HOUSE OF COMMONS

International Trade Committee

Oral evidence: UK trade negotiations: Agreement with Australia, HC 1002

Wednesday 2 March 2022

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Watch the meeting

Members present: Angus Brendan MacNeil (Chair); Mark Garnier; Paul Girvan; Tony Lloyd; Anthony Mangnall; Lloyd Russell-Moyle; Martin Vickers.

Questions 87 - 105

Witnesses

II: Rosa Crawford, Policy Officer, Trades Union Congress (TUC); Victoria Hewson, Head of Regulatory Affairs and Research Associate, Institute of Economic Affairs; Professor Emily Reid, Professor of International Economic Law and Sustainable Development, University of Southampton; and Dr Silke Trommer, Senior Lecturer in Comparative Public Policy, University of Manchester.

Examination of witnesses

Witnesses: Rosa Crawford, Victoria Hewson, Professor Emily Reid and Dr Silke Trommer.

Q87 **Chair:** Welcome to our second panel on the Australia trade deal inquiry. We hope to be finished this morning by probably 11.55 am at the latest, so can we all keep that in mind—both questioners and answerers, if that is a word. I will allow the panel to introduce themselves, starting on my left with Dr Silke Trommer—name, rank and serial number. We will go along the line, and then we will crack on with Mark Garnier's question.

Dr Trommer: Hi. Thank you for inviting me. I am Senior Lecturer in Politics at the University of Manchester.

Victoria Hewson: I am Head of Regulatory Affairs at the Institute of Economic Affairs.

Rosa Crawford: Hello. I lead on international trade at the Trades Union Congress, the UK's trade union centre, representing 48 affiliated unions and over 5.5 million workers.

Professor Reid: I am Professor of International Economic Law and Sustainable Development at the University of Southampton.

Chair: Thank you all for being here.

Q88 **Mark Garnier:** This agreement has a lot of chapters in it about labour, gender and international development. Is this a common thing in these international trade deals and does it stack up to anything worthwhile?

Victoria Hewson: It is certainly more common now than a generation ago in the first post-WTO trade agreements. It is now pretty much standard practice, certainly for G7 countries, to include sustainability and labour-type chapters. The ILO reported in 2019 that at that time there were about 87 free trade agreements in force that included labour provisions. There will be a few more now, post-Brexit, because the UK's rollover deals included labour chapters replicating what the EU had. About a third of current free trade agreements include these kinds of provisions, and increasingly developing countries are including them in trade deals between themselves as well, rather than it necessarily being an imposition by richer western countries.

The EU has included labour and sustainability in its free trade agreements for quite a long time now, and in fact the EU tends to bunch labour, sustainability and environment together in a general sustainability chapter, but not always. I think the agreement with Canada has labour in a separate chapter, which was probably more of a Canadian priority. That has been the North American approach, and the US in particular is very big on labour protections in its free trade agreements. The TCA between the UK and the EU took all that to another level, with the level playing

field non-regression chapter there, which is much more detailed and has more teeth than in any other free trade agreement.

Q89 **Mark Garnier:** Are the teeth sharp? Is this easily enforceable or is it glorified virtue signalling?

Victoria Hewson: In the TCA I think it does have teeth. The dispute settlement, as between the UK and the EU, is much more meaningful than in any other free trade agreement, very broadly speaking. Most labour sustainability chapters like the ones we are looking at today tend to follow a very similar track. They try to deal with the values that the partners want to progress for protecting workers and empowering women in the partner country, but there is also an economic argument that you need a level playing field and it is unfair for one country to effectively subsidise its producers by not having decent core standards in place, or perhaps having laws on the books but turning a blind eye and not enforcing them properly. That is where the level playing field idea comes in.

Does it really work? Does it have teeth? The EU's labour and sustainability chapters generally do not have much in the way of teeth, partly because the EU does not want to expose itself to challenge from the other party and the EU is very protective over its regulatory sovereignty and autonomy, but they tend to have dispute settlement provisions or be wrapped into the general dispute settlement for the agreement as a whole. In theory, in extremis, you could imagine having retaliatory sanctions or claims for compensation but that is extremely rare and has never, as far as I am aware, happened, although there have been a couple of disputes raised around labour provisions in free trade agreements.

Mark Garnier: Fantastic. That is very helpful. Thank you, Chair. I am conscious of time.

Anthony Mangnall: Chair, can I just put a very brief question?

