



From Rt Hon Harriet Harman MP, Chair

Rt Hon Anne-Marie Trevelyan MP
Secretary of State for International Trade
Department for International Trade
Old Admiralty Building
London
SW1A 2DY

By email

18 May 2022

Dear Secretary of State,

The first post-Brexit trade agreements are now being concluded between the UK and (1) Australia¹ and (2) New Zealand². The UK Government is negotiating a suite of new trade deals that will replace EU trade arrangements which we were part of.

Those EU trade arrangements invariably included preambular language on human rights as well as essential elements clauses relating to human rights conditionality. We are concerned that with new trade deals replacing EU trade arrangements we should give the same if not more focus on human rights.

These new trade agreements will inevitably set something of a precedent for future UK trade agreements. The Government has said that it is committed to upholding human rights and advocating human rights internationally, but that the means by which this can be achieved in the context of the UK's international agreements will vary according to the subject matter and context of each agreement.

The Joint Committee on Human Rights produced a Report on Human Rights Protections in International Agreements in 2019³, in which we recommended:

- a) That human rights analysis should be undertaken for all international agreements, especially complex trade agreements (para 12);
- b) Human Rights must be protected in investment agreements, especially as concerns arbitration and litigation (para 29);
- c) Human rights clauses should be included in trade agreements post Brexit (para 40);
- d) Human rights standard protections should be included in all international agreements (para 41);
- e) Agreements should include exemptions clauses for human rights compliance (para 42);
- f) Agreements should include suspension clauses for human rights issues (para 45);

¹ [Free Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and Australia - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

² <https://www.gov.uk/government/collections/free-trade-agreement-between-the-united-kingdom-of-great-britain-and-northern-ireland-and-new-zealand>**Error! Hyperlink reference not valid.**

³ [Human Rights Protections in International Agreements - Joint Committee on Human Rights - House of Commons \(parliament.uk\)](http://parliament.uk)



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g) Respect for human rights, including the Universal Declaration on Human Rights should be included as standard human rights provisions (para 44).

However, neither the UK-Australia nor UK-New Zealand trade agreements contain any reference at all to human rights.

Preambles to international agreements are usually a place where State may cite shared values and principles that form the basis for cooperation. As such, a reference to respect for the rule of law, human rights, and international peace and security can be common in preambular paragraphs. It is noticeable, however, that the preambles to both the Australia and the New Zealand Agreements do not refer to human rights as shared values (something previously common in agreements concluded when part of the EU). The main preambular paragraphs refer to some values, principally economic values. One would have thought that the preamble referring to the rule of law should also refer to human rights, but any consideration of human rights is noticeably absent.

Similarly, there appear to be no references to human rights anywhere else in the Agreements. There is no reference to human rights in terms of modern slavery or supply chain protections for respect for human rights and in particular combatting modern slavery. There is no consideration of how human rights might be affected by investment or investor disputes, where it is well-known that obligations towards investors can risk conflicting with human rights, unless these are adequately protected. The Agreements do not contain conditional suspension or conditionality clauses that would relate to rule of law or human rights standards (the suspension clause is simply a temporal requirement of 6 month's notice).

Irrespective of whether Australia and New Zealand are countries whose human rights records are a priority concern, the issue is that every agreement is a precedent, and that it is difficult to foresee at this stage in an agreement what issues may arise in the future. It is therefore advisable to ensure adequate protections for human rights are included in all agreements.

We would therefore hope you consider how best to ensure that human rights are protected in these agreements.

Yours sincerely,

Rt Hon Harriet Harman MP
Chair of the Joint Committee on Human Rights

CC Angus Brendan MacNeil MP, Chair, House of Commons Committee for International Trade,

Baroness Hayter of Kentish Town, Chair, House of Lords International Agreements Committee