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**CORE Coalition and Amnesty International UK joint submission to the UN Working Group on Business and Human Rights: ensuring respect for human rights in the context of "economic diplomacy" and investment/trade promotion**

**CORE Coalition** is the UK civil society coalition on corporate accountability. We work with our partner organisations to advance the protection of human rights and the environment with regard to the global operations of UK companies, by promoting a stronger regulatory framework, higher standards of conduct, compliance with the law, and improved access to remedy for those harmed by the activities of UK companies.

**Amnesty International UK** is the UK section of Amnesty International.

**Q1. Are there examples of ministries oriented to cross border trade and investment promotion that have any policy commitment to address human rights as part of their activities?**

**If yes, does such a commitment include any reference of the UN Guiding Principles on Business and Human Rights and other standards for responsible business conduct (e.g. OECD Guidelines; IFC Performance Standards)?**

**1. Commitments in the UK National Action Plan on Business and Human Rights.** The Department of International Trade (DIT) and Foreign and Commonwealth Office (FCO) are the primary ministerial departments orientated to cross border trade and investment promotion in the UK. As part of the UK National Action Plan on Business and Human Rights (NAP), first published in 2013 and updated in 2016, the Government made several policy commitments that fall within the remit of these departments.

2. The 2016 NAP states that the UK Government will ‘support the EU commitment to consider the possible human rights impacts of free trade agreements, including where these include investment protection provisions, and take appropriate steps including through the incorporation of human rights clauses as appropriate.’<sup>1</sup> This is weaker than the commitment made in 2013 in which the Government stated that it will ‘ensure that agreements facilitating investment overseas by UK or EU companies incorporate the business responsibility to respect human rights, and do not undermine the host country’s ability to either meet its international human rights obligations or to impose the same environmental and social regulation on foreign

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<sup>1</sup> p. 11,

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/522805/Good\\_Business\\_Implementing\\_the\\_UN\\_Guiding\\_Principles\\_on\\_Business\\_and\\_Human\\_Rights\\_updated\\_May\\_2016.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/522805/Good_Business_Implementing_the_UN_Guiding_Principles_on_Business_and_Human_Rights_updated_May_2016.pdf)

investors as it does on domestic firms.’<sup>2</sup> Whereas the 2013 NAP commits to promoting the business responsibility to respect human rights through investment agreements, the 2016 NAP simply restates EU policy that has been in practice since 1995 (see below).

3. The 2016 NAP states that the Government has continued to develop new resources and training for FCO and UK Trade and Investment (replaced by DIT in July 2016) staff, trade envoys and visiting delegations.<sup>3</sup> Moreover, in order to support the business implementation of the UN Guiding Principles (UNGPs), the Government commits to continuing to update and promote the DIT-FCO Overseas Business Risk (OBR) service which provides information about business environments in the countries where UK trade and investment has a presence, ‘to ensure it includes specific country human rights information and links to the UNGPs and other relevant tools and guidance’.<sup>4</sup>

**4. Overseas Business Risk Service.** The DIT and the FCO have published 112 country-specific OBR documents covering countries in Africa, the Americas, Asia, Europe, the Middle East and Oceania. We carried out a full review of 15 of these documents, focusing on FCO ‘Countries of Concern’ (the UK government has expressed ‘wide-ranging concerns’ about the human rights situations in these countries), and countries identified as having a high incidence of human rights abuses.<sup>5</sup> See below table 1.1 for the full results of this review. We also checked all the OBR documents for links to the UNGPs and mentions of human rights.