Chair: Please be brief.

Q90 **Anthony Mangnall:** There are dispute mechanisms in the CPTPP. Do you hold any hope that will be robust when the UK joins it and able to do all the things that you have just mentioned?

Victoria Hewson: I don't want to launch into a particular exposition on that, but I do not particularly hold with any of these chapters. From a free trade and free market perspective, I would rather they were not there at all. However, if they are there, they should at least be meaningful and have teeth.

Dr Trommer: On the question of teeth, the labour chapter has a procedure for labour dispute resolution that, if it fails, kicks it on to the normal dispute settlement mechanism of the UK-Australia FTA. In the

gender and the development chapter, there is an exclusion from dispute settlement so they are not covered.

Professor Reid: The EU has enforced the labour provision in its free trade agreement with Korea, which is the first of the agreements in which it included a sustainable development chapter, and it successfully brought dispute settlement proceedings against Korea on violation of the labour provisions there. I think that is the one instance in which that has been successful to date. It was in the last year or two, so it is quite significant that that has happened.

Rosa Crawford: Can I add a supplementary to that? I think it is important to point out the difference between where there is an EU agreement that does not contain a sanctions mechanism, as in EU-Korea, and the step forward, relatively, that the UK-Australia and the CPTPP took. There is a possibility to levy a sanction if a violation of the labour commitments in the agreement is found.

However, for trade unions, we do not think it is effective because there are too many barriers to a case being successful, one of which is that violation has to occur in a manner affecting trade and it has to be sustained and recurring violation. Where similar provisions have been in agreements such as the central America agreement that the US has, the Guatemala case—the only one that has been brought—was thrown out because there was not enough evidence. Although there were egregious violations of labour rights in Guatemala, they did not occur in a manner affecting trade and in a sustained manner. There is a penalty mechanism, but it needs improvement with UK-Australia and CPTPP agreements.

Chair: That is interesting. Thank you.

Q91 **Lloyd Russell-Moyle:** What is the purpose of the provisions for labour, gender and development in these documents if they very rarely have teeth?

Professor Reid: I think Victoria Hewson has already hinted at the fact that there is a dual purpose. They can be perceived as intended to level the playing field. Obviously, if you open up your market to imported goods and if the labour standards are not upheld where those goods are made, that gives a competitive advantage; the goods could be cheaper. One of the purposes is levelling up. Closely related to that is the question of whether or not the standards are protectionist to that extent. There is a very fine line there between levelling up and tipping over into protectionism.

The other—what we might say is the more altruistic possibility—is that these are part of a move towards creating a culture of change to bring issues like sustainability, labour and the environment up the agenda so that even if the particular provisions do not have teeth, they create a context, or a landscape, that then affects the way in which states will look at their co-operation with each other. Two things are going on there.

There has been an awful lot of criticism of the EU over its inclusion early on of human rights clauses, in particular, in trade agreements. The concern of developing states is that this is protectionism by developed states. Then there is the other way of looking at it—potentially the more western, developed-state way of looking at it—that it is part of the creation of a culture of change.

Q92 **Lloyd Russell-Moyle:** But in the agreement that we are looking at particularly at the moment, UK-Australia, and the labour and gender chapters there, there is not identical parity between the UK and Australia. My understanding is that these clauses do not require a level playing field before any trade liberalisations take place. How does that encourage levelling up? Does it not give people an inbuilt advantage not to level up?

Professor Reid: The undertakings in the Australia agreement—

Lloyd Russell-Moyle: That are similar to the CPTPP.

Professor Reid: They are similar but not identical. On what you have just said about the situation between Australia and the UK being different from the relationships between some of the CPTPP states, where you have a much wider diversity of stages of economic development, what does make a difference, clearly in the UK-Australia context, is that you are looking at two developed states. Australia is already bound by the commitments within the CPTPP. If the UK is looking for accession to the CPTPP, it will also need to be bound by the commitments in the CPTPP, so there will be that kind of alignment. It makes sense to that level if the provisions of the UK-Australia agreement mirror the CPTPP provisions because the states will be bound by all their obligations in all directions at once.

It is interesting to note in the light of what has already been said that the EU is on another level with these commitments and of course, with the UK having signed the agreement with the EU, provisions in the EU-UK agreement will be binding upon the UK in its relations with all of these states. As has already been noted, that includes a non-regression clause, which means that whatever is written in any of its other partnership agreements, the UK is bound to maintain the standards it has already achieved and cannot step back from that.

