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Lord Collins of Highbury
House of Lords
London
SW1A 0PW

8 May 2024

Dear Lord Collins,

Thank you for your contributions in Committee on the Economic Activity of Public Bodies (Overseas Matters) Bill on Wednesday 17th April. During the debate, I committed to write to you to answer a question you raised regarding environmental considerations.

You noted that in the case of environmental misconduct, it would be difficult to distinguish between legal and illegal activity, which could lead to a chilling effect for decision-makers. The Bill defines environmental misconduct as conduct that is an offence under the law of the UK or any other country or territory and had caused, or had the potential to cause, significant harm to the environment, including the life and health of plants and animals.

The exemption for environmental misconduct mirrors that in the Procurement Act 2023. It is important that where possible, without creating loopholes to the ban, the exceptions in the Bill are aligned with the exclusion grounds in the Procurement Act that were recently agreed by the House in the previous session. The reason for this is that many public authorities will be subject to both regimes and it could be burdensome to those bodies to create vastly different regimes.

The Bill will not prevent public authorities from disregarding suppliers who have engaged in behaviour that has caused harm to the environment but does not constitute an offence, as long as the policy is applied universally and does not single out a country or territory. Therefore, the Bill will not prevent public authorities from engaging in campaigns on general environmental issues such as fossil fuels, biodiversity or indeed deforestation so long as they are not country-specific. This includes where this may incidentally lead to not procuring from or investing in a large number of companies in a particular country or countries where those companies are heavily involved in fossil fuels, or deforestation.

I am also concerned that widening the exception in the Bill beyond the Procurement Act definition of environmental misconduct risks creating a significant loophole in the ban. For example, Governments across the world frequently adjust their environmental targets. It would not be proportionate to allow an entire country to be boycotted for this reason.

Thank you again for engaging on this important legislation. I will place a copy of this letter in the House Library.

Yours sincerely,

A handwritten signature in blue ink, appearing to be 'R. J. R.', written in a cursive style.

LORD ROBOROUGH