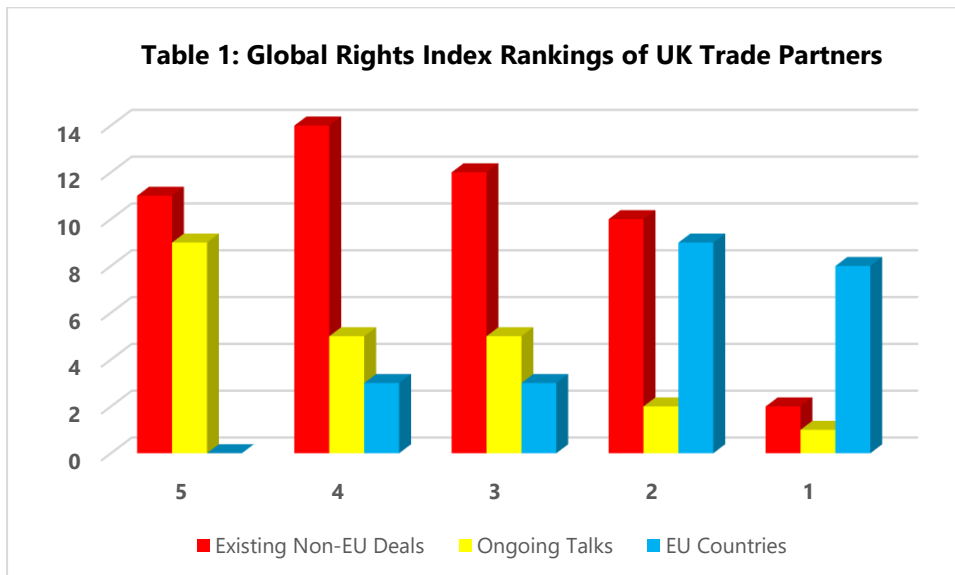
The annual Global Rights Index, produced by the International trade union Confederation (ITUC), ranks almost 150 countries according to the violations experienced by their workers of the core ILO rights set out in Box 1. Based on their 2021 rankings, published in June:

- 5 of the 67 non-EU states with whom the UK has deals were listed among the 10 worst countries in the world for workers (Colombia, Egypt, Honduras, Turkey and Zimbabwe);
- 6 more were placed in the category where there is "no guarantee of workers' rights" whatsoever (Ecuador, Eswatini, Guatemala, Jordan, Palestine and Ukraine); and
- 14 were placed in the category where there are "systematic violations of workers' rights", including Cameroon, Chile, El Salvador, Kenya, Panama, Peru, Tunisia and Vietnam.

An additional 14 of the 24 countries with whom the government is currently in negotiations over new trade deals were also ranked in the bottom categories, including Brazil, Malaysia, and all members of the Gulf Cooperation Council bar Saudi Arabia, which is 'unrated'.²

¹ There are also the prospects – unaddressed by the government – of China joining the CPTPP, or in the interim, using Vietnam as a back door to dump Chinese made goods mislabelled as Vietnamese in the UK (in particular steel, car tyres, ceramics, glass, energy, cement and paper), undermining more UK jobs in these industries.

² These comprise: outstanding rollover deals (**Algeria**, Bosnia, Montenegro); EAC members in negotiations to join the UK deal with Kenya (Rwanda, **Tanzania**, **Uganda**, **South Sudan**, **Burundi**); CPTPP members with whom the UK does not have final trade deals (Australia, New Zealand, *Brunei*, **Malaysia**); Mercosur countries (Argentina, **Brazil**, Paraguay; Uruguay); GCC states (*Saudi Arabia*, **Qatar**, **UAE**, **Oman**, **Bahrain**, **Kuwait**); **USA**; and **India**. The 14 highlighted in bold are in the bottom two categories of the ITUC index; those in italics are unrated.



18 mostly Caribbean and Pacific Island states with whom the UK has existing deals were not rated due to lack of information. There are 2 unrated countries with whom talks are ongoing; and 4 EU countries.

In not a single one of the rollover deals with these 67 countries was any progress made by the government to strengthen the provisions for the recognition or enforcement of workers' rights, and – as evidenced by the approach to the CPTPP – there is no suggestion that this is a priority for any of the UK's ongoing negotiations on new trade deals either.

Two particularly flagrant examples of the government's failure in this area were:

- Its deal with Colombia, a rollover of the EU treaty repeatedly held up by campaigners as the lead example of inadequate monitoring and enforcement of workers' rights, agreed by the UK government without revision, despite Colombia remaining the deadliest country in the world for trade unionists, 22 of whom were murdered in 2020-21; and
- Its deal with Turkey, a rollover of the EU agreement dating from 1964 which contains no provisions on workers' rights at all and was agreed by the UK government without any attempt to impose them, despite the Turkish state's ongoing record of using arbitrary detention against union leaders and brutal violence against protesting workers.

Box 3: Denial of Workers' rights in Turkey

On November 24th 2020, members of the Turkish United Metalworkers' Union planned a march between Gebze and Ankara, protesting the decision to dismiss several workers without severance pay and place others on unpaid leave, reportedly because of their status as union members, an all-too frequent occurrence in a country where union organisers are regularly harassed and detained.

The attempted protest was stopped at the outset through a huge show of police strength, with the gathering marchers shoved and struck by police in riot gear. 109 of the marchers were taken into custody. Their union president said: *"Workers are going through every kind of oppression for just being members of a union. How do you call this justice?"* Exactly five weeks later, the UK government signed its rollover trade deal with Turkey, containing not a single mention of workers' rights.