Rosa Crawford: Can I offer a trade union perspective? We work very closely with our counterparts in Australia and have a joint statement, which I will share with the Committee, between the TUC and the Australian Council of Trade Unions. We said that it was very important from the outset that this trade agreement raised standards to the highest level in both countries because they have concerns about precarious work or repression of trade unions in Australia, as we do here. We were very disappointed that the final agreement does not contain commitments to ILO core conventions and an obligation for both parties to ratify and respect those agreements. Rather it contains a much weaker commitment to just the ILO declaration, which is much weaker in

enforcement of international law. Australia has not ratified one of the fundamental ILO conventions, the minimum age convention, so there is nothing that the trade unions can use in this agreement to make sure that that convention is ratified.

On top of that, there are problems with the enforcement process being too difficult for trade unions or others to put forward a case. We have that same concern about CPTPP, where we have much worse abusers of labour rights—the likes of Vietnam and Brunei, where independent trade unions are banned. The fact that that agreement has been in place since 2018 and there has been no challenge to that with these countries indicates for us as trade unions how ineffective those labour provisions are. It is a reflection of the fact that the trade unions were completely excluded from negotiations and were not meaningfully consulted on UK-Australia that we have ended up in a much weaker position.

Lloyd Russell-Moyle: The minimum age restrictions are about child labour. If we were not able to get Australia to commit to not using child labour, what hope do we have with some of these other states?

Q93 **Tony Lloyd:** Professor Reid and Rosa Crawford have covered quite a lot of the first of the questions I was going to pose, which was about the read-across to the CPTPP. It is fairly obvious that the Government's ambition is to see the Australia and New Zealand agreements as precursors. What in practice is the alignment with the CPTPP? I think, Emily, you said that there were differences. What in practice will those differences make with the CPTPP compared with the Australia agreement?

Professor Reid: What difference in practice goes to the question of what teeth, but certain distinctions are worth noting.

The first is that even in the definitions of the labour chapter, the UK-Australia agreement includes a definition of modern slavery. That is important because it signals what is to come later on in the chapter, which is a quite lengthy set of provisions relating to modern slavery that do not appear in the CPTPP. There is a much shorter commitment on modern slavery—forced labour—in the CPTPP.

The second issue that strikes me as interesting in the difference is labour rights. "To establish a violation of an obligation…of labour rights, a party shall demonstrate that the other party has failed to adopt or maintain a law, regulation or practice to encourage trade or investment." This is a departure from what would be the more typical formulation for the establishment of a breach, which I think is the one that Rosa Crawford has already alluded to, than normally, including in the CPTPP: "To establish a violation…a party must demonstrate that the other party has failed to adopt or maintain a statutory regulation or practice in a manner affecting trade or investment between the parties". That departure from the CPTPP-type formulation for a violation in the Australia-UK agreement is even more striking when it is noted that that standard formulation is

used in the Australia-UK agreement for the enforcement of labour laws, so it is not an accident.

For some reason there has been a deliberate shift away from that standard formulation for a violation. Rosa Crawford has already alluded to the fact that the standard formulation—"in a manner affecting trade or investment between the parties"—restricts the scope of the FTA on labour market breaches to those that affect trade between the parties, but "affecting trade between the parties" is doing an awful lot of work there. How do you have a violation of a labour standard that does not in some way affect trade between the parties? A lot of questions have arisen around this and how it might be established that there is or is not a breach.

Interestingly, the US-Mexico-Canada agreement provides a definition of affecting trade between the parties and also says that the presumption is that a labour violation will affect trade or investment between the parties. However, that is kind of an aside.

Going back to the UK-Australia agreement, that formulation is not only different from the CPTPP formulation, but it is also not very clear what it means. I think that there is a question for the negotiators and the parties to ask what they intended to be the standard to establish a violation of labour rights. It is not clear from the terminology what that means, whether it requires an intention to affect trade or investment, or what it is. I could only speculate. It is not clear.

Q94 **Tony Lloyd:** In effect, you are reiterating the point in a different way: the capacity to use the agreement in any meaningful way to enforce the standards is limited.

Professor Reid: Yes. I don't know whether or not the Australia-UK formulation reflects the fact that it was drafted after the Korea-EU agreement and that a breach was found in that instance, but it is not clear what it means. I think it requires some clarification.

