



Department for International Trade

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

Rt Hon Harriet Harman MP
Chair, Joint Committee on Human Rights
House of Commons
London
SW1A 0AA

T +44 (0) 20 7215 5000
E trevelyan.correspondence@trade.gov.uk
W www.gov.uk/dit

30 May 2022

Dear Harriet,

Thank you for your letter of 18 May on the subject of human rights and free trade agreements (FTAs). The Government is clear that it is committed to universal human rights, the rule of law, free speech and fairness and equality. These essential values guide all aspects of our international policy, including our approach to trade.

By having stronger economic relationships with partners, we have the opportunity to open discussions on a range of issues. The UK has a strong history of safeguarding human rights and promoting our values globally. The UK will continue to show global leadership in encouraging all states to uphold international human rights obligations and to hold to account those who violate those rights.

The Government recently communicated on a range of the issues raised in your letter to the International Trade Committee in response to their Inquiry into Trade and Foreign Policy.¹ The Government also recalls the report by the Joint Committee on Human Rights on Human Rights Protections in International Agreements produced in 2019, and the comprehensive Government response to the report's recommendations published on 9 May 2019.²

Your letter focuses on Free Trade Agreements (FTAs). It is the Government's position that in many situations, the most effective way to advance our objectives may be through approaches other than trade agreements. Our economic partnerships provide an important base for the United Kingdom to promote democratic values, but the means by which we can most effectively further international cooperation and support for these values will vary according to the context. In each situation we consider all options available to us – including our diplomatic, development, and trade tools – that will enable us to achieve greatest influence. The FCDO's Annual Human Rights and Democracy Report³, for example, sets out the critical role played by the UK in defending and promoting human rights around the world.

¹ <https://committees.parliament.uk/writtenevidence/106925/html/>

² <https://publications.parliament.uk/pa/jt201719/jtselect/jtrights/2199/219902.htm>

³ <https://www.gov.uk/government/collections/human-rights-and-democracy-reports>

HMG will work hard to maintain a high level of protection for our labour standards in trade agreements. When implementing these agreements, the United Kingdom engages with partner countries and others to ensure that all commitments are met and that the agreements are functioning effectively and in support of wider British objectives. HMG shares the public's high regard for worker protections and has made clear that we will not compromise on these in negotiations. The United Kingdom will continue to meet her obligations under the International Labour Organisation (ILO) Constitution and Conventions and hold others to account through the ILO peer review mechanism.

In the UK-Australia FTA and UK-New Zealand FTA, we evidenced our approach by securing a labour chapter that will uphold high domestic protections for our workers, encourage good business practice and corporate responsibility, and advance our mutual ambition to tackle modern slavery and gender discrimination in employment. We will ensure that neither party can derogate from their respective protections in a way that creates an artificial competitive advantage. In addition, our approach includes ensuring that British businesses have access to the best information to manage the risks in their supply chain through the Overseas Business Risk service, implementing the United Nations (UN) 'Guiding Principles on Business and Human Rights' at all levels, and limiting trade promotion activity where appropriate (for example, in Myanmar (Burma) in response to the February 2021 coup). HMG has taken robust measures in respect of British supply chains. We are clear that we expect all British businesses to operate in line with the Guiding Principles.

The United Kingdom was the first country to produce a National Action Plan and we continue to develop our approach in line with Modern Slavery Act 2015. Section 54 of the Modern Slavery Act places a requirement on businesses with a turnover of £36m or more to publish an annual 'modern slavery statement' setting out the steps they have taken to prevent modern slavery in their operations and supply chains. HMG has also stepped up efforts to apply best practice in identifying and preventing modern slavery in public sector supply chains.

As the Government stated in reply to the JCHR in 2019, the EU has not relied on human rights clauses to suspend FTAs and the effectiveness of such provisions is difficult to prove. Indeed, Australia and New Zealand do not routinely include suspensive human rights clauses in their trade agreements, relying on other policy tools, such as human rights dialogues, to promote human rights. Termination or suspension of any trade agreement would be an extraordinary action and would entail significant economic disruption, as well as legal, diplomatic and political risks for the UK without necessarily effecting meaningful change in abusive regimes.

At the same time, the United Kingdom's current Generalised Scheme of Preferences (GSP) includes a range of grounds for possible variation or suspension of preferences, including conditions relating to human and labour rights. As the Department for International Trade (DIT) set out in July 2021⁴, HMG are designing a new Developing Countries Trading Scheme (DCTS) due to be launched later this year, to provide a simpler, more generous, pro-growth approach to trading with developing countries, and help British businesses and consumers at the same time.

The UK-Australia and the UK-New Zealand FTAs do not contain an investor-state dispute settlement (ISDS) mechanism. However, where ISDS is included in an FTA, or in a bilateral investment treaty (BIT), it does not prevent either treaty partner from complying with their international human rights obligations.

⁴ <https://www.gov.uk/government/news/new-uk-scheme-to-drive-trade-with-developing-countries>

The Government is clear that where we negotiate investment protection and ISDS provisions in investment agreements, we will maintain our right to regulate in the public interest, including in areas such as the environment, labour standards and human rights. This right to regulate is recognised in international law.

Finally, your letter also raises a specific point on preambular references in FTAs to human rights. While references in preambular text can serve to signal shared values it should be noted that such text does not impose binding obligations on the Parties, though it may be relevant to later interpretation of the agreements.

We hope this information is reassuring to you and the Committee and we welcome your ongoing work on these important issues.

Best wishes,

A handwritten signature in black ink, reading "Anne Marie Trevelyan". The signature is written in a cursive style with a horizontal line underneath the name.

THE RT HON ANNE-MARIE TREVELYAN MP
Secretary of State for International Trade
& President of the Board of Trade