When pressed on these consistent and wide-ranging failures in relation to workers' rights overseas, Liz Truss and her ministerial colleagues have repeatedly fallen back on the argument that – if they were to penalise other countries for violating their commitments to ILO standards – it would be the workers in those countries who would suffer the greatest harm.

Ministers appear not to realise or not to care that this argument:

- Was the same one made by Margaret Thatcher's government when refusing calls from the rest of the Commonwealth to impose sanctions against South Africa;
- Is comprehensively rejected by workers' rights activists in the countries concerned, who argue that it encourages even more abusive treatment; and
- Puts them at odds with a core component of the Biden administration's 'Worker-Centred Trade Policy', which demands tough enforcement of workers' rights overseas.

Box 4: A Worker-Centred Trade Policy for the United States

In June, US Trade Representative Katharine Tai made her first major speech in Washington setting out her mission to implement a 'Worker-Centred Trade Policy', based around the following goals:

- Ensuring that US trade boosts wages and employment domestically, and that trade deals do not undermine job security, recognising that this has not always been achieved in the past;
- Partnering with trade unions and giving them an active role in the development of trade deals, as well as improving worker representation in multilateral forums like the WTO;
- Reshaping the global trade system, so that investment does not simply flow to where taxes, workers' rights and regulations are the lowest;
- Centring a trade policy not just around workers in the US, but across the world, combatting forced labour in supply chains and enforcing existing commitments in trade deals; and
- Including robust, enforceable workers' rights clauses in trade agreements, as part of that effort to use trade policy to raise standards around the world.

Key extracts from Katherine Tai's speech follow below:

"We know that trade is essential to a functioning global economy. It is clear, however, that the past promises made to workers on trade were not met. Far too many communities and workers were left behind. The consequences for families when factories closed and jobs were sent overseas were real. And they were real for the workers who lost their jobs to unfairly traded imports, too. This created a trust gap with the public about free trade. President Biden is leading us on a new path. We want to make trade a force for good that encourages a race to the top.

"We must address the damage that US workers and industries have sustained from competing with trading partners that do not allow workers to exercise their internationally recognized labor rights. [We must] create new standards to combat the harmful industrial policies of China and other countries that undermine our ability to compete [...] and combat forced labor, the worst illustration of the race to the bottom. We must create high-standard trade agreements that empower workers and prevent other countries from violating labor rights to gain an unfair advantage in the global market. And we must aggressively enforce them."

3. Putting Workers First At Home

Unlike the Tories, a future Labour government will always put workers first in our trade policy at home and abroad. In this section and the next, we explain what that will mean in practice, and outline the core principles and policies which will underpin that approach.

The essential prerequisite of any decision a Labour government takes on trade is that it will uphold the state's legal obligations, for example when it comes to the laws on licensing arms exports. Beyond that, most decisions demand a balance of competing priorities, and Labour's pledge is that first among those priorities will always be **the interests of workers in the UK**.

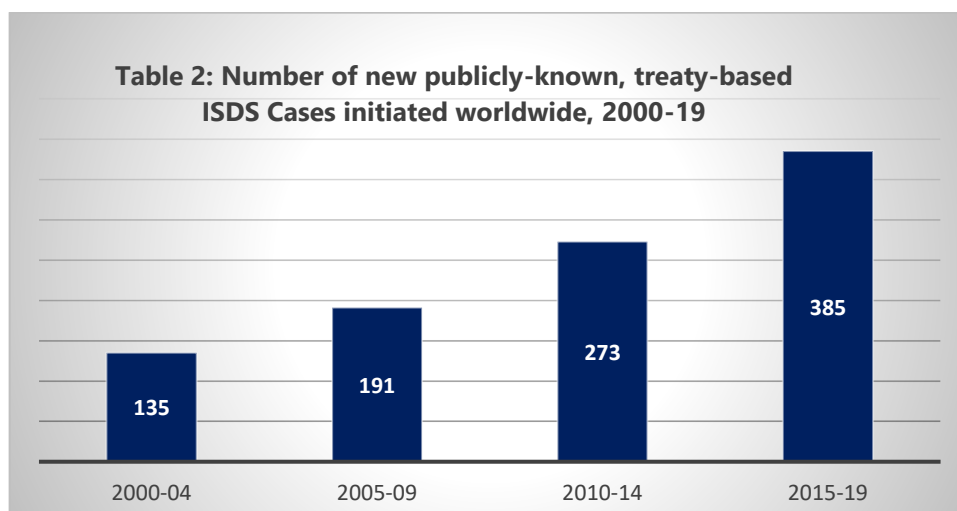
Specifically, we will pursue the outcomes which will best support jobs, wages and working conditions in every sector and region of the UK economy, and we will listen to the expert advice of our trade unions on how best to achieve those goals.

Among other changes in domestic policy, this will mean the following:

1. We will guarantee our unions not just a seat at the table in future trade talks, but an **active influence on the negotiations**, using their ideas and expertise to improve the benefits that each deal delivers for jobs and growth across the UK, from adding new sector-specific provisions and chapters to deals, to shaping rules of origin requirements to encourage UK exports of products with components from multiple countries.
2. We will reform the **Parliamentary Scrutiny of Trade Agreements**, so that MPs have a guaranteed right to debate the proposed negotiating objectives for future trade deals, and a guaranteed vote on the resulting agreements, with sufficient time set aside for detailed scrutiny both of the draft treaty texts, and of accompanying expert analysis on the full range of implications, including for workers' rights (See **Box 5** below).
3. We will make it mandatory for any UK trade agreement forecast to cause negative effects for employment in individual sectors or regions to be accompanied by a detailed plan for the **Mitigation of Negative Effects**, spelling out the support that will be given to affected communities and industries, and enabling Parliament to debate the adequacy of that plan when deciding whether to vote for the wider agreement.
4. We will ensure the government's sector-specific **Trade Advisory Groups** fulfil their intended role as fora for detailed discussions on negotiating objectives and draft texts of trade agreements, not the current 'mess' experienced by participants³, and as well as including representatives of workers and industry in each sector in those discussions, we will ensure the voices of consumers and relevant NGOs are heard in each group too.