That is one point of distinction. The second is the one that is flagged in the definitions, that the chapter sets out lengthy commitments relating to modern slavery, which are significant, and that includes provision relating to what the parties will require of private parties within their states. I can say more about that or we can come back to it later on if you are interested. What is interesting about this chapter is that it does not commit the parties beyond their pre-existing commitments. There is nothing in it that adds to the undertakings or commitments that the parties have already entered into.

Q95 **Tony Lloyd:** Let's move on. Rosa Crawford has already commented on this, but to both Emily Reid and Rosa Crawford, the agreement's labour chapter reaffirms both parties' commitment to the International Labour Organisation's declaration of fundamental principles, but not to core standards. What are those principles and how important is the

reaffirmation of them, but how important is the failure to address the core standards argument?

Rosa Crawford: As you say, the affirmation is to the parties adopting and maintaining laws and regulations following the rights stated in the ILO declaration. It then goes on to say that these rights are "freedom of association" and, "the elimination of…forced labour", "the effective abolition of child labour" and, "the elimination of discrimination" but they are not references to the specific conventions, as you say and as we have discussed earlier. That represents a step backwards from the approach that the UK took in the rollover agreements from the EU agreements where there are specific references to the ILO core conventions that go beyond those commitments. It also talks about health and safety, rights at work, minimum employment standards and non-discrimination.

The problem with the rollover agreements, as we have already discussed, is that there was no penalty mechanism attached to them. The problem is that if a penalty mechanism is not effective in itself and the commitments are much weaker and are not about adhering to the higher standards but just maintaining the standards of where you are, it does not take us much further. As trade unions, we are not hopeful about the prospect of using this agreement as a means to improve workers' rights and address violations found: the abuse of the migrant workers in the agricultural sector that our Australian colleagues talk about; and, indeed, the abuse of migrant workers in the agricultural sector that happens here. We are disappointed by this and we want a much stronger process.

The EU-UK agreement is definitely a step in the right direction because it has much higher standards and commitments. It has removed the requirement for sustained and recurring breaches to take place to bring a case. There is a role for trade unions, not a very strong role but a role, in the EU-UK process, which there is not in the UK-Australia agreement. We certainly want to see improvements on the EU-UK agreement as well but all in all, the UK-Australia agreement is a big step backwards for us in enforcement of labour rights.

Q96 **Tony Lloyd:** Victoria, do you want to come in briefly?

Victoria Hewson: Can I add a sort of counterpoint? As you might expect, I slightly depart from Rosa Crawford's view on this. My concern is that if you put all these social policy obligations and commitments into an international agreement, there is a danger that you will detract from the democratic legitimacy of what is in here. States have a right to set their own rules and to have their own customs and practices in their own markets.

I am not saying that I support child labour. Let's be very clear, I want workers to have decent pay and good working conditions, but I also want prosperity and trade to flourish in these countries. Putting what are often contestable concepts in social policy and law into an international agreement that ultimately is not voted on by people—obviously you will

get to vote on it at some stage in Parliament—but having trade negotiators agree around a table in a negotiating room what are quite contestable social concepts makes me a little bit uncomfortable.

Lloyd Russell-Moyle: There is a good argument for better scrutiny during the negotiation process, like most other countries have.

Professor Reid: I agree with a lot of what Rosa Crawford has said, possibly unsurprisingly. I think it is important to note that the UK-Australia agreement states that the parties are free to set their own standards as long as those standards adhere to the ILO commitments that the states have already signed up to. Rosa has outlined very clearly that one of the problems with referencing the ILO declaration is that it references the principles that are upheld by the rights but do not give any teeth to the rights. It is important, however, to note that these are standards that the states have already adhered to. In a way, that is a kind of strength of referencing the ILO, or referencing any international agreement, within these types of agreements in that Australia has already signed up to the ILO but, as has been noted, Australia has not ratified one of the core conventions, the one on minimum age. It is, however, something that Australia has already signed up to; it is not imposing anything upon Australia that Australia has not agreed to in principle.

It is interesting in using the declaration that the declaration binds all members of the ILO to uphold the principles of all of the conventions. That creates a kind of obligation upon Australia to respect and promote the rights, including those contained in the minimum age convention, which it has not ratified. The declaration is weak, but it gets a set of rights potentially on the table, or at least into the landscape, that would not otherwise be there if the reference was simply to conventions, because Australia would clearly not agree to put in a reference to a convention it had not ratified.

