

Genocide Amendment to the Trade Bill

What is the amendment?

- **Trade Bill Amendment: Trading With Countries Alleged To Be Involved In Genocide** (see **Appendix 1** below) – the amendment would do two things:
 - *First*, create a mechanism for a genocide determination to be made by the High Court of England & Wales.
 - *Second*, invalidate any bilateral trade deal entered into with a state judged to be perpetrating genocide.
- Expert legal opinion from former Deputy president of the Supreme Court, Lord Hope of Craighead and Sir Geoffrey Nice QC (lead prosecutor, International Criminal Tribunal for the former Yugoslavia) considers that the amendment has no technical legal difficulties and does not violate existing trade law. By being limited to genocide – with a high burden of evidentiary proof – it prevents and disincentivises politically motivated claims against nations not suspected of genocide by credible bodies/institutions.

Why is it needed?

- **The most effective way that governments around the world can help the Uyghurs is by giving them a mechanism to secure a judicial determination that what is happening in Xinjiang amounts to genocide.**
- The UK government and other states around the world have an obligation under the **Genocide Convention** to punish and prevent genocide. However, there is currently no international mechanism available to the Uyghurs to secure a genocide determination to create a legal basis to request international support. The only routes are through the **United Nations**, where China has a veto, or the **International Criminal Court**, to which China is not party. This amendment provides a smart mechanism to overcome these difficulties.
- The UK government has historically maintained that genocide is a matter for international courts. However, these institutions have proved to be ineffective. Creating a mechanism for preliminary genocide determinations to be made by the High Court of England & Wales would break this cycle.
- In recent years, the UK and the international community have seen increasingly frequent reports of genocide around the world, whether the **Rohingya in Myanmar** or the **Yazidis in Iraq**. With this amendment, the UK would be able to take firm, enforceable action against such states, as well as creating a deterrence to prevent genocide from taking place in the first place. It would ensure that genocidal regimes are not rewarded with trade deals, and tie adverse economic consequences to human rights abuses.

- To be clear, this would not apply to multilateral agreements, would not apply to past genocides, and does not prevent further action by the UN. And, as the UK does not currently have a trade agreement with China, there would be no economic fallout. However, it would be hugely symbolic and create a powerful precedent.

What happens next?

- The amendment has received cross party support in the Lords after being sponsored by Lord Alton (Crossbench), Broness Kennedy (Labour), Baroness Faulkner (Crossbench) and Lord Forsyth (Conservative).
- It passed with a majority of 287 to 181 votes, and was supported by a cross-party group of some of the country's most eminent peers.
- **We expect the amendment to be voted on in the Commons on the 19th January 2021.** The government has whipped against the amendment, although we expect a number of Conservative MPs to vote against the whip.

What should the Labour Party do?

- We believe that this is a critical moment **for the Labour Party to unanimously back the amendment** and showcase the government's **lack of action on human rights** and **lack of foresight in their foreign policy**.
- We would also urge Labour MPs to reach across the aisle to their colleagues in the Conservative Party who might support this amendment. It will be a very close vote.
- Like many in the Labour Party, we believe the UK is at its best when it is championing human rights – both at home and abroad – and see this amendment as one of our best chances to influence and impact government foreign policy during this parliamentary term.
- **This is the most powerful step the UK could take right now to support the Uyghur Muslims in Xinjiang.**

Contact Us

- This was prepared by the [Labour Campaign for Human Rights \(LCHR\)](#), [Labour Campaign for International Development \(LCID\)](#), [Labour Foreign Policy Group \(LFPG\)](#) and [New Diplomacy Project \(NDP\)](#).
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Appendix 1 - Full text of the amendment

LORD ALTON OF LIVERPOOL

BARONESS KENNEDY OF THE SHAWES

LORD FORSYTH OF DRUMLEAN

BARONESS FALKNER OF MARGRAVINE

9 Insert the following new Clause—

“Agreements with states accused of committing genocide

- (1) International bilateral trade agreements are revoked if the High Court of England and Wales makes a preliminary determination that they should be revoked on the ground that another signatory to the relevant agreement represents a state which has committed genocide under Article II of the United Nations Convention on the Prevention and Punishment of the Crime of Genocide, following an application to revoke an international bilateral trade agreement on this ground from a person or group of persons belonging to a national, ethnic, racial or religious group, or an organisation representing such a group, which has been the subject of that genocide.
- (2) This section applies to genocides which occur after this section comes into force, and to those considered by the High Court to have been ongoing at the time of its coming into force.