5. Since the NAP commitment made in 2013, most OBR country-specific documents have been updated to include references to human rights.<sup>6</sup> Sometimes the heading alternatively refers to ‘business and human rights’. The documents we reviewed do not follow any standard format but often include some or all of the following headings: child labour, migrant workers, gender, LGBT, working conditions and occupational safety, and rights of association or unions. The documents usually contain references to the relevant domestic legislation or ratified human rights treaties and other international instruments in each country. Three of the documents we reviewed make references to sector specific risks.<sup>7</sup>

6. Many documents contain very little information on human rights. For instance, the OBR document for Nigeria simply states in its ‘human rights’ section that ‘Nigeria has a democratic framework which guarantees human rights within its constitution. It has an independent judiciary and a strong civil society’.<sup>8</sup>

7. Some countries known to be high risk for human rights abuses, including Guatemala, Honduras, Egypt, and Sudan, have no OBR document at all. One document in the review, the

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<sup>2</sup> Accessed at: <https://business-humanrights.org/sites/default/files/media/documents/uk-national-action-plan-sep-2013.pdf>

<sup>3</sup> P. 10,

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/522805/Good\\_Business\\_Implementing\\_the\\_UN\\_Guiding\\_Principles\\_on\\_Business\\_and\\_Human\\_Rights\\_updated\\_May\\_2016.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/522805/Good_Business_Implementing_the_UN_Guiding_Principles_on_Business_and_Human_Rights_updated_May_2016.pdf)

<sup>4</sup> Ibid. p. 16

<sup>5</sup> See, <https://www.gov.uk/government/collections/human-rights-and-democracy-report-2014>

<sup>6</sup> See, <https://www.gov.uk/government/collections/overseas-business-risk>

<sup>7</sup> The OBR document for India points to prevalence of child labour in the textiles industry and unjust acquisition of land from indigenous groups for mining and infrastructure projects.

<https://www.gov.uk/government/publications/overseas-business-risk-india/overseas-business-risk-india#human-rights>

<sup>8</sup> The human rights section in the OBR document for Myanmar is approximately 60 words long, despite being an FCO Human Rights Country of Concern. <https://www.gov.uk/government/publications/overseas-business-risk-burma/burma-overseas-risk>.

Mozambique OBR, makes no reference to human rights.<sup>9</sup> Although the Government made a commitment to put ‘links to the UNGPs’ on the OBR service, no OBR document contains links to the UNGPs, nor can any links be found on the OBR service website. The documents do not explain what the UNGPs are or make any attempt to promote them. Finally, the country-specific trade and export guidance provided by the DIT for UK businesses interested in selling overseas make no reference to human rights.<sup>10</sup>

<b>Table 1.1: Evaluation of overseas business risk documents in countries with known risks of human rights abuses</b>			
<b>Country</b>	<b>Overseas Business Risk Document?</b>	<b>Human Rights Section?</b>	<b>Issues Mentioned in Human Rights Section</b>
Myanmar	Yes	Yes	Short paragraph that states ‘Burma is designated a Country of Human Rights Concern’ and points to FCO Human Rights report for more information.
Guatemala	No		
Honduras	No		
Turkey	Yes	Yes	UK encourages human rights reform in Turkey, especially to strengthen rule of law and rights protections. Turkey is a signatory to ECHR. European Commission noted backsliding in some areas of fundamental freedoms.
Egypt	No		
Sri Lanka	Yes	Yes	Gender inequality in work, existence of child labour, minority rights including ethnic groups, LGBT and disabled groups. Explains union laws and restrictions on unions in Export Processing Zones. Describes retaliatory practices against striking employees and unionists.
India	Yes	Yes	Potential human rights abuses in state and business acquisition of land for mining and infrastructure projects. Existence of child labour, especially in textile industry. Inconsistent application of 2009 Right to Education Act in different states. Improving gender equality, but domestic violence still pervasive. No laws protecting LGBT persons. More than 14,000 trade unions registered in India which is due to ‘political consciousness among the labourers as

<sup>9</sup> E.g. Mozambique, <https://www.gov.uk/government/publications/overseas-business-risk-mozambique>; this is despite known human rights abuses: <https://www.hrw.org/world-report/2017/country-chapters/mozambique>

