

From: Dr Henry Adams  
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To: Tim Farron MP

10<sup>th</sup> July 2014

Dear Tim,

**The UK-Columbia BIT (which includes an ISDS mechanism)  
Please put human rights first before investor protection, life before profits  
The BIT does the opposite: so please act and vote against its ratification.**

Tim: I fully agree with the text below and hope you will too.

It is from the **Trade Justice Movement** (London-based) [www.tjm.org.uk](http://www.tjm.org.uk), a movement I support, because 'The TJM is a coalition of organisations [including WDM] concerned with trade justice, promoting trade that is low carbon, and is in the interest of the many, not the few.'

I quote from [WDM's briefing pdf on trade agreements](#): "The Trade Justice Movement is a coalition of over 60 organisations concerned with trade justice, including trade unions, aid agencies, environment and human rights campaigns, Fair Trade organisations, faith and consumer groups. Together, we call for trade justice - not free trade - with the rules weighted to benefit poor people and the environment."

For an up-to-date background please read yesterday's article:

['UK investment treaty with Colombia 'threatens fragile peace process''](#) "Human rights groups say agreement to protect British investors empowers multinational firms and endangers land reform" – Claire Provost & Matt Kennard, 9 July 2014, the Guardian.

NB: I quote: "In [an action plan published last year](#), the UK said investment agreements should "incorporate the business responsibility to protect human rights". But the treaty with Colombia, which was negotiated four years ago but is only now up for ratification in the UK, does not include such language."

**Re: Ratification of UK-Colombia Bilateral Investment Treaty: protect the government right to regulate.**

A Bilateral Investment Treaty (BIT) between the UK and Colombia is now sitting before the Houses of Parliament: the final stage before it is ratified. Parliamentarians have an opportunity to raise concerns and ask for a discussion for forty days as of 5<sup>th</sup> June [i.e. by c.15<sup>th</sup> July]. As your constituent I am writing to ask you to consider halting the ratification of the deal.

### **The situation in Colombia**

Whilst Colombia is officially classed as a Middle Income Country, 32% of the population live in poverty and it is the seventh most unequal country in the world: 0.4% of landowners own 61% of rural land. Colombia has suffered four decades of internal conflict: by the end of 2010, the conflict had displaced approximately 5.7 million people, the highest number in the world. Over the course of the past 25 years, nearly 2,800 trade unionists have been assassinated and many more have been disappeared. Other conflict-related issues include the indiscriminate use of landmines, fear of forced recruitment of children by armed actors, aerial fumigation of coca crops (with related health implications) and sexual violence. In the last year alone 78 human rights defenders were killed, this has more than doubled since 2010 when 32 were killed.

### **The Bilateral Investment Treaty with Colombia**

The Bilateral Investment Treaty (BIT) will give companies from the UK and Colombia investing in the other country a broad range of rights and protections. These include: the right to Fair and Equal Treatment, to compensation in case of direct and indirect expropriation and, in some cases, for there to be no capital controls on repatriation of their profits.

BITs are proving to be extremely problematic. They are often very vaguely worded, making it almost impossible to predict their impact. Interpretation is often left to three arbiters, usually commercial lawyers: John Ruggie, former UN Special Representative for Business and Human Rights said “the international arbiters are three contract lawyers who don’t give a damn about human rights obligations”. Arbitration happens through an ‘Investor-State Dispute Settlement’ mechanism (ISDS), which allows companies to challenge governments at private international tribunals, bypassing national courts. The drafting of the Colombia text lacks clarity which is likely to lead to litigation.

Irrespective of whether companies are successful in these cases, they cost countries money that they can ill afford, with legal fees often running into the tens of millions; Ecuador was recently ordered to pay Chevron nearly \$2 billion, Argentina is facing 43 cases to a potential total value of \$65 billion, many of which are based on its 1999 financial crisis. The overall number of cases in recent years has grown exponentially: to 568 by the end of 2013.

This system deters countries from making legitimate public policy decisions and can take precious funds away from vital public services. Whilst there is now strong international consensus to tackle the rise in business-related human rights abuses (under the 2008 Ruggie Framework), the nature of BITs means that they seriously restrict the ability of states to meet this challenge and to make legitimate policy decisions. There is also no international equivalent that can be used by communities to claim redress for the damage that some companies cause, nor are domestic companies able to access equivalent mechanisms.

### **Why this BIT must not be ratified**

There are strong moves on the part of the EU to reform investment treaties in an attempt to address some of the issues raised above. While current efforts fall far short of doing this, they are an improvement on the UK’s current approach. The UK-Colombia deal was agreed four years ago and therefore contains none of these reforms.

Given that the IMF and World Bank have recognised that BITs are not correlated with increased investment flows, it is not the case that this deal would increase investment into Colombia. Instead, it would expose Colombia’s government to increased investment arbitration cases and the associated costs, based on an outdated text, at a time when it needs to invest its resources in addressing its human rights and development issues.

This is an issue of growing public concern: many of your colleagues standing in the European elections will have received one of more than 106,000 campaign emails asking them to pledge to halt ISDS if they are elected.

### **What you can do**

Please raise a concern about this issue and request a debate as soon as possible.

Please do not hesitate to get in touch if you require further information.

Yours sincerely

Henry Adams

Further information:

UNCTAD (2013) recent developments in investor-state dispute settlement

[http://unctad.org/en/PublicationsLibrary/webdiaepcb2013d3\\_en.pdf](http://unctad.org/en/PublicationsLibrary/webdiaepcb2013d3_en.pdf)

UNCTAD (2014) recent developments in investor-state dispute settlement

[http://unctad.org/en/pages/newsdetails.aspx?OriginalVersionID=718&Sitemap\\_x0020\\_Taxonomy=Investment%20and%20Enterprise;](http://unctad.org/en/pages/newsdetails.aspx?OriginalVersionID=718&Sitemap_x0020_Taxonomy=Investment%20and%20Enterprise;)

Justice For Colombia - [www.justiceforcolombia.org](http://www.justiceforcolombia.org) AND ABColombia - <http://www.abcolombia.org.uk/>

The **Trade Justice Movement** c/o The Fairtrade Foundation, 3rd Floor, Ibex House. 42-47 Minories, London EC3N 1DY T: +44 (0)207 4407670 [www.tjm.org.uk](http://www.tjm.org.uk)