³ 'Global Britain struggles to engage business in trade talks': <https://www.politico.eu/article/global-britain-struggles-to-engage-business-in-trade-talks-liz-truss-post-brexite/> (Politico, 23rd July 2021)

5. We will protect the right to regulate key industries in all future trade deals, and – while accepting that all agreements need mechanisms to resolve disputes (See **Section 5.9**) – we will reject the inclusion of (or exempt the UK from) any **ISDS clauses** in future trade deals that deter governments from taking action to protect workers, consumers, the environment, and public health, due to fears that they will be sued by foreign investors.



Source: UNCTAD Investment Settlement Dispute Navigator⁴

6. We will also – as a requirement for all UK trade agreements – demand a blanket **carve-out for the NHS** and other public services from all chapters, including access to patient data, and we will not sign-up to any provisions in trade deals which will restrict the ability of publicly-funded organisations now or in the future to decide how best to deliver their services, or force them to compete with private companies when doing so.
7. We will involve our trade unions closely in the essential work a future Labour government will lead to fix the holes in the **UK-EU Trade and Cooperation Agreement**, in particular looking to remove: (i) barriers to EU workers filling staff shortages in UK public services; (ii) non-tariff barriers affecting UK businesses; and (iii) the twin threat of UK divergence on workers' rights, and resulting EU use of the 'rebalancing mechanism'.
8. We will reform the membership and remit of the **Trade Remedies Authority** so that their investigations into unfair trade practices benefit from the front-line expertise of workers in affected sectors, and so that their analysis of the need for tariff safeguards and other remedies considers first and foremost the impact on jobs and wages in those sectors if action is not taken, or if safeguards are removed.
9. We will maintain **Safeguard Tariffs** on key UK industries such as energy, steel, ceramics, glass, car tyres, paper and cement that are essential to support communities and decent jobs across the country, so they are not undermined by surges of cheap imports, or by

⁴ Data published July 31st 2020: <https://investmentpolicy.unctad.org/investment-dispute-settlement>

the use of dumping and other unfair practices, especially given the heightened risks of such surges when other industrialised countries have their own safeguards in place.

10. As part of the review of government procurement proposed under the Labour Party's **'Buy, Make, Sell More In Britain'** policy agenda, we will seek to advantage goods and services produced in line with high labour and environmental standards, encouraging more procurement from the most socially-responsible UK firms, and favouring overseas producers with strong records in those areas when we need to buy from abroad.

Box 5: Parliamentary Scrutiny of Trade Deals

The Constitutional Reform and Governance Act 2010 (CRAG) dictates that international treaties (including trade agreements) must be laid before Parliament for a period of 21 sitting days before they can become law. At present, a treaty can only be challenged and (temporarily) rejected by means of an Opposition Day Debate, if one is granted by the government within that time.

The CRAG legislation was agreed by Parliament before Brexit was on the horizon. Its procedures for the ratification of trade treaties, which were then negotiated and agreed at EU level, were given no consideration during the passage of the Act, and no-one envisaged that they would become the mechanism for parliamentary scrutiny of the government's post-Brexit trade deals.

Nevertheless, that was the only mechanism on offer to challenge the 36 rollover trade deals (covering 67 non-EU countries) signed by the government from 2019 onwards. Of those 36 deals:

- Exactly half (18) completed their ratification process with no Opposition Day granted within the 21-day period, meaning that there was no possibility for MPs to challenge them;
- Another quarter (9) were laid before Parliament in December 2020 too late for them to complete the full 21-day scrutiny process before coming into force provisionally on January 1st 2021; and
- Four of those nine – with Vietnam, Mexico, Moldova and Turkey – were not even published until the afternoon of New Year's Eve, just hours before they came into force.

The government's contempt for Parliamentary scrutiny was most stark of all in respect of its deal with Cameroon, one of the worst human rights abusers among the UK's 67 non-EU trade partners. The government reached a provisional deal with Cameroon on December 30th. It took 16 weeks for any legal text to be published for scrutiny by Parliament, in the form of the final agreement

When Labour demanded a Commons vote on that final agreement, Liz Truss responded that – since the treaty was similar to the EU deal signed with Cameroon in 2007, and that deal was the subject of a 14-minute debate in the House of Lords in 2010 – no further debate or vote was warranted.

Despite the flagrant evidence of the inadequacy of the CRAG Act to allow proper oversight of trade deals, the government repeatedly blocked numerous cross-party proposals to improve the processes for Parliamentary scrutiny and approval during passage of the 2021 Trade Act.

A future Labour government will return to those proposals, and learn from best practice in other legislatures, to ensure that elected MPs have all the time, information and opportunity they need to debate and vote on the UK's trade deals, both before negotiations begin and after they conclude.