<sup>10</sup> <https://www.gov.uk/government/collections/exporting-country-guides>

			well as governmental measures to facilitate collective bargaining’.
Bahrain	Yes	Yes	Refers mostly to introduction of Labour Law for the Private Sector No. 36 2012, which grants more rights to workers. Bahrain features in the FCO Human Rights and Democracy report.
China	Yes	Yes	China is a Country of Concern in FCO Human Rights and Democracy report. Child labour remains a problem, especially in manufacturing and service industries, despite government attempts to prevent it. Discrimination remains against Uyghurs and Tibetans. No laws protecting LGBT persons. Gender discrimination at work. Significant labour problems occurring amongst migrants, including withholding of wages and non-minimum wage payments. Poor working conditions and occupational safety standards. Right to organise and strike restricted.
Nigeria	Yes	Yes	Simply states that ‘Nigeria has a democratic framework which guarantees human rights within its constitution. It has an independent judiciary and a strong civil society’
Colombia	Yes	Yes	Human rights advocates are victims of violence and intimidation. Indigenous peoples and peasants suffer displacement and threats. Trade unionists subject to threats and violence. The complex land restitution issues in Colombia. Constitutional guarantees to indigenous and afro-Colombian groups over their traditional territories. Colombia a priority country in FCO’s Human Rights and Democracy report.
Saudi Arabia	Yes	Yes	Indicates that although problems exist, there have been improvements in relation to: child labour, migrant workers, gender, LGBT, working conditions and occupational safety, rights of association.
Sudan	No		
Philippines	Yes	Yes	Ratified UN human rights conventions and treaties. Has labour rights legislation. There are labour rights issues in its Special Economic Zones. Cites US Department of State Country Reports on human rights practices: increases in killings allegedly committed by security forces, especially in relation to campaign against drugs, overburdened criminal justice system, overcrowded prisons, threats of violence against

			journalists and human rights defenders. Abuses reported in extractive industries, power generation, agribusiness, real estate and tourism.
Mozambique	Yes	No	

**8. European Union trade and overseas investment policy.** As a member of the European Union the UK does not negotiate its own trade and investment agreements. These are negotiated by the EU. Policy with respect to trade and investment agreements is therefore made at EU level.<sup>11</sup>

9. The EU formally adopted the policy of adopting operative human rights clauses in all new general cooperation and trade agreements in 1995.<sup>12</sup> Human rights clauses are now also used in other EU instruments including autonomous instruments on financial and technical cooperation, financing agreements with developing countries and in the EU's Generalised System of Preferences programme (GSP).<sup>13</sup> For instance, in 2017 the EU warned Bangladesh that it would be shut out of the GSP unless it implemented four recommendations made by an International Labour Organisation committee to improve labour rights in Bangladesh.<sup>14</sup>

10. Human Rights clauses in trade and investment treaties usually take the form of an 'essential elements' clause often located in one of the first articles of the agreement. A standard such clause provides that 'Respect for democratic principles and fundamental human rights, as laid down in the Universal Declaration of Human Rights, and for the principle of the rule of law, underpins the internal and international policies of both Parties and constitutes an essential element of this Agreement.'<sup>15</sup> This is then combined with a non-execution clause that permits one party to take 'appropriate measures' if the other party violates the essential elements clause. Mechanisms for monitoring observance of the essential elements clause are normally left vague, but enforcement provisions are stringent as non-execution clauses usually allow parties to unilaterally and immediately suspend the agreement in the event that the other party violates human rights. However, there are conditions on the adoption of 'appropriate measures', which essentially imply that any response must be proportionate.<sup>16</sup>

11. In practice, 'appropriate measures' have only been taken by the EU in a small subset of cases. This almost always consists in redirecting development aid from government projects to civil society in the event of a coup d'état, evidence of flawed elections, or deteriorating political and security situations. For this reason, the EU has begun to sometimes refer to these clauses as 'political clauses' rather than human rights clauses.<sup>17</sup>

<sup>11</sup> <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2016-12-20/58572>

<sup>12</sup> *Communication from the Commission on the inclusion of respect for democratic principles and human rights in agreements between the Community and third countries*, (1995), accessed at: <http://aei.pitt.edu/4097/>

<sup>13</sup> Policy Department for EU Parliament Directorate-General for External Policies, *The European Parliament's Role in Relation Human Rights in Trade and Investment Agreements*, p. 8, (2014).

