

26/1/21

Dear Chair,

Since the enactment of the International Development (Official Development Assistance Target) Act 2015 the Secretary of State for International Development, and now the Foreign, Commonwealth and Development Secretary, has been under a statutory legal duty to ensure that the United Kingdom hits the target of 0.7% of gross national income (GNI) for official development assistance every year.

The minister also has by law to make an annual statement to Parliament reporting on the previous year's performance. If it turns out that the 0.7% target has been undershot the statement must retrospectively explain why, referring, if relevant, to the effect of changes in economic and fiscal circumstances, of any substantial change in GNI, and the likely impact of meeting the target on taxation, public spending and public borrowing, or to circumstances arising outside the United Kingdom.

Until Parliament changes that law on the statutory duty to meet the 0.7% target the Government must aim to hit it. It cannot deliberately aim off or fire blanks. It can say it intends to change the law or substitute another target but, until the statute is repealed or amended, the Government is subject to that law. It cannot legitimise a failure to hit the target by announcing in advance its intention to fail.

The Government of course knows this. On the day of the recent Spending Review the Chancellor told the House of Commons that, since the Government cannot predict with sufficient certainty what the fiscal circumstances will be, they will have to legislate to change the law. The Foreign Secretary said the same thing from the Dispatch Box the very next day. FCOD minister Lord Ahmad recognised those obligations in the House of Lords and expressed the Government's intention to remain within the law.

Whilst accepting that for the Foreign Secretary deliberately to breach his statutory duty to meet the 0.7% target will not lead to his prosecution, it would nonetheless be unlawful and something for which he could be held to account by Parliament. It would do neither his reputation as a lawyer nor the Government's domestic or international standing any good to be seen once again to be flouting a clear legal obligation. What happened with the botched prorogation in 2019 or the Internal Market Bill in 2020 are not happy precedents.

If the Government disagrees with Prime Ministers May, Cameron, Brown and Blair, and is not concerned about sacrificing the UK's "moral authority"; breaking "a promise we don't need to break"; "presiding over the G7 whilst breaking one promise to meet another"; or whether the 0.7% target is "enlightened self-interest", the way forward is clear. It should change the law through Parliament, not break it out of convenience.

Yours faithfully,

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