4. Putting Workers First Abroad

There are two fundamental principles which underpin the Labour Party's belief in upholding the rights of workers in other countries:

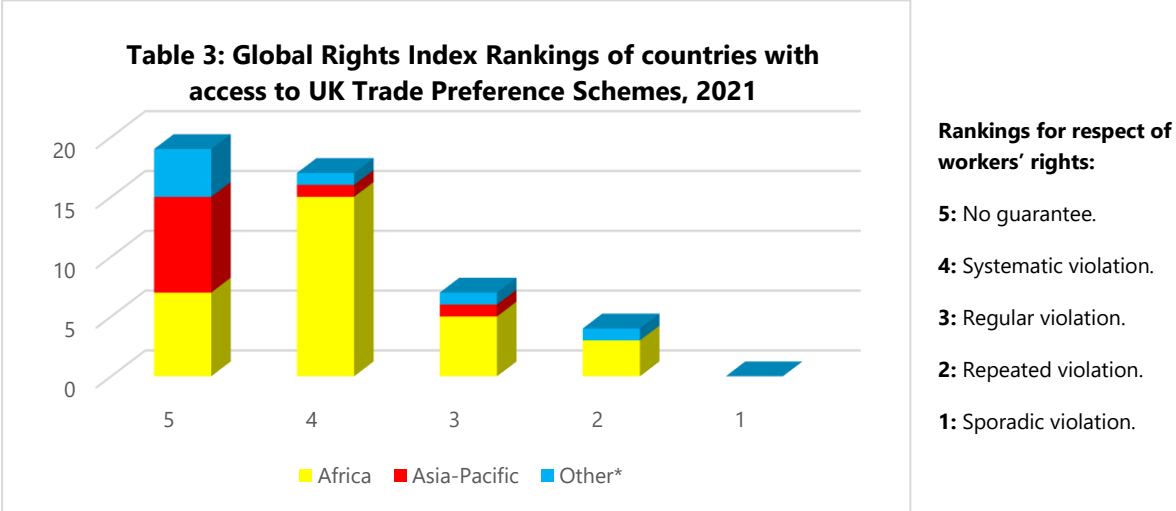
- (i) We cannot stand by when men, women and children overseas are treated as slaves, when the individuals who try to represent them are treated as criminals, and when their attempts to stand up for themselves are met with repression and violence, not least when all that suffering is inflicted simply to lower the cost of our imports; and
- (ii) If we accept that the race to the bottom we are seeing abroad will eventually undermine jobs, wages and working conditions here at home, then it follows that workers in the UK will also be the beneficiaries if we act to stop that race to the bottom and instead use the leverage of our country's trade to raise standards overseas.

There are a large number of changes in policy and practice that will flow from those principles, both now and in the future. But, as things stand, we make the following pledges:

1. We will make it a core negotiating objective in each of **the UK's new trade agreements** to include clauses obliging all parties to uphold the most advanced standards of workers' rights, irrespective of any impacts on trade, along with provisions enabling the rigorous monitoring and enforcement of those commitments, and empowering unions and other civil society groups to trigger investigations into alleged violations (See **Section 5**).
2. Where countries are determined to be in violation of the commitments on workers' rights in the **UK's existing trade deals**, we will enforce any penalties available to us in response, including suspending the agreements in whole or in part. Where necessary, we will also seek amendments to those existing deals to strengthen the commitments on workers' rights, and the provisions for their monitoring and enforcement.
3. We will revise the Trade Act 2021 to introduce Labour's version of the long-debated **Genocide Amendment**, preventing any UK government from pursuing, ratifying or maintaining trade agreements with overseas governments responsible for committing genocide, crimes against humanity and other serious violations of human and workers' rights, including the use of enslavement and forced labour against civilian populations.
4. We will also make it mandatory for the government to produce an **Annual Assessment of Workers' Rights and Human Rights** in each country that enjoys favourable terms of trade with the UK, measuring their compliance with the conditions set out in their trade deals or in the UK's trade preferences scheme, and determining whether – in light of each assessment – those favourable terms of trade should be maintained⁵.

⁵ Since 1986, the US President has been required to submit an annual report to Congress on the workers' rights records of countries benefiting from US Trade Preferences; these assessments are included in the Human Rights Reports produced by the State Department each March covering almost 200 countries around the world.

- 5. Subject to Point 6 below, we will strongly support continued and expanded preferential access to UK markets (including through the relaxation of Rules of Origin requirements) for countries in the **Global South**, and provide that access not just via free trade deals but on a unilateral basis, so developing countries have the right to retain the tariffs they need to support key domestic industries and decent jobs, especially for women workers.
- 6. However, we will reverse any changes made by the government that weaken the conditions imposed on countries overseas when their exports benefit from access to the UK's **Trade Preferences Scheme**; we will instead properly enforce those conditions so that governments who abuse the rights of their workers and violate their commitments under the ILO conventions cannot benefit from preferential terms of trade with the UK.



* Other includes Central and Eastern Europe, Central Asia, the Middle East and Latin America. 16 countries (9 of them Asia-Pacific) are unrated due to lack of information; 7 countries are not included as they are covered by the UK's rollover free trade agreements (See **Table 1**).

- 7. We will work with like-minded allies to press for a new era of **multilateral action to enforce workers' rights**, ranging from reform of the WTO rulebook to enable the tough enforcement of all fundamental labour standards and the protection of public services, to the increased deployment of independent inspectors under the oversight of the ILO to report on the compliance of individual countries and companies with ILO standards.
- 8. We will expand the scope of **Due Diligence Laws** included in the Environment Bill 2020 to impose fines on UK companies who import goods into the UK produced in violation of ILO standards on forced labour and child labour, obliging those firms to properly audit their supply chains. These laws will also be expanded to cover breaches of international agreements on human rights, and all forms of damaging deforestation.
- 9. We will bring **Public Sector Procurement** within the scope of the 2015 Modern Slavery Act; require companies bidding to supply the NHS and other public bodies to publish independent audits certifying the compliance of their overseas suppliers with ILO

standards; and enable procurement authorities in the UK to conduct effective audits into their own supply chains to ensure their contractors are complying with the rules.

