Written evidence to the International Development Committee inquiry: UK progress on the Sustainable Development Goals

TRADE JUSTICE MOVEMENT

Trade Justice Movement
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Summary

- An assessment of the UK's trade policy should be at the heart of its Voluntary National Review.
- Trade policy impacts on important public services, including health, water and energy and can make them less accessible to poorer communities (SDGs 3, 6 and 7). UK trade policy must exclude public services.
- Trade rules have a crucial role to play in the kind of economic growth that countries are able to achieve and must be explicitly shaped with the aim of strengthening local industries and creating decent work (SDG 8).
- Trade deals have significant implications for efforts to achieve more equal societies and must be assessed in full against equalities goals (SDG 10).
- Trade rules also have significant implications for efforts to tackle climate change (SDG 13). As currently configured, rules on standards, subsidies, local content requirement and investor protections are hampering these efforts. The UK should explicitly make its trade agreements compatible with its commitments on climate change and exclude Investor-to-State Dispute Settlement (ISDS) mechanisms.
- The UK government should design its independent trade and development policy so that it has the best possible outcomes for developing countries.
- Given the broad reach of trade policy, there should be Cabinet-level oversight of UK implementation of the SDGs with a particular focus on the work of DIT.
- DIT must set out how it plans to fully incorporate the full range of relevant SDGs into its work.

Introduction

1. The Trade Justice Movement (TJM) is a UK-wide network of seventy 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 International Development Committee inquiry: UK progress on the Sustainable Development Goals. Our area of expertise is trade policy and trade agreements, our evidence therefore focuses on the ways in which they interact with the Sustainable Development Goals (SDGs).

3. Our response begins by outlining some of the ways in which trade impacts on key SDGs. It then considers UK progress against goals and targets that directly reference trade and finally considers the role of the Department for International Trade (DIT) in delivering on the SDGs.

I. Trade policy and the SDGs.

SDGs 3, Ensure healthy lives and promote well-being, 6, Ensure availability and sustainable management of water and sanitation, and 7, Ensure access to affordable, reliable, sustainable and modern energy

4. Since the conclusion of GATS in 1995, trade agreements have covered 'trade in services', including privatised health, water and energy services. The inclusion of services in trade agreements, especially on a 'negative list' basis, effectively locks in existing privatisation and limits governments' ability to introduce new regulations or to renationalise services. This is problematic because it limits policy space beyond the term of the particular government that signs up to the deal. Since privatisation is often accompanied by the introduction of or an increase in fees and a hollowing out of provision as companies target more lucrative sectors of the market, the overall impact is to reduce access to vital services for poorer communities.[1]

5. Health, energy and water services have been particular targets under investor-to-state dispute settlement (ISDS) mechanisms. Indications are that the UK plans to include ISDS in future trade and investment deals.[2] In addition, the UK's 105 existing Bilateral Investment Treaties (BITs), already contain ISDS and two-thirds of them are with developing countries.

6. ISDS allows companies to sue governments for measures that are considered to negatively impact the profitability of their investment. The energy sector has seen by far the largest number of cases: half of all ISDS cases registered at the World Bank by the end of 2015 related to oil, mining, gas, electric power or other energy forms.[3] Investors have also sued countries for health measures, including the introduction of a tax on drinks containing high fructose corn syrup[4] and for measures to improve the quality of water or to keep water tariffs affordable. [5]

7. ISDS can both cause countries to revoke measures to achieve important public service objectives and cause 'policy chill', whereby countries do not introduce a measure for fear of facing a costly legal case.[6]

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[1] Abrahams, D. MP (2014) 'An Inquiry into the effectiveness of international health systems' Available at http://debbieabrahams.org.uk/wp-content/uploads/2018/10/Health-Inquiry-Report_FINAL.pdf

[2] Baroness Fairhead response to amendments relating to ISDS tabled by Lords Stevenson and Kramer, 23rd January 2019 https://www.theyworkforyou.com/lords/?id=2019-01-23a.792.0

[3] According to the ICSID website, 213 cases were pending on 2 November 2015. 57 of them related to the oil, gas and mining sector, and 48 related to electric power and other energy. https://icsid.worldbank.org/apps/ICSIDWEB/cases/ Pages/AdvancedSearch.aspx

[4] Several US Agri-businesses, including Cargill, sued Mexico after it introduced a tax on the sale of soft drink containing high-fructose corn syrup in 2002. The investors won the case and Mexico was required to pay US $77.30 million in damages. See Cargill v. Mexico, ICSID Case No. ARB(AF)/05/2 (2005). Available at: http://investmentpolicyhub.unctad.org/ISDS/ Details/204.

