



Department for Levelling Up, Housing & Communities

Rt Hon Michael Gove MP

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Lisa Nandy MP
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23 June 2023

Dear Lisa,

Thank you for your letter regarding the 'Foreign Affairs (Economic Activity of Public Bodies) Bill'. Please note the title of the draft legislation is the Economic Activity of Public Bodies (Overseas Matters) Bill.

Thank you also for your time earlier in the week. I am always happy to meet to discuss my department's legislation. I was pleased to hear you offer your support in that meeting for action to address BDS and to hear that you personally have always believed that BDS does not offer 'any meaningful route for either Israelis or Palestinians'. You also said that you believed the singling out of the 'world's only Jewish state' is discriminatory and wrong, and that BDS led to hate against the Jewish community. I agree.

I am happy to address some inaccuracies in your letter, if that is helpful.

You refer to the Queen's Speech and said the legislation was presented as country specific. In fact, the Queen's Speech promised 'legislation will prevent public bodies engaging in boycotts that undermine community cohesion' (Hansard, Lords Chamber, 10 May 2022, Vol 822, Col 3). Further detail of the policy was set out in the briefing pack for the Queen's Speech, which also does not mention a country specific approach. That document is publicly available on gov.uk (Lobby Pack, 10 May 2022, publishing.service.gov.uk) and committed that the bill would be about 'stopping public bodies pursuing their own foreign policy agenda with public money'. The Queen's Speech married the wording of our 2019 manifesto commitment which said 'we will ban public bodies from imposing their own direct or indirect boycott divestment or sanctions campaigns against foreign countries. These undermine community cohesion'. This is the approach we are taking.

You refer to 'legal advice' which you have received that you say 'highlights multiple contradictions' in the draft legislation. It is hard to comment on this assertion without seeing what advice you have received.

You claim that the bill 'may be incompatible with international law in multiple respects, including undermining the UK's long standing cross-party position in respect to the Occupied Palestinian Territories Territories [sic]'. This is not the Government's position. As we have set out already, nothing in our approach changes our position on the Middle East Peace Process, or the status of the settlements under international law.

You assert that we are giving the 'OPTs...identical treatment to Israel within the provisions of the Bill'. This is misleading. The bill - as you point out in paragraph six of your letter - is not country

specific. The only mention of 'Israel' is in 3 (7) a – and of the 'Occupied Palestinian Territories', separately, in 3 (7) b. This clause only relates to powers to allow a Secretary of State or Minister for the Cabinet Office to disapply the provisions of the bill. It essentially ensures that primary legislation is required were the Government to seek to disapply the bill from Israel or the Occupied Palestinian Territories. The only reason to oppose this section of the bill would be if you thought that BDS should be authorised against Israel or the 'Occupied Palestinian Territories'. That has never been this Government's position and will never be.

When we met on Wednesday you specifically referred to joint venture projects in the region as the 'only meaningful progress' you had seen in recent years towards peace. I am confused how your specific support for joint projects like those, matches the approach you propose in the letter.

You also criticised the 'powers of enforcement' in the bill. I am always happy to consider which approach is most effective on this - as on any other issue - but I do not believe that establishing toothless powers through a bill without enforcement provisions would be a worthwhile use of Parliamentary time or achieve the effects desired. Specifically, you risk setting yourself in favour of allowing councils to conduct so-called boycotts in name only, which we know undermine community cohesion. Our approach does not affect elected officials acting individually as you incorrectly suggest. The legal drafting in the relevant clause refers to it capturing a 'person', but in this case a 'person' is defined elsewhere in the bill as a public authority rather than any individual.

Turning to China's treatment of the Uyghur in Xinjiang, the Government – as you acknowledge – has an established position. The bill already includes exceptions to deal with serious issues in supply chains, in line with the Procurement Bill. These include exceptions for labour market misconduct (including modern slavery), national security, human trafficking, environmental misconduct, and bribery. Ministers may also, via secondary legislation, remove countries and territories from the ban (with the exception set out above). This would allow the Government to permit public bodies to make procurement and investment decisions that reflect political or moral disapproval of the conduct of certain states. It will allow Government to work together with public bodies, such as in the example you mention of local authorities and Russia, and as I emphasised in my recent Dear Colleague.

The bill will not hinder any of the action we are taking in relation to Government action to support the Uyghur minority. Given the exceptions to the ban I have set out above, the bill will also not prevent public bodies from considering modern slavery and other labour misconduct in procurement or investment decisions, even if this involves political or moral disapproval of foreign state conduct. The Government is committed to tackling the issue of Uyghur forced labour in supply chains and it is responding robustly. Over the last year we have introduced new guidance on the risks of doing business in Xinjiang, introduced enhanced export controls, and have committed to introduce financial penalties for organisations that do not comply with modern slavery reporting requirements. New procurement legislation will further strengthen our approach to exclude suppliers where there is clear evidence of their involvement in forced labour or other modern slavery practices.

You also mention North Korea and Myanmar, countries from which the UK currently has sanctions in place against specified individuals. As set out above, nothing in our legislation would prevent the Government from acting against these countries. Our view is that these decisions fundamentally are a matter of foreign policy and therefore correctly determined by the UK Government's Foreign, Commonwealth and Development Office rather than a Local Authority or other public body acting in isolation.

In page one of your letter you refer to an amendment your party tabled to the Procurement Bill 'earlier this year'. I suspect, although you do not specify, that this relates to NC14 which my officials do not believe would meaningfully stop BDS. It is possible however that you are referencing another amendment, and indeed your letter refers on page two to an amendment tabled 'last year'. I am unclear if you are referring to two separate amendments or one.

I am always happy to continue our conversations and recognise bills will always be improved under the scrutiny of Parliament, but we remain of the view that this legislation is the best means to deliver our important manifesto commitment to protect communities across the country.

With every good wish,

A handwritten signature in black ink that reads "Michael Gove". The signature is written in a cursive, slightly slanted style.

Rt Hon Michael Gove MP
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