Lloyd Russell-Moyle: But without remedy.

Professor Reid: It just gets it into the landscape. It puts it into the context so that it is there on the agenda. Even though it does not have teeth, it is a reaffirmation of values and is at least in its own terms constructive because it adds weight to a particular set of values. It is not fast enough, potentially, but does it help to create incremental change? The argument is that it is better to have something there than nothing.

Chair: Dr Trommer wants to come in.

Dr Trommer: Yes, I want to come in to make a broader point. Over the decades of trade liberalisation under GATT and WTO, average industrial tariffs across the world have come down to 2% to 3%. An implication of that is that in this day and age, trade agreements are about non-tariff barriers—things that happen behind the border. These are domestic rules and regulations and we do negotiate them—that is the point—in many

areas around food security, food safety, and so on. We are already negotiating trade agreements around domestic rules and regulations and, therefore, I think that we need greater oversight from bodies such as Parliament. It is also fair that if we are doing it in areas that affect product standards we also do it in the wider areas that are pulled into the production of products, such as the environment, broader society conditions, and so on.

Chair: On labour, I am reminded that the countries that have the highest number of millionaires and billionaires per capita are the ones with the strongest union laws, the best social provision and free education, which are indeed the three Scandinavian countries of Norway, Sweden and Denmark. Prosperity and labour laws seem to go hand in hand.

Q97 **Paul Girvan:** This is a question to Emily Reid and Rosa Crawford. Under the agreement, both parties say they will "strive to ensure that private and public sector entities operating in its territory take appropriate steps to prevent modern slavery in their supply chains". I think you have already alluded to this. What is the significance of this commitment?

Rosa Crawford: For the trade unions, the mention of public sector entities in the modern slavery provisions is welcome. Currently UK law does not require all public bodies to report what steps they are taking to prevent modern slavery in their supply chains under the Modern Slavery Act and that is a key weakness of the Act. However, we feel that the commitments in the UK-Australia trade deal are very weak because, as you say, they are subject to the parties' own laws and regulations. The provisions can be any provisions that the parties consider appropriate, so are not requiring change or actions, not requiring that there is a report from all public sector bodies about what they are doing to prevent modern slavery.

It is certainly not implementing a process whereby there could be penalties if modern slavery or human trafficking is found in supply chains, which is what trade unions want. The direction of French due diligence law and the due diligence legislation now being discussed in the EU is that there must be mandatory due diligence reporting and penalties are possible, can be triggered, if instances of modern slavery are found. With the UK-Australia agreement, it feels mostly like warm words.

It is good that the public sector entities are there because it helps us in the debate to demonstrate why it is important that public sector bodies must be included, but again it comes down to enforcement. What are the consequences if action is not taken and what improvements are required of the parties? Here, it does not seem as if improvements are required and so we are doubtful that they will take place.

Professor Reid: First, we go back to the differences between the CPTPP and this agreement. Clearly the CPTPP has a very short section on forced labour, just that the parties should discourage the importation of goods sourced from other states where there is forced or compulsory child

labour. That is set out in the CPTPP, so it is innovative that the UK-Australia agreement includes a chapter on modern slavery. It is not surprising on one level because both Australia and the UK, whatever the limitations of their domestic laws on this, like to position themselves as global leaders in tackling modern slavery and forced labour. They both have modern slavery Acts and have adopted principles to guide government action to combat human trafficking in global supply chains. That was together with the US, Canada and New Zealand. They are projecting a sense of themselves as global leaders here, which is a positive thing.

The provisions that they have included generally mirror the provisions of the domestic Acts and that is where I think the limitations that Rosa Crawford has alluded to come to the fore. There is not very much in the way of teeth, for instance in the UK Act, so there will not be very much in the way of teeth in the UK-Australia agreement. What I think is striking though, and worth noting here, is that the parties both commit to quite lengthy commitments as to what they will require of private parties and that is unusual in one of these agreements. These agreements do not usually go to the level of the parties committing themselves to certain expectations of private actors within the state. I think we have to note that that is significant. It is generally about supply chain due diligence, but it is interesting to see the parties commit themselves to what they will require of the private actors. That is the good stuff.

The flipside of that is, first, that the provisions do not really have very much in the way of teeth and, secondly, that there is quite a lot of controversy, particularly currently in Australia, as to the extent to which the due diligence requirements within supply chains are not being complied with. We see an international commitment being undertaken but questions are being asked as to whether or not one of the parties is reaching its own domestic standards. It is good but it has its limitations.