10. We will incorporate into our enforcement mechanisms the greater use of **Targeted Import Bans** (TIBs) to prevent the import of specific categories of goods from targeted locations where there is evidence that they have been manufactured using forced labour, learning from the use of Withhold Release Orders by US Customs & Border Protection (CBP), and taking advantage of new cutting edge chemical tracing technology.

Box 6: The use of Targeted Import Bans

As set out above, a Labour government would strengthen the 2015 Modern Slavery Act, and introduce tough new Due Diligence Laws, to require all UK importers – including public bodies – to eliminate the use of forced labour from their supply chains, and suffer financial penalties if they fail.

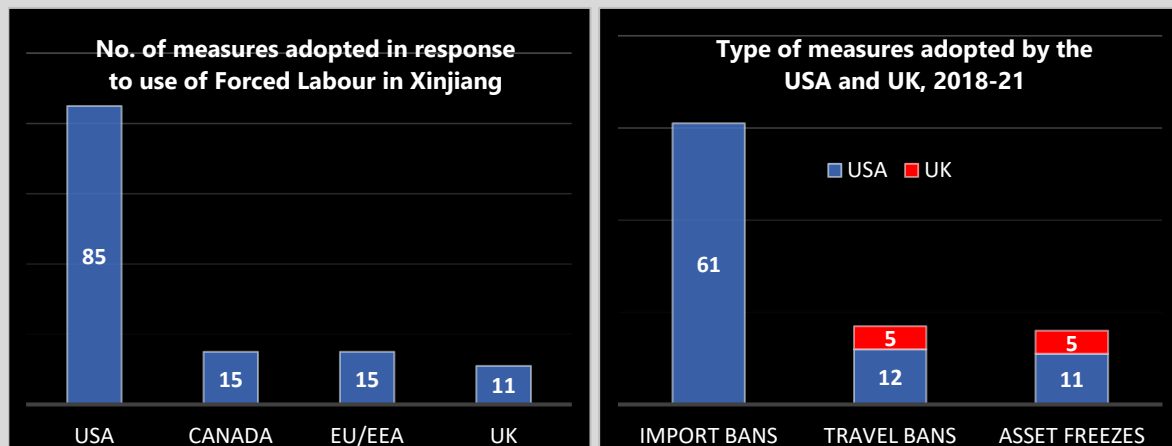
However, we do not believe that the burden of preventing imports produced using forced labour should fall on businesses alone. So – as well as making greater use of Magnitsky Powers to sanction individual abusers overseas – we would adopt our version of the US CBP’s ‘Withhold Release Orders’.

Set up in their current form under President Obama, WROs are used to impound goods suspected of being produced using forced labour, ranging from Mexican furniture to Zimbabwean diamonds. New forensic technology makes it increasingly possible to identify the precise origin of goods, making it more difficult for countries to disguise or re-route their exports to bypass the US CBP’s controls.

Notably, WROs have been used in recent months to target imports of cotton, tomatoes, hair products and other goods from specific producers in Xinjiang, suspected of using forced Uighur labour, and medical gloves produced by certain companies in Malaysia, suspected of using forced migrant labour.

In May, the US CBP opened investigations into Malaysian factories run by two further glove suppliers, Supermax and Hartalega. Supermax has been one of the NHS’s biggest direct suppliers of medical gloves during the pandemic, while Hartalega makes gloves for three more current NHS suppliers.

Meanwhile, such has been the combined effect of the WRO against Xinjiang cotton, and boycotts by many US retailers and sportswear companies, that China has been obliged to increase its own imports of cotton from Brazil and other countries to keep its exports to the US free of Xinjiang cotton.



Source: University of Nottingham Rights Lab: ‘Xinjiang Alleged Forced Labour Coercive Measures Database’, June 2021

5. Putting Workers First in Trade Agreements

With the opportunity provided by Brexit to update the UK's existing trade agreements and negotiate several new ones from scratch, the government should have sought to establish a new state of the art model for the workers' rights chapters of modern trade agreements.

As set out in **Section 2**, the government has entirely wasted that opportunity in respect of the rollover deals it agreed with 67 non-EU countries, including the 'enhanced agreement' reached with Japan, and in respect of the UK-EU Trade and Cooperation Agreement (TCA).

However, with new treaties being finalised with Australia and New Zealand, revised deals in the works with Canada, Mexico, Turkey and Israel, and negotiations ongoing with the US, India, the Mercosur countries and the Gulf Cooperation Council, as well as accession to the CPTPP, the opportunity remains for the UK to establish a modern blueprint on workers' rights.

To that end, a future Labour government will seek to negotiate workers' rights chapters in future trade deals based around the ten core features below.⁶

1. Consultation

A crucial starting point for all future trade deals, must be a full and comprehensive consultation with trade unions, alongside representatives of business, consumers and other civil society interests, and not just in relation to the workers' rights chapter, but the entire trade agreement.

That process should begin when framing the negotiating objectives for a treaty and run right through to the agreement of a final text, and it must include not just organisations from the UK, but trade unions and civil society from the other negotiating party, to ensure an outcome that addresses workers' rights issues comprehensively and expertly on all sides.