<sup>14</sup> See, <http://www.dhakatribune.com/bangladesh/2017/03/24/eu-warns-bangladesh-gsp-suspension-labour-rights/>

<sup>15</sup> Article 1 of the EU-Central America Association Agreement.

<sup>16</sup> Tobias Dolle, 'Human Rights Clauses in EU Trade Agreements: The New European Strategy in Free Trade Agreement Negotiations Focuses on Human Rights – advantages and disadvantages', in Norman Weiss and Jean-Marc Thouvenin eds., *The Influence of Human Rights on International Law*, (2015).

<sup>17</sup> Policy Department for EU Parliament Directorate-General for External Policies, *The European Parliament's Role in Relation Human Rights in Trade and Investment Agreements*, p. 12, (2014).

12. Subsequent to the development of the UNGPs, the EU has moved to include corporate social responsibility (CSR) provisions in its trade and investment agreements. The European Parliament has called for the inclusion of such provisions based, inter alia, on the UNGPs.<sup>18</sup> A 2012 communication from the European Commission has stated that ‘all recent Free Trade Agreements (FTAs) concluded by the EU with third countries (e.g. Korea, Colombia/Peru, Central America, Georgia, Moldova, Singapore; the EU-Caribbean Economic Partnership Agreement - EPA) include provisions on the promotion of CSR, and these have been addressed as part of their implementation, well as in other trade-related meetings, such as the EC-Turkey sub-committee on Industry and Trade, and the EU-Chile Association Committee meeting.’<sup>19</sup>

**13. UK trade policy after Brexit.** The UK is in the process of negotiating its exit from the EU. In the event that the UK leaves the EU customs union, the UK will negotiate its own trade and investment agreements and develop its own policy in respect of these negotiations. UK civil society has voiced concerns that the government’s disadvantaged negotiating position may lead to human rights being deprioritised in future trade deals.

14. Since the Brexit vote DIT and FCO Ministers have travelled extensively to meet business leaders and politicians.<sup>20</sup> In the course of some of these visits, Ministers have made statements which downplay some governments’ poor human rights records. For instance, on a visit to the Philippines in April 2017, the UK’s Secretary of State for International Trade was criticised for suggesting the UK’s relationship with the country was “built on a foundation of shared values”.<sup>21</sup>

**15. UK National Contact Point for the OECD’s Guidelines for Multinational Enterprises.** The UK National Contact Point (NCP) is located within the DIT. The NCP has responsibility for promoting the OECD Guidelines for Multinational Enterprises in the UK. In order to discharge this responsibility, the NCP has a webpage that describes how to make a complaint that the Guidelines have not been met and provides a link to the Guidelines. The webpage also offers businesses and organisations the opportunity to have the NCP present on the OECD guidelines at their organisation.<sup>22</sup>

16. The UK NCP has been criticised for being under resourced and unable to carry out its responsibilities, including the promotion of the Guidelines, as a result.<sup>23</sup>

17. As part of our research, we contacted the DIT and FCO regarding the questions asked in this consultation. Unfortunately, although they agreed to participate, they did not provide the requested information prior to the deadline.

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<sup>18</sup> European Parliament resolution of 25 November 2010 on corporate social responsibility in international trade agreements; European Parliament resolution of 6 April 2011 on the future European international investment policy, para 27.

<sup>19</sup> European Commission, *Communication from the commission to the European Parliament, the Council and the European Economic and Social Committee: Trade, growth and development – Tailoring trade and investment policy for those countries most in need*, pp. 17-18, (2012).