Q98 **Chair:** Silke Trommer, what are the key aspects of the provision on trade and gender equality in the agreement and how adequate do you think they are? Also, how much are they needed between Australia and the UK, or are they virtue signalling—maybe that is the wrong word; just signalling—to others that these things are being considered so others should also consider them?

Dr Trommer: In that context, I think it is important to note that the UK is providing leadership internationally in including gender chapters in free trade agreements, along with Canada and Chile. I think the importance here in this agreement was to set a precedent that would be repeated.

On the importance of gender chapters, I will start by quoting Mariama Williams who tells us that trade groups do not create gender inequality but that they do interact with gender inequality and either improve or disimprove it. We can think about that for employment, pay, conditions of employment and market access where women investors, for example, have more difficulties than men investors and we have the gender pay

gap. We can also think of it more broadly in, for example, food standards or the conditions under which health and care services are provided. These are feminist issues because women mainly take the household decisions in these contexts; we know that from research.

The gender provisions in the FTA try to engage the first set of issues that I have described around employment work conditions and market access for women traders and entrepreneurs. They do not address the second set of broader issues around things like households' food purchases and so on. From my perspective, it is good that they take the first step but as a feminist scholar, I would like them to go further.

The gender chapter has two commitments: one is the commitment to exchange information on gender and trade matters; and the other is the commitment to set up a dialogue. The chapter is excluded from dispute settlement and in my opinion there is a very important possible interaction with the labour chapter because the labour chapter also has gender provisions and a specific dispute settlement mechanism. I can see a question arising to parties that goes as such—it is clear that any matter arising under the gender chapter is excluded from dispute settlement and the labour chapter has a dispute settlement provision. If a labour issue arises that is based on gender discrimination, can a legal argument be construed that, based on the gender chapter, it is excluded from dispute settlement? I don't know. From a legal reading, you could argue it both ways. It would be interesting to know the intent of the parties, what they had in mind.

That is the chapter. Then there is a set of gender provisions in other chapters of the agreement. There are gender provisions in the service chapter, the financial services chapter and the labour chapter, and on procurement, digital trade and small and medium-sized enterprises. Generally there is talk of elimination of discrimination. That is the case in the service chapter and in the labour chapter where it talks about eliminating discrimination based on gender, and it also includes provisions that try, in my reading of them, to allow for positive discrimination. The policies that try to improve the participation of women in the workplace are not seen as discriminatory under the wording of the agreement. Legally, that is an important distinction because in legal terms any discrimination is discriminatory whether it is positive or negative.

I think, however, that while this is good, we have an international precedent where we could have gone much further. Chile has the most progressive gender chapters that are currently being negotiated internationally and on workplace non-discrimination they integrate directly with some of the ILO conventions in their gender chapters. This is a step that could have been taken but was not taken.

Q99 **Chair:** Will the agreement make any difference to gender equality in a broad sense in either the UK or Australia?

Dr Trommer: The purpose of the gender chapter in the agreement is not to change the gender policies of the countries but to give a possibility to at least even know about, and then contemplate and potentially make changes, in a situation where international trade flows have negative effects on the situation on the ground. Things like international trade flows in one way or another affect, for example, some breaches around gender equality in the workplace and there is an international trade link that you could bring to the attention of Government. In a way, you can think of the gender chapter as a way of making policymakers start thinking about these linkages and I think that is probably the intention of the chapter.

Victoria Hewson: I disagree with that. I think that of all the unnecessary chapters in this free trade agreement, the gender chapter is the most unnecessary and could potentially be just a platform for interest groups.

Q100 **Chair:** Is there any harm in it being there?

Victoria Hewson: I think the harm in it is that it starts entrenching some contested political concepts. The fact that it talks about gender is itself quite an interesting deliberate choice of words. The US MCA, the US agreement, in its labour section, talks about sex discrimination. The labour provision here talks very specifically and to me it must be deliberate that they have used the word "gender". What do they mean by that? The gender section talks about concepts like equitable participation. What does this mean? What is a gender perspective? I fear that all of this will be a platform for interest groups and a job creation scheme for NGOs and civil servants to populate the committees and use it as a vehicle to push forward contestable political agendas that I do not think have any place in a free trade agreement.

Q101 **Chair:** Maybe that job creation is part of the GDP gain. Emily, you wanted to come in and I think Rosa wants to come in, too.