2. Fundamental Principles and Rights:

In line with the US-Mexico-Canada Agreement (USMCA), each deal must have as a foundation the agreement of all parties to comply with the ILO's Declaration on Fundamental Principles and Rights at Work, and with the eight core ILO conventions, as set out earlier in **Box 1**.

This is important not just to reinforce the primacy of those ILO standards, but to bring compliance with them into the scope of the agreement's enforcement and dispute resolution mechanisms, especially when many potential trade partners – such as 7 of the 11 current members of the CPTPP – will not have ratified into domestic law all eight core ILO conventions.

⁶ While these core features would form the basis of every future trade deal, each one could also incorporate additional country-specific and even sector-specific provisions reflecting the bespoke circumstances of each agreement. Although the specific provisions relating to the automotive sector in the US-Mexico-Canada Agreement (USMCA) are a matter of controversy, the overarching principle behind them is one to consider, if applied fairly.

As foundational principles, we would also make clear at the outset that:

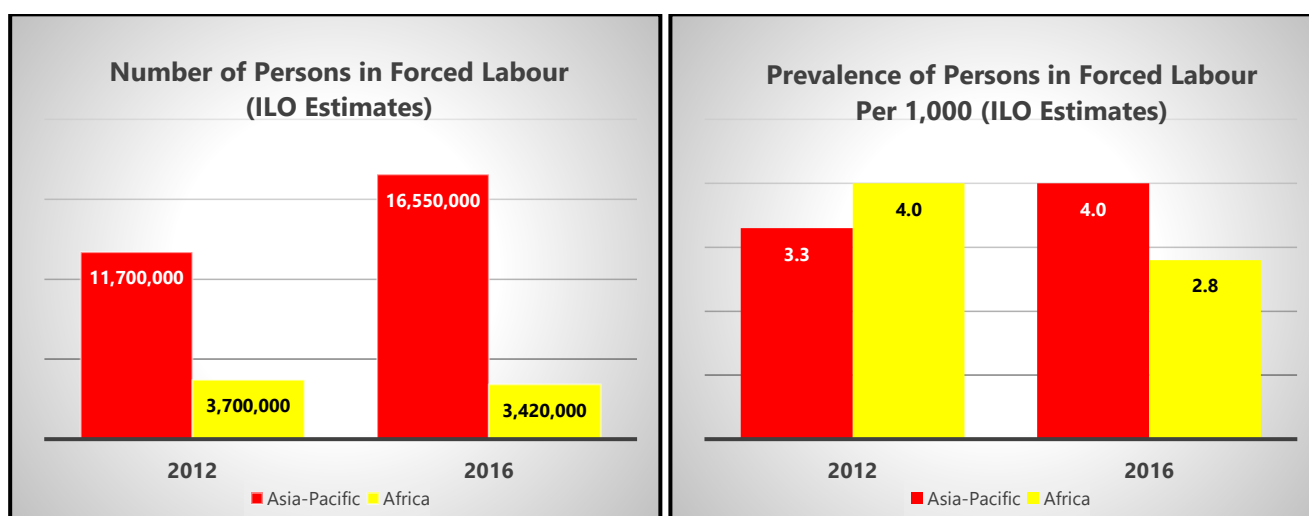
- Commitments made by signatory parties will apply to all employees in their countries – including public sector staff and migrant workers – and are not restricted only to certain groups of citizens, or to those sectors deemed to affect trade between the parties;
- Commitments cannot be arbitrarily and unilaterally waived because of a self-declared national emergency (e.g. the Covid pandemic, or political unrest); any proposed variation must be agreed between the parties and overseen by an independent secretariat; and
- The agreement will not affect the right of one of the parties to set higher levels of domestic protection for its workers, as they see fit for the pursuit of their own policy objectives; the rights guaranteed by the agreement are a floor not a ceiling.

3. Forced Labour and Child Labour

While the prohibition of forced labour and child labour is covered under the fundamental rights and conventions set out above, the seriousness of these practices and their growing prevalence in global supply chains makes it incumbent on modern trade agreements to incorporate additional concrete steps to root them out.

A future Labour government would therefore aim to include in our trade agreements:

- Minimum due diligence requirements applying both to the authorities in the signatory countries and for businesses taking advantage of tariff preferences under the agreement;
- Enforceable commitments requiring active steps to eliminate forced and child labour, rather than just to comply with existing domestic standards or ILO conventions; and
- Country-specific requirements and standards if the risk of forced and child labour in those countries is deemed to make them necessary.



4. Non-Regression and Future Levels of Protection

Non-regression clauses lock-in existing domestic standards of workers' rights, recognising not only that maintaining standards is a vital objective in and of itself, but that this is also necessary to preserve a level playing field between businesses in the signatory countries.

There are two important flaws in many trade agreements when it comes to non-regression, which Labour's model chapter on workers' rights would seek to correct:

- Neither party should be allowed to weaken its workers' rights protections simply by failing to enforce its laws effectively, so we would demand minimum standards for domestic enforcement, including the training of inspectors, the initiation of regular investigations, and the maintenance of sufficient administrative and judicial capacity; and
- Like wider workers' rights protections, most non-regression clauses are only enforced if they are deemed to affect trade between the parties. This sets the bar too high for effective enforcement, and leaves out whole classes of workers – e.g. in public services – so we would not allow any such conditionality in our non-regression clauses.

The UK-EU TCA also states that a failure to improve standards in line with the other trading partner is a breach of the provisions on a level playing field, so that if the EU were to introduce a new, comprehensive workers' rights charter, and the UK did not follow suit to the detriment of UK-EU trade, the EU could impose 'rebalancing' tariffs on UK exports.

