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To: All Peers

My Lords,

THE ECONOMIC ACTIVITY OF PUBLIC BODIES (OVERSEAS MATTERS) BILL - LORDS INTRODUCTION

I am pleased to announce that the Government has introduced to the House of Lords the Economic Activity of Public Bodies (Overseas Matters) Bill, fulfilling an important manifesto commitment 2019 to “ban public bodies from imposing their own direct or indirect boycotts, disinvestment or sanctions campaigns against foreign countries”.

This is a Department for Levelling Up, Housing and Communities Bill. However, I will be the Minister responsible for taking the Bill through the House.

The Bill will ban public bodies from pursuing their own foreign policy agenda, including with public money, through divisive boycotts, divestment and sanctions campaigns. This will ensure that the United Kingdom speaks with one voice internationally, that public bodies remain focused on their core purpose and that boycotts, divestments and sanctions (BDS) campaigns cannot undermine community cohesion.

The legislation extends to public authorities only. I would like to emphasise that the Government remains strongly committed to the UK’s long and proud tradition of free speech within the law.

Proposed measures

The Bill will prevent “public authorities” from conducting their own boycotts and divestment campaigns against foreign countries or territories. This includes (in respect of their public functions): government departments and agencies, including in the devolved administrations; non-departmental public bodies; local authorities; cultural institutions such as museums and galleries that receive significant public money; and schools, universities and higher education providers. This will include expressions of intent to boycott or divest, as this can damage community cohesion in a similar way to actual boycotts and divestments. The Bill will only deal with boycotts and divestments targeted at a particular foreign country or territory.

Public bodies that do not follow the law will be open to judicial review or an analogous court process provided for in the Bill. The Bill also includes an enforcement regime which provides powers for Ministers and regulators to investigate, issue compliance notices and fine public bodies included within the ban. The Bill provides a power for Ministers to be able to update a list of appropriate regulators as part of the enforcement regime.

All of the Bill's provisions will apply UK-wide. Boycotts and divestments against foreign countries and territories are foreign policy and a reserved matter. We are engaging closely with the devolved administrations and will continue to do so throughout passage of the Bill.

The Bill will work alongside the Procurement Act which received Royal Assent on 26 October. The Bill will not hinder public bodies' ability to exclude suppliers under the Procurement Act where there is evidence of modern slavery, labour misconduct, human trafficking or environmental misconduct or where there are national security concerns.

Boycotts and divestments from Israel

The Government's intent is that this Bill will cover all states and territories unless explicitly excluded in regulations. The ban therefore includes boycotts and divestment campaigns that target Israel, the Occupied Palestinian Territories or the Occupied Golan Heights. Anti-Israel boycotts unfairly single out the world's only Jewish state and we have seen examples of antisemitic tropes and language being used alongside calls to boycott. Unofficial boycotts have gone beyond those directed at a particular state, contributing to the horrific rise of antisemitism in the UK, including Kosher food being removed from supermarket shelves, Jewish films being banned from a film festival and a student union holding a vote on blocking the formation of a Jewish student society. These campaigns have been widely condemned by Jewish groups such as the Jewish Leadership Council and the Board of Deputies of British Jews who strongly support this legislation.

Recent events following the Hamas terror attacks against Israel of 7 October 2023 have highlighted the link between anti-Israel sentiment and antisemitism in the UK. In the period since 7 October, a large spike in the number of antisemitic incidents has been recorded by organisations such as the Community Security Trust. This spike in antisemitism emphasises the need for this legislation to protect against divisive anti-Israel BDS campaigns and promote community cohesion and safety for Jewish communities in the UK. This is not about taking a position on any particular campaign or country, but tackling discrimination and promoting a consistent foreign policy. If there is a case for formal sanctions, they should be properly debated and determined by the UK Government under powers granted by Parliament.

This Bill does not change the UK's approach to the Middle East peace process, which is to support a two-state solution, nor our position on settlements in the Occupied Palestinian Territories. They are illegal under international law, present an obstacle to peace and threaten the physical viability of a two-state solution.

Exceptions to the ban

As we have seen with Russia and Belarus, there are occasions where action by public bodies can be part of efforts led by the UK Government against a particular country or region. Therefore, a power in the legislation will allow the Government with the agreement of Parliament to permit such action against a specific country or territory. The intention of this power is to ensure that the ban stays in line with the UK's foreign policy. It is intended that there will not be a gap between commencement of the Bill and Russia and Belarus being exempted from the ban. The power to exempt countries from the ban can be used in the future, in response to world events and to remain in line with UK foreign policy.

Israel, the Occupied Palestinian Territories and the Occupied Golan Heights are exempted from this power and it will not be possible to remove them from the scope of the ban via secondary legislation. This is the only reason why these are named on the face of the Bill. As we have seen following Hamas's horrific attack on Israel, campaigns in the UK that target Israel can drive antisemitism. Should the Government wish to allow public bodies to engage in boycott and divestment campaigns against Israel in the future, this should be enacted through primary legislation and subject to full parliamentary scrutiny.

The Bill also makes exceptions to the ban for various types of considerations, including those relating to labour-market misconduct, including modern slavery and human trafficking and national security. These exceptions align with certain grounds for excluding a supplier from public procurement as set out in the Procurement Act 2023.

Environmental and animal welfare considerations

During the Bill's passage through the House of Commons, backbench and opposition amendments were tabled to make exceptions to the ban for considerations relating to animal welfare and the environment. Nothing in this Bill will prevent public bodies on a non-country specific basis from ensuring high standards relating to animal welfare and the protection of the environment in relevant investment and procurement decisions.

If you would like to discuss these measures further, I invite you to contact my office to arrange a meeting.

Explanatory Notes

I would also like to take this opportunity to clarify two points that have been updated in the Bill's explanatory notes as a result of points raised during debate at Commons Committee Stage in the other place.

1. Application of the ban to "public authorities"

A number of contributions touched on clause 4 and the prohibition on statements. In the light of those contributions, we have now made clear in the explanatory notes that this clause is strictly limited to the actions of public authorities. For example, councillors of a local authority are not a public authority and, therefore, are not prohibited from expressing support for or voting in favour of a boycotts, divestments and sanctions (BDS) motion. If a local authority published the minutes of a debate or a meeting in which a councillor said that they would be in favour of their local authority engaging in such campaigns, this statement would not be captured under this clause. Even when an individual is speaking on behalf of a public authority, the ban only applies to the public authority itself and there is no personal liability for the individual. It would only be a breach of the ban if the policy advocated by councillors were adopted by the local authority.

2. Information-gathering powers

The extent of the powers given to enforcement authorities under clause 7 to request information from public authorities under investigation was also raised during Commons passage. I would like to reassure Noble Lords that this clause will not override legal professional privilege between lawyers and their clients. The Government has added an explanation to the explanatory notes explaining that this clause does not require the disclosure of legally privileged information. As set out in case law (*R (Morgan Grenfell & Co Ltd) v Special Commissioner of Income Tax* [2002] UKHL 21), legal professional privilege is a fundamental common law right and cannot be overridden other than by express wording.

We are confident that this legislation will ensure there is a consistent approach to UK foreign policy, tackle divisive campaigns in our public institutions, and meet the Government's 2019 manifesto commitment.

I would be very grateful for your support for the legislation.

I will place a copy of this letter in the Library of the House.

Warm regards

Lucy Neville-Rolfe

Baroness Neville-Rolfe DBE CMG