<sup>20</sup> See, <http://www.independent.co.uk/news/uk/politics/brexit-latest-theresa-may-liam-fox-middle-east-trade-deals-human-rights-a7543751.html>; <https://www.theguardian.com/global-development/2017/dec/11/boris-johnson-trade-forum-sudan-rights-abuses>

<sup>21</sup> See, <https://www.amnesty.org.uk/press-releases/liam-foxs-talk-shared-values-brutal-philippines-president-duterte-beggars-belief>

<sup>22</sup> See, <https://www.gov.uk/government/groups/uk-national-contact-point-for-the-organisation-for-economic-co-operation-and-development-guidelines>

<sup>23</sup> Amnesty International, *Obstacle Court: How the UK’s National Contact Point handles human rights complaints under the OECD Guidelines for Multinational Enterprises*, (2016), accessed at: [https://www.amnesty.org.uk/files/uk\\_ncp\\_complaints\\_handling\\_full\\_report\\_lores\\_0.pdf](https://www.amnesty.org.uk/files/uk_ncp_complaints_handling_full_report_lores_0.pdf)

**Q2. Are there examples of trade/business oriented ministries and agencies that have required businesses to demonstrate respect for human rights as set out in the UN Guiding Principles on Business and Human Rights as a condition of receiving government support through export credit, investment guarantees, and political risk insurance? If yes, how was this implemented?**

18. Not as a whole. UK Export Finance's policy is only to "take account" of non-financial risks, including environmental, social and human rights risks.<sup>24</sup> This is considerably weaker than imposing a requirement on businesses.

19. UK Export Finance (UKEF) says it "will comply" with The Common Approaches and other OECD agreements. However, this apparent commitment is undermined by a footnote in UKEF's Guidance to Applicants that states that nothing in its statement should be read as being "categoric".<sup>25</sup> UKEF also emphasises that none of the OECD agreements are incorporated into UK or EU law so are not legally binding.<sup>26</sup> The net effect of these qualifying statements is to make it much harder to use judicial review to challenge any decision made by UKEF for supporting a project.

20. In addition, many of the forms of support that UKEF now commonly uses (for example, Bond Support, Export Working Capital) are not covered at all by the Common Approaches. Others fall outside the Common Approaches' threshold for triggering environmental, social and human rights due diligence because they have repayment terms of less than 2 years. UKEF's flow chart for assessing support reveals just how many "loopholes" there are.<sup>27</sup> These shortcomings are compounded by the fact that the main screening tool (the IFC Performance Standards) do not embody all the relevant rights, as evident from UKEF's own mapping of the human rights framework against the IFC Performance Standards.<sup>28</sup>

21. UKEF states specifically in its 'Policy and practice on Environmental, Social and Human Rights due diligence and monitoring'<sup>29</sup> that it will 'comply with all international agreements which apply to the operations of ECAs'<sup>30</sup>, and that it will 'comply with the Equator Principles'. The same document states that UKEF 'will not operate beyond international agreements which apply to ECAs or the Equator Principles'.

22. This means that UKEF will only require businesses to demonstrate respect for human rights as set out in the UNGPs, in so far as this is required by the OECD Common Approaches or by

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<sup>24</sup> Section 3, at: <https://www.gov.uk/government/publications/uk-export-finance-environmental-social-and-human-rights-policy/policy-and-practice-on-environmental-social-and-human-rights-due-diligence-and-monitoring#fnref:1>,

<sup>25</sup> Footnote 1, at:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/604486/guidance-on-processes-and-factors-uk-export-finance-mar-17.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/604486/guidance-on-processes-and-factors-uk-export-finance-mar-17.pdf).

<sup>26</sup> Section 6, at:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/604486/guidance-on-processes-and-factors-uk-export-finance-mar-17.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/604486/guidance-on-processes-and-factors-uk-export-finance-mar-17.pdf).

<sup>27</sup> See, [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/615688/ukef-eau-external-process-update-may-17.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/615688/ukef-eau-external-process-update-may-17.pdf)

<sup>28</sup> P. 7, at : [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/604438/UKEF-statement-on-how-it-addresses-human-rights-march-2017.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/604438/UKEF-statement-on-how-it-addresses-human-rights-march-2017.pdf).