While it would be difficult to replicate such a provision between trading partners with very different domestic laws, it would remain an option for a Labour government to consider in future trade agreements to help drive up standards on workers' rights worldwide.

5. An Essential Elements Clause

Under the terms of the Vienna Convention on the Law of Treaties, if provisions within an agreement are referred to as 'essential elements', it is understood to mean that violation of those provisions by one party removes the obligations of the other parties to uphold the rest of the treaty. In other words, the treaty cannot stand without its 'essential elements'.

In practice, this means that – if one party violates an essential provision – the other party has the option to suspend or revoke its tariff obligations, either in whole or in part, by way of remonstrance. A future Labour government will therefore insist on clauses in future trade deals specifying that the provisions on workers' rights are essential elements of each agreement.

This does not mean that we would always invoke the right to suspend an agreement if other mechanisms are available to register a protest or resolve a dispute, but it is crucial that the most robust option can be used when necessary to deter or punish the most serious abuses.

6. A Hierarchy Clause

As we know from debates on agricultural imports, the efforts of trade agreements to break down non-tariff barriers can often come into conflict with the standards and regulations that governments have chosen to put in place for domestic policy reasons.

Where there is any similar clash between the liberalising provisions of the UK's trade agreements and the rights we choose to put in place for UK workers, a future Labour government will be clear that it is our domestic workers' rights that will prevail.

Within our ideal chapter, we would affirm this through the use of a hierarchy clause, which states that any measure taken by either party that is inconsistent with the agreement is permitted, if it is considered necessary to protect the rights of that party's workers.

Hierarchy clauses are used by the US and New Zealand to allow domestic provisions for their indigenous populations to take precedence, while the UK recently included hierarchy clauses in its deals with Japan, to give precedence to the Northern Ireland protocol, and Liechtenstein, to give precedence to a prior 2019 deal agreed with Switzerland as a third party.

7. Agreed Areas for Dialogue and Cooperation:

It is standard practice in trade deals to pick out areas of mutual commercial interest for future dialogue and cooperation, with shared objectives for progress (e.g. to open up financial service markets, or minimise regulation). This is usually accompanied with an institutional framework to facilitate cooperation, including committees and working groups to lead in each area.

In line with that model, and building on the ILO's fundamental rights and core conventions as a foundation, our proposed chapters on workers' rights would seek to agree cooperation between the signatory parties in the following areas:

- **Occupational Injuries and Illnesses:** Both parties should agree to implement ILO standards to minimise the causes of occupational injury and illness, and guarantee adequate benefits and compensation for workers, or their dependents, who suffer occupational injuries, illnesses or fatalities during the course of their employment;
- **Women in the Workplace:** Both parties will examine what further actions they need to take to promote equal pay for women, improve parental leave, tackle sexual harassment of women at work, increase the presence of women at managerial levels, and examine areas where new rights are required (e.g. in relation to baby loss).
- **Protection of Migrant Workers:** We must ensure both parties are not only committed to provide their country's migrant workers with the same legal rights as other workers in respect of pay and working conditions, but taking active steps to enforce those rights, tackle exploitation, and end practices like the confiscation of passports.

- **Forced and Child Labour:** As noted above, this will be an area of particular emphasis in all agreements in terms of the parties' obligations, but it should also be an area where the sharing of information, data and best practice is encouraged to enable joint action to tackle the practices and target the companies responsible.
- **Tackling Workplace Discrimination:** Both parties should work together to root out discrimination from their workplaces on grounds such as race, religion, age and sexuality, and use instruments such as public procurement to favour companies who take active steps to make their workplaces safe, welcoming and inclusive for all employees.
- **Compliance and Enforcement:** Both parties should agree to exchange information, gather and share data, and undertake joint studies to improve mutual understanding of how workers' rights are being implemented by each party, and encourage transparency and sharing of best practice in how they can improve compliance and enforcement.

In addition, a future Labour government would make it mandatory for all UK trade agreements to include a chapter on the ways in which the signatory parties will use trade to advance progress towards the UN's Sustainable Development Goals, so that chapter would cross-refer to these commitments in terms of joint cooperation on SDG8 on Decent Work.

8. Monitoring, Reporting and Enforcement

One of the fundamental problems with current trade deals is that the commitments made on workers' rights are only as strong as the mechanisms in place to enforce them. Establishing robust enforcement mechanisms must therefore be a key priority, as follows:

- Systems will be established to promote public awareness in each country of the workers' rights guaranteed in the agreement, with the assistance of trade unions and other civil society groups, and of the means by which suspected violations can be reported;
- OECD-style contact points will also be established to which ordinary citizens, unions and NGOs can report suspected violations by companies in a signatory country, as can other companies who believe their business is being undercut;
- Investigations into suspected violations of workers' rights commitments reported to each contact point will be carried out by a fully independent secretariat, comprised of experts in the field, no later than 60 days after a complaint has been received;
- If the suspected violations are confirmed, the secretariat will issue the authorities in the offending country with recommendations for remedial action; if satisfactory action is not taken within 60 days, a dispute resolution process will be triggered.

Alongside this normal process, a 'rapid response mechanism' will be established – akin to that in the US-Mexico-Canada Agreement – where the secretariat can demand to inspect facilities in the signatories' territories where gross violations of workers' rights have been reported.

If such violations are confirmed, recommendations for immediate remedial action will be issued, but if an inspection is denied, the secretariat will be empowered to issue fines, or to recommend that tariff preferences under the agreement are suspended or revoked.

