



Foreign, Commonwealth
& Development Office

MPD-Human Rights and Democracy
Department
King Charles Street

London

SW1A 2AH

Schona Jolly

Coordination@barhumanrights.org.uk

Email:

fcdo.correspondence@fcdo.gov.uk

www.gov.uk/fcdo

Dear Schona Jolly,

Thank you for your email of 18 January to the Foreign Secretary about the genocide amendment to the Trade Bill. Please accept our apologies for the delay in responding to you.

It has been the Government's long-standing policy that any determination of genocide should only be made by a competent court, rather than by a government or non-judicial body. A competent court is a court that has jurisdiction over the matter, and includes the International Criminal Court and the International Court of Justice, as well as national criminal courts that meet international standards of due process. Whilst an Act of Parliament can provide that a UK court makes such a determination, it cannot change the fact that under international law our courts are not competent to make such a determination and any judgment made domestically would have no legal effect internationally.

The UK's position provides a clear, impartial and independent yardstick for determination of whether genocide has occurred. This position is particularly critical given that genocide, the most serious international crime, is notoriously hard to prove. It requires not just the commission of a constitutive act (normally killing, but also rape, forced sterilisation, etc) but also "intent to destroy", "in whole or in part", "a national, ethnic, racial or religious group".

The Government shares the grave concerns underpinning the amendment passed by the House of Lords, and understands the strength of feeling on this issue. That is why the Government supported the amendment tabled by the Chair of the Justice Select Committee and passed by the House of Commons on 9 February. The amendment guarantees a clear role for Parliamentarians on the issue of genocide in the context of trade agreements, while placing a specific duty on Government to act where the responsible Committee has published its concerns, and it does this

without affecting the UK's constitutional structures. This approach will allow Parliament to act quickly and decisively on the issue of genocide where it arises in the context of international trade agreements, and it underscores the Government's commitment to continuing to work closely with Parliament on this vitally important issue.

In the case of China, as you note the Foreign Secretary recently announced a series of robust measures to help ensure that no British organisations – government or private sector, deliberately or inadvertently – are profiting from or contributing to human rights violations against the Uyghurs or other minorities. These measures send a clear message that there will be economic and reputational costs for violating human rights.

The UK has repeatedly taken a leading international role in holding China to account, including by leading the first joint statements ever at the UN on Xinjiang. In October, we joined 38 countries at the UN General Assembly Third Committee in expressing deep concern about the situation there. This growing international pressure on China over the human rights situation in Xinjiang reflects UK diplomatic leadership.

Our approach to genocide determination does not, and has not, prevented us from taking action to address atrocities. The government is strongly committed to early and effective action to prevent all mass atrocities including violence against religious groups. As most atrocities occur in and around armed conflict, the Government has dedicated significant resources to preventing conflict as a means of reducing the risk of atrocities occurring. We use early warning tools, diplomacy, development and programmatic support, and defence tools, including the armed forces, to strengthen the international system's prevention and response. Our work in this area is long-standing, both in terms of preventing atrocities and of securing accountability and justice for atrocities committed.

The government's international obligations and commitments, including on human rights, are always of paramount importance when it makes decisions on trading relations. We have made a number of political commitments to respond to alleged genocide and other atrocities, and will continue to use diplomacy to highlight our concerns. We have proved our leadership and commitment time and again.

Yours sincerely,

Open Societies and Human Rights Directorate
Foreign, Commonwealth and Development Office