<sup>29</sup> <https://www.gov.uk/government/publications/uk-export-finance-environmental-social-and-human-rights-policy/policy-and-practice-on-environmental-social-and-human-rights-due-diligence-and-monitoring>

<sup>30</sup> These agreements include the OECD Council Recommendation on Common Approaches for Officially Supported Export Credits and Environmental and Social Due Diligence, commonly referred to as the *OECD Common Approaches*.

the Equator Principles. This is confirmed in UKEF's 'Note on Human Rights and Social Risks and Impacts'.<sup>31</sup> The UNGPs are therefore not considered by UKEF as a benchmark for assessing companies' eligibility to receive government support unless this is mandated by the OECD Common Approaches or by the Equator Principles. While the Common Approaches refer to the UNGPs in the preamble<sup>32</sup>, the UNGPs are not amongst the standards against which States are required to benchmark project applications.<sup>33</sup>

23. The Equator Principles<sup>34</sup> do not refer to the UNGPs under the 'Applicable Environmental and Social Standards' (Principle 3) or indeed anywhere in the document. Both the Common Approaches and the Equator Principles refer to the IFC Performance Standards as applicable. However, while the IFC believes there is considerable convergence between its Performance Standards and the UNGPs<sup>35</sup>, UKEF's own mapping shows that there are gaps, as has been pointed out by various NGOs.<sup>36</sup>

24. The human rights failings of UK Export Finance were set out in a study by Amnesty International, 'A History of Neglect: UK Export Finance and Human Rights'.<sup>37</sup> (2013)

**Q3. Have such ministries or agencies involved with export/investment promotion, required businesses to demonstrate commitments to human rights as set out in the UN Guiding Principles as a condition for participating in trade missions, receiving export promotion assistance, and being eligible for trade advocacy services? If yes, how was this implemented?**

25. Export promotion is undertaken in the UK with little regard for human rights. Each year the UK government produces a Human Rights and Democracy report which cites a number of countries which pose specific human rights concerns.<sup>38</sup> At the same time, the UK through its DIT identifies a number of priority markets for the promotion of defence and security sales.<sup>39</sup> In 2016, the government identified three countries cited in the Human rights and Democracy

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<sup>31</sup> P. 2, at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/604438/UKEF-statement-on-how-it-addresses-human-rights-march-2017.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/604438/UKEF-statement-on-how-it-addresses-human-rights-march-2017.pdf).

<sup>32</sup> OECD Working Party on Export Credits and Credit Guarantees, *Recommendation of the council on common approaches for officially supported export credits and environmental and social due diligence*, (2016), accessed at:

<http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=TAD/ECG%282016%293&doclanguage=en>

<sup>33</sup> Ibid, pp. 25-6.

<sup>34</sup> See, [http://equator-principles.com/wp-content/uploads/2017/03/equator\\_principles\\_III.pdf](http://equator-principles.com/wp-content/uploads/2017/03/equator_principles_III.pdf)

<sup>35</sup> See, <https://www.ifc.org/wps/wcm/connect/c3dedb0049c51e71886d99da80c2ddf3/UNGPsandIFC-SF-DRAFT.pdf?MOD=AJPERES>

<sup>36</sup> See, <http://www.ciel.org/getting-the-ifc-to-respect-protect-human-rights/>

<sup>37</sup> Amnesty International UK, *A History of Neglect: UK Export Finance and Human Rights*, (2013), accessed at: [https://www.amnesty.org.uk/files/doc\\_23288.pdf](https://www.amnesty.org.uk/files/doc_23288.pdf)

<sup>38</sup> See, The Human Rights and Democracy report 2016, [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/630623/Human\\_Rights\\_and\\_Democracy\\_Report\\_2016\\_accessible.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/630623/Human_Rights_and_Democracy_Report_2016_accessible.pdf)

<sup>39</sup> 2016/17 UK Trade and Investment business forecasting identifying markets with strong defense and security opportunities see e.g. <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2016-07-06/42006/>



report – Bahrain, Colombia and Saudi Arabia as priority markets for business engagement within the defence and security sector.

