



HOUSE OF LORDS

Liaison Committee

3rd Report of Session 2021–22

**Designation
of responsible
committee of the
House of Lords
for the purposes
of section 3 of the
Trade Act 2021**

Ordered to be printed 19 October 2021 and published 3 November 2021

Published by the Authority of the House of Lords

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Designation of responsible committee of the House of Lords for the purposes of section 3 of the Trade Act 2021

Summary

1. This report invites the House to agree that the International Relations and Defence Committee be designated as the “responsible committee of the House of Lords”, for the purposes of section 3 of the Trade Act 2021, and be empowered to appoint a sub-committee for the purposes of carrying out this work.

Section 3 of the Trade Act 2021

2. Section 3 was inserted into the Trade Bill following exchanges between the two Houses, triggered by an amendment first moved by Lord Alton of Liverpool on 7 December 2020.¹ In its final form, section 3 authorises each House to designate a “responsible committee” to consider whether “there exist credible reports of genocide in the territory of a prospective FTA counter-party” and to report accordingly, having taken “such evidence as it considers appropriate”.²
3. In the Commons, the responsible committee may, if it is not satisfied with the Secretary of State’s response to the initial report, publish a further report, setting out the terms of a motion to be moved in the House of Commons. A Minister must then make arrangements for the motion to be debated and voted on by that House.³
4. In the Lords, the responsible committee, if it is not satisfied with the Secretary of State’s response, may “publish a statement” to that effect, seeking a debate on its initial report. A Minister of the Crown must then make arrangements for a motion to take note of the report and the Secretary of State’s response.⁴
5. The House of Commons Foreign Affairs Committee (FAC) has been designated as the responsible committee of the House of Commons under the terms of the Act.

Options for designating “the responsible committee of the House of Lords”

6. The scenario contemplated in the Act, where allegations of genocide are made against a potential trading partner, could engage the remits of the following existing House of Lords committees:
 - International Agreements Committee
 - International Relations and Defence Committee

1 HL Deb, 7 December 2020, [cols 1058–1059](#)

2 Trade Act 2021, [section 3](#)

3 *Ibid.*

4 *Ibid.*

7. Only one committee may be designated as the “responsible committee”. Our consideration of this matter has been informed by the views of the Chairs of the International Agreements Committee and the International Relations and Defence Committee. Both these committees have heavy existing workloads and neither would be able to fulfil this statutory requirement without additional resource.
8. The International Agreements Committee (IAC) is tasked with considering “matters relating to the negotiation, conclusion and implementation of international agreements”,⁵ and any prospective free trade agreement would thus fall within the IAC’s remit. The Government has committed to sharing negotiating objectives with the IAC before formal negotiations begin and it is therefore well-placed to give early warning of any issues that may arise in such negotiations. On the other hand, the issue of alleged genocide is outside the IAC’s main focus and expertise, and would sit uncomfortably with its regular work scrutinising agreements laid before Parliament under the Constitutional Reform and Governance Act 2010.
9. The International Relations and Defence Committee (IRDC) has a broad remit to consider “the United Kingdom’s international relations”.⁶ The IRDC’s recent inquiries have been wide-ranging, but have not addressed genocide specifically. Its Chair, Baroness Anelay of St Johns, has indicated that her committee would be willing to accept responsibility for considering allegations of genocide against prospective trading partners, but that in order to fulfil this statutory requirement it would need to be empowered to appoint a sub-committee for this purpose. Any such sub-committee, if appointed, would also need to be appropriately staffed and thus additional staff resource would be required.
10. Before appointing the members of any such sub-committee the Chair of the International Relations and Defence Committee should consult the Usual Channels and the Convenor of the Cross Bench Peers.

Resourcing

11. Any committee inquiry into whether a prospective trade partner is engaged in acts constituting genocide is likely to be demanding. The responsible committee would be required under the Act to confirm that it has “taken such evidence as it thinks appropriate”.⁷ The underlying question of whether or not genocide has been committed could raise complex questions of international law as well as of fact, and expert legal and specialist advice is thus likely to be needed.
12. In agreeing to recommend to the House that the IRDC should be given the power to appoint a sub-committee to undertake scrutiny under section 3 of the Trade Act 2021 we are conscious that it is impossible to predict when the necessary committee resource might be required. Adequate resource will, however, be essential if such an inquiry is needed, and we draw this requirement to the attention of the House.
13. The need for adequate resource makes it particularly important that the IRDC is given as much notice as possible of the likely need of any inquiry arising under section 3 of the Trade Act 2021. We have therefore considered

5 HL Deb, 28 January 2021, [cols 1756–1760](#)

6 HL Deb, 9 January 2020, [col 318](#)

7 Trade Act 2021, [section 3](#)

how best to involve the IAC, which might in practice have early knowledge of any relevant draft Free Trade Agreement. We consider that a memorandum of understanding between the IAC and the IRDC might be an appropriate way of ensuring effective and timely communication regarding this matter.

14. Under section 3 of the Trade Act 2021 it is for the responsible committee to seek a debate on its report, if it sees fit.⁸ We envisage that members of the IAC are likely to wish to participate in any such debate as well as members of the designated committee. The information-sharing which we have suggested in the previous paragraph could also help to facilitate such participation.

Recommendation

15. *We recommend that the International Relations and Defence Committee be designated as the “responsible committee of the House of Lords” for the purposes of section 3 of the Trade Act 2021, and that it be given the power to appoint a sub-committee explicitly for the purposes of any inquiry under section 3.*

8 *Ibid.*