[5] See for example Suez, Sociedad General de Aguas de Barcelona S.A., and Vivendi Universal vs. the Argentine Republic. ICSID Case No. ARB/03/19 and Biwater Gauff (Tanzania) Ltd. vs. United Republic of Tanzania, ICSID Case No. ARB/05/22.

[6] Qalo, V. (Jan 2013) Integrating Sustainable Development into International Investment Agreements: A Commonwealth Guide for Developing Country Negotiators. In Investment Treaty News, IISD. P7; IISD (September 26, 2017) Investment Treaties and the Internal Vetting of Regulatory Proposals: A Case Study from Canada. Available at: https://www.iisd.org/itn/2017/09/26/investment-treaties-internal-vetting-regulatory-proposals-case-study-from-canada-gus-van-harten-dayna-nadine-scott/

8. A further concern in relation to health is the inclusion in trade deals of stringent intellectual property rules that can cause dramatic increases in the cost of medicines. For example, one study found that “research patent term extensions in Thailand alone could create additional costs of US$ 822.1 million over 5 years or more than US$ 6 billion over 20 years, significantly reducing the affordability of medicines within the country.”[7]

9. In order to meet its commitments under SDGs 3, 6 and 7, the UK government must exclude public services and ISDS from future trade deals and cancel its existing BITs.

SDG 8 – sustainable economic growth, full and productive employment and decent work for all

10. Trade rules can have a significant impact on both the level and quality of countries’ growth and employment. Whilst trade liberalisation can sometimes lead to an overall increase in jobs as export sectors expand, these sectors are often characterised by low-skilled, labour intensive and temporary or insecure employment.[8] It remains the case that low-value activities tend to be concentrated in the world’s poorest countries whilst more profitable operations are carried out in rich countries.

11. For example, In the mid-1990s Cambodia was granted preferential treatment under both EU and US ‘Generalised System of Preference’ (GSP) schemes. As a result, between 1994 and 1999, Cambodia’s garment exports grew by more than 100 per cent, from US$495 million to US$1,102 million. However the women who make up around 87% of the workforce experience low wages, harassment and significant job insecurity.[9]

12. In order to support economic growth that leads to poverty reduction, participation in international trade must not limit the policy tools available to developing countries in shaping their industrial policy.[10] Countries including South Korea and Taiwan have used a mixture of policy tools including tariffs, quotas, subsidies, restrictions on FDI and capital controls to achieve their economic development goals.[11] These policies enabled them to diversify their economic activity and transition from low to high value-added production. Yet modern trade agreements seek to restrict the use of these tools, for example by dramatically lowering tariffs and banning subsidies and capital controls.

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[7] Asia Pacific Forum on Women, Law and Development (2017) Regional Comprehensive Economic Partnership: robbing communities to extract profit. p. 3. Available at: http:// apwld.org/wp-content/uploads/2017/09/RCEP-Briefer-Final-2. pdf.

[8] Seguino, S and Grown, C (2006) Gender equity and globalization: Macroeconomic policy for developing countries, Journal of International Development Vol. 18, pp. 1084-1086.

[9] ILO (2012) *Action-oriented research on gender equality and the working and living conditions of garment factory workers in Cambodia* http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-bangkok/documents/publication/wcms_204166.pdf; ILO (2017) Cambodian Garment and Footwear Sector Bulletin, Issue 5, p. 1. Available at: https://www.ilo.org/wcmsp5/ groups/public/---asia/---ro-bangkok/documents/publication/ wcms_541288.pdf

[10] United Nations Economic Commission for Africa (2013) Making the Most of Africa’s Commodities: Industrializing for Growth, Jobs and Economic Transformation. Addis Ababa, Ethiopia. P. 8-9. Available at: https://www.uneca.org/ publications/economic-report-africa-2013 accessed

[11] Chang, H (2002) Kicking away the ladder: Development strategy in historical perspective. Anthem Press, London. P48-49.

