

## **BRIEFING WHEN RESPONDING TO MP'S LETTERS OR WHEN MEETING THEM**

Here are some rebuttals to the main responses of MPs.

**There are no planned trade deals with China or "It is inconceivable that any Govt would conclude a trade treaty with a country committing genocide, nor would any Parliament approve such a deal."**

The Minister of International Trade stated in PMQs (21st Jan) that "China is a major trading partner and....I intend to pursue bilateral trade deals." On 12<sup>th</sup> Feb, Boris Johnson met Chinese trade officials, reactivating the Economic & Financial Dialogue and the China-UK Joint Trade and Economic Commission (Guardian 22nd Feb), which had been suspended after China's breach of the Sino-British Declaration. He repeatedly refused to rule out trade deal with China in a Sun interview (3 Mar).

**It will not help the Uyghurs now.**

The UK has existing bilateral trade agreements with China, so the new amendment could immediately take effect. A preliminary judicial determination by the PJC triggers the UK 's obligations to the Genocide Convention to "punish and prevent" genocide using "all available means," as soon as we learn of a serious risk of Genocide. "All available means" includes trade because it affects the economic circumstances that maintain or facilitate genocide. Moreover, increasing the prosperity of individuals is a key goal of the CCP's, by which it justifies its actions, and which it levers to maintain support for current policy in and out of the Politburo. Threatening that prosperity increases existing internal opposition to current policies.

The legislation would preclude rewarding China with future bilateral preferential trade deals. It sets a precedent for other states to restrict China's trade options. It gives Uyghurs recognition of their genocide and is supported by all Uyghur organisations.

**It could leave Uyghurs worse off if the judicial committee decides there is no genocide.**

This is unlikely. A recent legal opinion was delivered by [Essex Court Chambers](#) after 6 months investigation of compelling evidence from Chinese Policy documents, witness statements and drone surveillance, NGO and expert reports and. It concluded that "there is evidence that the crime of genocide is currently being committed" and that "on the available evidence that there is an intent to destroy, in whole or in part, the Uyghur population". Proving intent to destroy is the hardest part of Genocide determination but China's government has stated "You can't uproot all the weeds hidden among the crops in the field one-by-one; you need to spray chemicals to kill them all" and ["break their \(Uyghurs'\) lineage..roots...connections and...origins."](#) In addition, the very process of making a determination would focus public attention on the extent of the Uyghurs' persecution.

**The process is legally defective.**

The Judicial Peers are among the former most senior members of the UK judiciary and include Supreme Court Justices and ex-Lord Chancellors. They have dealt with more factually and legally complex issues than would be involved here.

Lord Hope of Craighead (former Deputy President, Supreme Court), Baroness Helena Kennedy (International Commission Jurists, International Bar Association), Lord Pannick, ex Lord Chancellors Falconer and Mackay and Sir Geoffrey Nice (Lead Prosecutor in the Hague's Yugoslavia hearings) reviewed the amendment at committee stage or subsequently. They consider it legally sound.

The Government's claim that the PJC is "incompetent" as it is not a criminal court, is confused, as they consider the International Court of Justice competent, although it too is not a criminal court!

**This could result in vexatious politically motivated claims.**

Being limited to genocide, with a high burden of evidentiary proof, the amendment prevents and disincentivises politically motivated claims against nations not credibly suspected of genocide. The PJC has the experience to dismiss such claims at the initial stages. Had the amendment been drafted to preclude trade deals for lesser human rights abuses, politically motivated claims would have resulted.

Fears that it might be used against Israel, for example, are nullified by the fact that [no credible genocide prevention](#) suspects Israel of Genocide. The Board of Deputies of British Jews have written to the PM supporting the Amendment. Lord Polak, (Chairman of the Conservative Friends of Israel for 27 years), voted for all three versions of the amendment.

### **Aren't the International Courts the only means to determine Genocide?**

No. The amendment complements the UN system, by allowing a judicial body to make a preliminary determination based on law, untainted by trade or political considerations, enabling the UK to fulfil its obligations under the UN Genocide Convention to 'prevent and punish genocide' while it is still occurring. A full determination can and should [still be sought](#) via the international system.

### **There are more effective forms of action the Government is taking**

These include speaking at the UN, the Magnitsky Sanction legislation and insistence that companies do due diligence to show that their products are not made by slave labour in the Uyghur region.

Speaking in the UN: The Chinese power of veto is precisely why all the Government's efforts in the UN, whether leading the letter (6 October) from 39 nations condemning China and asking for access to camps or Dominic Raab (12<sup>th</sup> February 2021) making a similar statement, have proved ineffective.

Magnitsky Sanctions: The Sanctions for Money Laundering Act of June 2020 (Magnitsky Sanctions) has not been used against China. The Foreign Office was requested 5 months ago by Redress Organisation and 20 cross-party Parliamentarians, supported by evidential dossiers, to apply Sanctions to 6 senior Chinese officials and 2 public entities. They received a similar request regarding officials facilitating forced organ donation from Free Tibet. No sanctions have resulted. In contrast, 13 Belarus officials were sanctioned within a few days of the brutal suppression of protest there.

Due diligence: This is simply a paper exercise. The [Fair Labor Association's](#) March & December 2020 statements, emphasised that due diligence is impossible in the Uyghur region and most of China, and that companies should source from elsewhere. The six main international audit companies have withdrawn from the Uyghur region because they cannot perform reliable due diligence there.

### **Three Political Reasons for the Government to Support the Amendment**

1. Public revulsion is building after documentaries on concentration camps, forced sterilisation, gang rape and slavery. The Government risks being on the wrong side of an increasingly popular cause.
2. Response to this Genocide must be Economic, as its slavery aspect is deeply embedded in Chinese manufacturing, with March 2<sup>nd</sup>'s BBC News showing Uyghur slaves being transferred all over China. Precluding preferential trade deals during Genocide is the strongest possible political response.
3. The Government can use their post-Brexit sovereignty to lead the world in a judicial decision on genocide and resetting relations with China in an international alliance of democratic nations. As other Governments (Canada, Holland, the USA) have recently made non-judicial recognitions of Genocide. Others will follow suit. We risk being behind the curve, losing moral authority and a leadership role.

IF YOU HAVE FURTHER QUERIES PLEASE CONTACT

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