Professor Reid: Coming back to your question about whether or not this can have any impact or effect on enhancing equalities, if you go back to the provision within the labour chapter, all the parties do is commit to "take measures to advance anti-discrimination practices and address discriminatory practices, including those related to workplace". On that basis, there is a commitment, so the question goes back to what Silke Trommer said about whether or not it is enforceable. The dispute settlement chapter says that a party "can request labour consultations…regarding any matter arising under this chapter". While the limitation of the commitment is that it is very broad, actually it is that the parties will take measures to enhance equality and counter discriminatory workplace practices and that that can be brought before dispute settlements, so it would be possible for one party to do it.

One question will always be whether or not a state—which is, of course, the party to the agreement—is willing. For instance, would the UK be

willing to bring a matter forward and request consultations on workplace practices in Australia? But I think it could be brought under the dispute settlement provisions and at least just have a go.

Chair: Maybe some future Government at some point would be willing.

Professor Reid: Might want to.

Rosa Crawford: From a trade union perspective, it is important that trade agreements are designed and negotiated in a way that reduces gender inequalities but, as Silke Trommer said, a much broader approach than simply a gender chapter needs to be taken. We need to make sure that tariffs are not reduced on sectors where women are employed in stable jobs and then displaced into the informal sector. We have a big concern that that is what the economic partnership agreements will be doing and that they will significantly increase gender inequalities. We are concerned to make sure that protections are not removed from public services that women, who are often the primary caregivers, are disproportionately likely to depend on. We are concerned that the UK-Australia agreement, for example, takes a negative-list approach on public services, which means that some public services may be locked into privatisation in future, again potentially increasing gender inequality.

As Silke also said, it needs to link up with an enforceable labour chapter, and enforceable labour clauses. Convention 111 on non-discrimination is a fundamental ILO convention, but it needs to be enforceable for it to be useable for trade unions to challenge discrimination. We need to take a much broader approach. We do not think this gender chapter will be very meaningful. It comes down to wanting to include trade unions in the negotiations because we need to be there, looking at what are the offers on tariffs and the provisions on public services and making sure that ISDS is not in an agreement to make sure that they provide decent jobs for women.

Victoria Hewson: The best way to address the interests of women as consumers, workers and entrepreneurs is by liberalising the economy with economic openness, improved access to services trade, which is where women are overrepresented as workers, and with them as starters of businesses and entrepreneurs. Automating trade processes benefits women. Cutting prices for goods in the supermarkets benefits women who are disproportionately heads of single-parent families. All these things are inherent in economic openness in free trade agreements. All these things that are being talked about are very defensive but we should be looking at the defensive interests of women as consumers, workers and entrepreneurs.

Dr Trommer: Recent economic research goes against this assessment, unfortunately. In economics traditionally we have studied the impact of free trade on an economy at the aggregate level—GDP and so on—but more recent research shows that we need to disaggregate and look at the impact of trade on distinct societal groups. There we see a differential

picture and if we are concerned about creating a society consensus for a trade agreement, we need to take that into account. There are common concerns and objectives here, but there is a need to take the latest economic insights into account and drill more deeply into this. I think that some of the things that we take for granted as not contentious, as trade liberalisation, are of course very contentious, even in what we include. Very naturally we include intellectual property protections in a free trade agenda, but intellectual property protections are anti-competitive measures and from an economic, free trade perspective, they are not non-free trade policies. All of this is politically contentious, so that is why I think that we need to know about and discuss it all.

Chair: Anthony Mangnall, you have a short, short question.

Q102 **Anthony Mangnall:** It is short. Are there any examples of where free trade agreements have enhanced inequality? You are citing a load of points, saying that this is what it is creating, or has the potential to create. Where are free trade agreements creating inequality for women?

Chair: Or equality.

Rosa Crawford: US unions have documented a lot of cases of job displacement from North America to Mexico. The jobs that were created in Mexico were precarious jobs without the protection of unions. They were in sectors where it was more likely there would be exploitation and it meant that women who were employed in stable contracts in the US, in manufacturing for example, were displaced from those jobs. In the economic partnership agreements, where they are in place, in east Africa and southern Africa, we are starting to see women displaced from jobs in the manufacturing sector and into the informal economy. In economic processing zones—a form of trade arrangement that countries such as Malaysia, India and Bangladesh have had—trade unions are banned and it is often women who are employed in those areas on an exploitative kind of contract and where they are suffering a lot of abuse.