13. UK trade agreements must allow countries to retain the policy space[12] to develop their own industrial strategies, this might include border tariffs as a means of generating revenue, subsidies to support particular sectors and local content requirements to ensure good backward linkages.

SDG 10 (reduced inequalities, also relevant to targets 1.4, 5.4, 5.A).

14. Trade rules can exacerbate inequality in the economy. For example, women tend to be most impacted by the liberalisation of public services because they are more reliant on them and less able to afford fees, which means that they bear the brunt of any increased costs. As outlined in paragraph 11, women tend to be concentrated in the kinds of low-wage, insecure work that is often created by trade agreements. In addition, women tend to be most adversely affected by the liberalisation of agriculture as they tend to have less secure land tenure and face more barriers to accessing credit and export markets.[13]

15. We welcome Secretary of State Liam Fox's support for the World Trade Organisation (WTO) Joint Declaration on Trade and Women's Economic Empowerment and the work of the joint DFID-DIT trade and development team to take this agenda forward. However we are concerned that the Declaration contains little to address the substantive ways in which trade impacts on women. In the UK, work in this area is limited to promoting women entrepreneurs from developing countries to participate in global trade under the auspices of the 'SheTrades Commonwealth' initiative. It is not clear that this will benefit either significant numbers of women or poorer women who face high barriers to accessing international trade: only a small proportion of women in developing countries are 'entrepreneurs' and there is evidence of an increase in women being pushed into entrepreneurship in the absence of more stable work.[14]

16. In order to meet its commitments under SDG 10, UK trade agreements must be subject to impact assessments that consider the full range of provisions and this must be used to shape those agreements.

SDG 13 – Take urgent action to combat climate change and its impacts

17. Trade deals as currently configured have significant implications for action on climate change. Given the level and pace of emissions reductions that will be required to avoid dangerous climate change, national governments need every tool available to decarbonise their economies. However trade agreements tie their hands in a number of ways.

18. Rules contained within Free Trade Agreements as well as at the World Trade Organisation specify that policy measures must not unnecessarily restrict or create obstacles to international trade.[15] They also establish a set of rules on subsidies, public procurement and standards (including environmental standards) that are already making it more difficult for governments to support local renewable energy initiatives.[16] There are proposals within agreements such as the Trade in Services

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[12] See also Goal 17.15: "Respect each country's policy space and leadership to establish and implement policies for poverty eradication and sustainable development"

[13] TJM (2018) *Patriarchy and Profit: A feminist analysis of the global trade system*. Available at: https://www.tjm.org.uk/documents/briefings/TJM_Patriarchy_and_Profit.pdf

[14] Global Entrepreneurship Monitor (2017) *Women's Entrepreneurship 2016/2017* Report. p. 18. Available: http://gemconsortium.org/report/49860

[15] WTO *Agreement on Technical Barriers to Trade* paragraph 2.2.

[16] IISD (July 19, 2012) *Trends in Investor Claims Over Feed-in Tariffs for Renewable Energy* https://www.iisd.org/itn/2012/07/19/trends-in-investor-claims-over-feed-in-tariffs-for-renewable-energy/

Agreement (TISA) that would prevent governments from supporting domestic renewable energy sectors.[17]

19. The ISDS mechanism outlined in paragraphs 5-7 can penalise governments for introducing policies to transition away from fossil fuels, undermining climate commitments. For example, Lone Pine are suing Canada in response to the government of Quebec's moratorium on fracking.[18]

20. Despite these implications, discussion of trade was explicitly kept out of the UNFCCC Paris climate talks. In stark contrast to the climate agreement, where it was deemed impossible to make commitments fully binding, trade agreements and ISDS are both binding and enforceable by specifically named bodies, equipped with all the necessary legal powers.

SDG 17, target 17.1 Strengthen domestic resource mobilization, including through international support to developing countries, to improve domestic capacity for tax and other revenue collection.

21. The Addis Ababa Action Agenda emphasises that domestic resource mobilisation will be crucial to achieving the SDGs.

22. Trade tariffs remain an important source of income for many countries in the global South. In 2011 trade taxes accounted for 13% of revenue in Least Developed Countries compared to less than 1% of revenue for high-income countries.[19] Trade liberalisation can therefore cause the loss of a significant source revenue for poorer countries, which they struggle to replace, particularly where other tax infrastructure is weak.