26. Whilst actual exports of defence and security equipment are likely to require specific human rights considerations to be applied during the license application process, no such requirement applies to promotional activity undertaken in this sector. Building on existing practice in the UK and EU, the international Arms Trade Treaty entered into force on 24<sup>th</sup> December 2014. It is currently the global norm setting standard for rules governing the international transfer of weapons. That treaty requires a mandatory Human rights risk assessment to be undertaken before arms sales are authorised. Where it is foreseeable that such sales would pose risks for serious violations of human rights and international humanitarian law, including gender-based violence, there is an obligation for Governments to prevent those sales from taking place. No such corresponding obligation exists for any related promotional activity undertaken to secure such defence sales. This creates a clear inconsistency in government approach to businesses working in the defence and security sector.

27. In CORE and Amnesty International UK's view, the UK should establish the following linkages between export promotion and human rights:

- UK government priority markets for defence and security sector should specifically exclude countries identified as Human Rights Priority countries in the Human Rights and Democracy Report as destinations of acute human rights concern.
- UK government should not organise, facilitate or fund trade delegations, exhibitions or other promotional activity to countries that are not signatories to the international Arms Trade Treaty.

**Q4. Are there examples of human rights training programmes for trade officers who assist companies with export promotion and other forms of trade and investment support?**

28. We have been unable to locate information regarding human rights training programmes. As mentioned in our answer to Q1, the DIT and FCO did not respond to our request for information in time for the deadline.

**Q5. If a company/business is the subject of a complaint by victims and/or civil society organizations, relating to adverse human rights impacts, are there examples of this having consequences for trade and investment-related support to the same company?**

29. See response to Q6.

**Q6. In what ways may decisions by State-run grievance mechanisms (e.g. national contact points) have consequences for whether a business receives trade and investment support? Are there examples of such connections being made?**

30. There is no evidence of any direct consequences for any companies that have been subject to complaints, not even in the few cases where such companies have been found to be in breach of the OECD Guidelines.

31. If the NCP investigates a complaint and finds that a company has breached the OECD Guidelines, it will issue a Final Statement, which may include a recommendation that the business should take certain actions to comply with the Guidelines in the future. The NCP has

no powers to enforce its findings, to ensure compliance or to require a company to provide remediation to those adversely affected by the activities that are the subject of the complaint.

32. There is no linkage between the outcome of a National Contact Point (NCP) complaint and trade and investment support. Nor is there any linkage with the UK's regulatory and legal systems. While the findings of the NCP have the potential to feed into judicial cases, there are no mechanisms for this to happen.

33. There is nothing to prevent or even discourage public bodies from awarding contracts to companies that have been found by the UK NCP to be in breach of the Guidelines. Nor is there any barrier to these companies receiving export finance or other forms of export promotion and support from governmental bodies.

34. The UK Government does not publicise adverse decisions by the NCP against a company other than by putting the Final Statement on its website. Raising the profile of the NCP's findings might have reputational consequences for a company found to be in breach of the Guidelines.

35. The lack of consequences for companies that receive adverse decisions from the UK NCP, and the failings of the NCP more generally, have been documented by Amnesty International<sup>40</sup> and by the UK's Parliamentary Committee on Human Rights.<sup>41</sup>

### **Export Processing Zones and Investment Promotion**

**Q7. Are there examples of laws, regulations, policies and procedures in place for special economic zones/export processing zones that also include provisions for ensuring that businesses operating in those zones respect the human rights of workers and other people/communities who may be impacted by their activities?**

36. The UK does not have export processing zones or economic zones with special regulatory frameworks involving exemptions from standards applicable elsewhere in the UK.

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<sup>40</sup> Amnesty International, *Obstacle Court: How the UK's National Contact Point handles human rights complaints under the OECD Guidelines for Multinational Enterprises*, (2016), accessed at: [https://www.amnesty.org.uk/files/uk\\_ncp\\_complaints\\_handling\\_full\\_report\\_lores\\_0.pdf](https://www.amnesty.org.uk/files/uk_ncp_complaints_handling_full_report_lores_0.pdf)

<sup>41</sup> Joint Parliamentary Committee on Human Rights, *Human Rights and Business 2017: Promoting responsibility and ensuring accountability Sixth Report of Session 2016–17*, pp. 62-5, accessed at: <https://publications.parliament.uk/pa/jt201617/jtselect/jtrights/443/443.pdf>