Trade unions can cite a number of examples of where women have suffered as a result of certain trade agreements, arrangements and liberalisation.

Chair: If there is more of that, we might take it as written evidence. Time is very short.

Q103 **Martin Vickers:** The UK Government say that the development chapter in the agreement "breaks new ground as the first chapter of its kind" in a free trade agreement "between 2 developed nations". How novel are these provisions and how significant are they?

Victoria Hewson: To be honest, I do not have a lot to say about this one. It is novel. It is the first of its kind as far as I am aware. I don't think it does much. It is warm words. I am sure others on the panel are more expert in this particular chapter. Unless any magic words say something in the context of development, I don't see that it does much

apart from friendly co-operation, which we would expect anyway with a country like Australia.

Q104 **Martin Vickers:** Are they just warm words?

Dr Trommer: I agree, yes. They are "best endeavour" clauses. There is no commitment towards any particular type of action and the development chapter is excluded from dispute settlement. It is ambitious to get it into the agreement, but the level of ambition in the content is potentially quite low. One of the voids—I see a lot of voids in this chapter—is that there are no institutional mechanisms for the co-operation. There is a desire to co-operate, but nothing is put in place to make people meet, and to make policymakers meet, discuss and take action.

This is linked to a second point that I want to make. There are existing mechanisms at the WTO level that both members are party to under aid for trade and the integrated framework. Something that is already there could very easily have been pointed to and used by both parties and that is not the case.

Finally, looking at the issues that will be discussed, because the warm words will be around a certain number of issues, there are a couple listed: customs procedures, trade facilitation and technical barriers to trade on the one hand; and trade in services and digital trade. Again, there are big gaps here from the perspective of developing countries. Developing countries are primarily interested in technology transfer and upgrading in global value chains. They want to get the know-how and support with getting technology to upgrade in global value chains and develop in this manner, and there is nothing in here on this. Also, developing countries, as we all know, have comparative advantages in agricultural products where tariff levels remain very high in the developed countries, so they would have wanted to see something around that and it is not there.

Martin Vickers: Time is running out, Chair. Back to you.

Chair: I appreciate that, Mr Vickers.

Q105 **Mark Garnier:** Silke Trommer, I have a two-part question on developing countries. The first part is: what impact is this agreement likely to have on the UK's trade with developing countries? Will it make any direct difference? The second part is: how beneficial will this agreement be in promoting development through trade? Those are general concepts, sorry.

Dr Trommer: We can think of economic and political dimensions. In the economic dimension, what is important in the agreement is that it does what I just said developing countries are hoping for, which is to liberalise agriculture. There is a risk here that we could see trade diversion away from developing countries in the products that are being liberalised towards trade with Australia, so beef, cane sugar—those types of

products. Beef is maybe more hypothetical. Beef is the type of product where Brazil is looking at this deal and is probably not happy because Brazil and other beef exporting developing countries—Argentina, for example—would like the UK to be part of a group of countries that liberalises this at the WTO so that everybody can benefit and we have a level playing field at the global level. Now they have liberalised it with Australia, the political implication is that Australia might not be so pushy at the WTO any more. It is a double kind of hit—economic and potentially political.

On trade with developing countries, or the co-operation, much will depend on how the two sides use this article. More institutionalised mechanisms saying how often we will meet, what we will talk about and through which mechanisms and procedures would have helped to make that dialogue active and potentially move it in a direction that could even take into account the broader developmental concerns that I have listed.

Mark Garnier: That is interesting. Essentially it is displacement.

Dr Trommer: Yes.

Mark Garnier: That had not occurred to me.

Dr Trommer: Economic theory from 1951: trade creation and trade diversion; Jacob Viner.

Mark Garnier: That is very helpful. Thank you very much.

Chair: That is a fascinating point: Australia taking its foot off the gas at the WTO, which makes obvious sense. Thank you.

Thank you all. We have come to the end of this session. I have been asked where I got the fact on millionaires and billionaires per capita. There is a good TED Talk: "Where in the world is it easiest to get rich?" You will find out that the number of millionaires and billionaires per capita is greater in countries with strong trade unions, strong social security networks and free education. That is a political broadcast for YouTube. To the four on the panel here, thank you all for coming. It has been very worthwhile, with a lot of points to consider and perspectives to chew over. Thank you all.