23. Estimates put the tariff revenue loss of the proposed Economic Partnership Agreement (EPA) between the EU and the EAC (Burundi, Kenya, Rwanda, Tanzania, and Uganda) at "USD 251 million a year by the end of the EPA's implementation period. Cumulative tariff revenue losses would amount to USD 2.9 billion in the first 25 years of the EPA's life."[20]

24. The loss of income from trade tariffs can push governments to replace their trade and corporate taxes with regressive taxation measures such as VAT. Poorer communities are hardest hit by such taxes because a greater proportion of their income is spent on basic goods.

25. Impact assessments for trade agreements must carefully consider the likely impact of tariff reductions on countries' abilities to raise revenues: if tariffs are reduced there must be clear evidence that the resulting loss of revenue can be compensated for elsewhere.

II. The role of DIT

26. In light of the above, TJM believes that the Department for International Trade has an important role to play in the achievement of the SDGs. This is particularly the case as the UK is currently on

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[17] Wikileaks (2015) Expert Analysis on Energy Related Services (ERS) Annex Proposal: Questions and Answers https:// wikileaks.org/tisa/Analysis-TiSA-Annex-on-Energy-relatedServices-QA/page-3.html

[18] Lone Pine Resources Inc. v. Canada (ICSID Case No. UNCT/15/2)

[19] World Bank (n.d) Taxes on International Trade (% of revenue) [webpage] available at https://data.worldbank.org/ indicator/GC.TAX.INTT.RV.ZS?locations=XD&year_low_ desc=false

[20] Mkapa, B (2016) Why the EPA is not beneficial to Tanzania. Available at: https://www.southcentre.int/question/why-the-epais-not-beneficial-to-tanzania/

course to regain competence for its own trade and investment policy for the first time in more than forty years.

27. Following a welcome recent update, the DIT's single departmental plan (SDP) now makes reference to the SDGs. However it is of note that DIT hasn't incorporated the SDGs into its workplan as thoroughly as other departments. For example, the Department for Culture, Media and Sports' SDP references the SDGs 38 times covering eight separate goals whilst DIT reference the SDGs just twice, covering only two goals (16 & 17). Despite the significant implications of trade for the SDGs, DIT do not appear to be engaging in the VNR.

28. Not only is DIT's incorporation of the goals narrow it also lacks depth. DIT claim that the following commitments support SDGs 16 and 17: tackle barriers to trade and investment, support business to export, strengthen trading partnerships and connect UK companies to trading opportunities. It is unclear how these commitments go beyond what might be expected of the department in the absence of the SDGs.

29. The following commitments are more obviously linked to the SDGs: secure trade arrangements "that are in the best interests of developing countries", establish a unilateral preferences trading scheme for developing countries, build DIT's own capacity to spend Official Development Assistance funds and engage with the Prosperity Fund. DIT has committed to rolling over the EU's Economic Partnership Agreements (EPAs) and its Generalised System of Preferences (GSP), however there has been very little detail beyond this in terms of the UK's plans for trade with developing countries.

The Joint DFID-DIT trade and development unit

30. The continued existence of the joint DFID-DIT trade and development unit is welcome, however its remit is limited to dealing with trade deals with developing countries and to the UK's role in the WTO, it does not therefore appear to be considering the implications of trade across the spectrum of SDGs. The following outlines the goals relevant to the work of this team and assesses progress against them.

31. Trade-related SDGs

- **2.B** Correct and prevent trade restrictions and distortions in world agricultural markets […] in accordance with the mandate of the Doha Development Round.
- **8.A** Increase Aid for Trade.
- **10.A** Implement the principle of special and differential treatment for developing countries, in particular least developed countries, in accordance with World Trade Organisation agreements.
- **17.10** Promote a universal, rules-based, open, non-discriminatory and equitable multilateral trading system under the World Trade Organization, including through the conclusion of negotiations under its Doha Development Agenda
- **17.11** Significantly increase the exports of developing countries, in particular with a view to doubling the least developed countries' share of global exports by 2020
- **17.12** Realize timely implementation of duty-free and quota-free market access on a lasting basis for all least developed countries, consistent with World Trade Organization decisions, including by ensuring that preferential rules of origin applicable to imports from least developed countries are transparent and simple, and contribute to facilitating market access

32. In relation to targets 10.A, 17.11 and 17.12 we believe that by simply replicating the existing EU scheme, the UK is missing a significant opportunity to improve on the unilateral trade preference it

currently grants to least developed countries (LDCs) (the 'Everything But Arms' scheme) and developing countries (the Generalised System of Preferences: GSP and GSP+). We are also concerned that the UK plans to replicate the EU's Economic Partnership Agreements (EPAs) which have been highly controversial with both developing country governments and civil society organisations.