Ideally, the need for enforcement action on those levels will be rare, but – to that end – it will also be vital to establish mechanisms for a regular dialogue (at least once a year) between all signatories and stakeholders to review implementation of, and compliance with, the workers' rights commitments in each deal, and provide early warning of any emerging risks.

It will be incumbent on each party to maximise the value of that dialogue by promoting a balanced participation of investors, businesses and employers' organisations together with trade unions, NGOs, academic experts, and representatives from across government.

In addition, each party should have the right – as per the USMCA – to request dialogue with another party on any matter relating to the workers' rights commitments in the trade agreement by delivering a written request to the relevant contact point.

The purpose of the contact point in that situation is to facilitate ad hoc dialogue between the parties which will ideally lead to the development and implementation of an action plan or cooperation programme, independently verified by a separate entity, such as the ILO.

Again, the value of that dialogue is to seek progress outside the trade agreement's more formal – and potentially punitive – mechanisms for dispute resolution, although the use of the contact points to those ends must not come at the expense of their use by ordinary citizens, unions, NGOs and businesses to report suspected violations.

9. Dispute Resolution

Notwithstanding all the above, there may be occasions when dialogue between the parties, and recommendations from the independent secretariat, do not lead to effective remedial action. In those circumstances, violations of workers' rights commitments must be subject to the same dispute resolution processes that apply to the commercial terms of each deal.

Indeed, we would insist that the process for enforcing those workers' rights commitments must match the rigour and speed with which commercial disputes are resolved, so that all parties are aware that there are clear consequences for non-compliance.

A typical process for resolving a commercial dispute involves consultation between the parties by committee, before the matter passes to a panel of experts appointed by both parties to make a ruling. If the ruling goes against one party, tariff obligations under the trade deal can be suspended or penalties can be issued, proportionate to the damage done.

However, we would propose building in specific additional elements to the dispute resolution process for workers' rights issues, as follows:

- (i) Panel appointments should be independent and include trade unionists;
- (ii) It should be possible for disputes to be initiated by trade unions and other civil society organisations, as well as the signatory governments;
- (iii) As stated elsewhere, there should be no requirement that disputes over workers' rights issues should purely concern matters affecting trade between the parties; and
- (iv) Rather than the suspension of tariff obligations, the panels in workers' rights disputes should favour issuing proportionate penalties, with the proceeds assigned to assist with the enforcement of workers' rights in the country at fault.⁷

None of the above should be confused with the ISDS mechanisms, which – as per **Section 3** – a future Labour government would exclude the UK from in all future trade agreements.

10. Evaluation and Modification

Finally, we should incorporate into our future trade agreements a requirement to evaluate the impact of the deal on workers once a period of time has passed, compare that to our original projections and assumptions, and assess whether further modifications are required to improve the outcomes of the agreement. This would, for example, enable us:

- To compare the actual effect of increased trade with the forecast impact on jobs and wages in each sector and region, and take any mitigating action as necessary;
- To gauge what effect the deal was having on wages, conditions and the composition of the workforce in any signatory country where workers' rights had been extended, strengthened or better enforced as a result of the agreement; and
- To consider whether changes are necessary to improve enforcement of the agreement, so we do not end up in the position found with many of the EU's trade deals (now rolled over for the UK) where their workers' rights provisions have no practical impact.

⁷ This approach has been taken in agreements such as the Canada-Chile Agreement on Labour Cooperation.

6. Conclusion

In this document, we have set out a comprehensive agenda to put workers first in the UK's trade policy both at home and abroad, recognising – as the founders of the Labour Party did more than a century ago – that, for both moral and economic reasons, our goal must be to fight for jobs, fair wages and decent working conditions in every country, as well as our own.

By putting those historical Labour values into practice, we will demonstrate once again that trade can be a positive force for good throughout the world, helping to raise the rights, standards, prosperity and quality of life enjoyed by every working person, and by the industries, communities and countries whom their work sustains.

To that end, we have spelt out how we would pursue those goals through future trade agreements, with an emphasis not just on the binding commitments required to protect workers' rights, and the strengthened cooperation needed to raise standards, but on the effective mechanisms for monitoring and enforcement on which any progress depends.

Unfortunately, none of this bears any resemblance to the current trade policies of the UK government, or to the content of the trade agreements they have signed in the past two years with 67 non-EU countries and the EU, or – we fear – to the terms of UK accession to the CPTPP, or the treaty texts that will soon be published for deals with Australia and New Zealand.

Instead what Labour is proposing in this document bears much more resemblance to elements of the final USMCA treaty approved on a cross-party basis by the US Congress in 2019, and mirrors very closely the 'Worker-Centred Trade Policy' that the US Trade Representative has set out as the basis of any new US agreements over the coming years.

By contrast, Boris Johnson's government appears not to realise that their deliberate dismissal of workers' interests and rights in relation to trade puts them firmly at odds with the only country that can realistically help them reach their manifesto commitment to cover 80 per cent of the UK's trade with free trade agreements by the end of 2022.

They will always struggle to secure that trade deal with the United States until they start to put workers first in their trade policy in the ways proposed in this document, including giving the UK's unions not just a seat at the table but a meaningful voice in those negotiations, and treating the abuse of workers' rights overseas with the seriousness that it deserves.

If they fail, they will find a future Labour government more than ready to do the job instead, armed with the robust principles and detailed policies on workers that will finally deliver a UK-US trade deal, provide a model for other countries to follow, and usher in an era of international cooperation to raise standards around the world.