33. The Government could improve on the unilateral trade preferences it grants developing countries in a number of ways:

- The country coverage of the existing EU duty-free, quota-free arrangements could be extended to include non-LDCs that remain economically vulnerable to ensure that cumulation between countries would be easier.
- Preferences for non-LDC developing countries could be improved by including additional products, offering more generous tariff reductions, including a cap on the maximum tariff, offering simplified rules of origin and maximum regional cumulation, and making preferences conditional upon respect for ILO core labour standards.

34. EPAs are extremely controversial and after more than 14 years of negotiations they remain heavily contested by partner countries. To date only two regional agreements have been signed – the CARIFORUM agreement with Caribbean countries and with the Southern African Development Community. In East Africa both Tanzania and Uganda have said they will not sign the EPA in its current form, and Nigeria has also delayed signing the ECOWAS (Economic Community of West African States) agreement.[21]

35. EPAs require developing countries to undertake a level of liberalisation that undermines their social and economic development and is incompatible with many countries' industrial strategies. The agreements prevent countries from using the full range of policy tools to achieve their industrial development goals and support the transition to value-added and high skilled production. They have undermined regional integration efforts because the negotiations established regional groupings that split existing customs unions or regional alignments and impose different trade rules on countries in the same region. Finally, EPAs do not include adequate protection of workers' rights, as labour chapters contain no enforcement mechanisms or sanctions when rights are violated.[22]

36. Replicating the controversial EPAs is not an effective approach to trade and development policy. As the UK leaves the EU it has the opportunity to develop a new 'gold star' approach to trade and development policy that has the best possible outcomes for developing country partners.[23] Plans must also urgently be put in place for provision for developing countries to ensure no disruption in the event of a no-deal scenario.

37. In relation to target 17.10, we were extremely disappointed that the UK did not support the completion of the Doha round of negotiations and instead backed moves in 2015 to drop them from the WTO agenda. Whilst some elements of the UK's work to support implementation of the WTO's

[21] Further Africa (2016) Why African states are refusing to sign on to EU trade deals. Available at: https://furtherafrica. com/2016/11/10/why-african-states-are-refusing-to-sign-on-toeu-trade-deals/.

[22] Traidcraft et al (2012) Economic Partnership Agreements – still pushing the wrong deal for Africa? Available at: http://www. stopepa.de/img/EPAs_Briefing.pdf.

[23] Note that the International Trade Committee has recommended that the UK review EPAs in its report tothe inquiry *Continuing application of EU trade agreements after Brexit*

Trade Facilitation Agreement are to be welcomed, we believe much more could be done to ensure that it supports poverty reduction in partner countries.

Democracy and Transparency

38. The SDGs emphasise the participation of those who are often excluded in decision making, for example SDG 16.7 "ensure responsive, inclusive, participatory and representative decision-making at all levels" and consultation is a key theme of the VNR. At present the government has made no guaranteed commitments to transparency and accountability in its trade negotiations. This means that civil society organisations both in the UK and partner countries, as well as MPs, will have very little input, despite the significant implications for the SDGs.

39. The UK government must urgently introduce a statutory framework to ensure:

- Full impact assessments for each trade deal, measured against the SDGs and the UK's other international commitments.
- The right of parliament to set a thorough mandate to govern each trade negotiation, with a remit for devolved administrations.
- The right of the public to be consulted as part of setting the mandate.
- Full transparency in negotiations.
- The right of parliament to amend and reject trade deals with full debate and scrutiny.
- The right of parliament to review and withdraw from deals in a timely manner.

40. The failure to properly incorporate the SDGs into the work of DIT means that there is a significant risk that UK trade and investment policy and agreements could undermine efforts to achieve them. If the UK takes the wrong approach to trade and investment it could hamper the efforts of other countries to achieve the SDGs. We believe that Cabinet-level oversight of UK implementation of the SDGs could help to remedy this and that ensuring the work of DIT is aligned with the SDGs should be given high priority, including as part of the UK's VNR.

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