



Mr Hopkins  
26/11

International Division  
Inland Revenue,  
Somerset House,  
Strand,  
LONDON WC2.

(This page may be  
re-looked  
re-looked)

Britannic House  
1 Finsbury Circus  
London EC2M 7BA  
Switchboard: 071-496 4000

**Mike D. Whitear**  
Telephone: 071-496 5374

Steve  
For wife,  
Brian Colombini  
file.  
T62 30/11

23 November, 1992

Dear International Division,

Your Press Release of 30 September invited representations on possible tax treaties with a number of countries, and BP has interests in most of them. In some, they are relatively small - for example in the Ukraine - and we are content to leave it to you to negotiate terms which are as near as possible to the OECD model. Countries which are particularly important to BP are:

- Russia. I attach a separate paper which sets out our present involvement there; and the provisions which we would like to see in the tax treaty, drawn mainly from the new Russian/US treaty;
- Kazakhstan. We have had meetings with the Kazakhs to find out more about their tax system. I suggest we meet so that we can pass this on to you, and set out our concerns. The same goes for Azerbaijan, on which you have separately sought our views.
- Vietnam. We are working with British Gas on Vietnam - another country where the tax law is far from clear. We - or BGT - will write separately about this.
- Colombia. I understand that negotiations are likely to be delayed until 1993. I will write to you further about this country, shortly.

Yours sincerely,





Our ref: 13/4, 43/12/7,  
43/14/2, 43/15/5

Mr B Shepherd  
International Division  
Inland Revenue  
Somerset House  
London  
WC2R 1LB

cc Mr. Spence - for info - Customer Service!  
Mr. Fawcett  
Mr. Cook

Mr. Lawson

Mr. Jarvis

Mr. Webster

Mr. Reszeta

7 October 1992

Mr. Hopkins

*Colombus*

Dear Mr Shepherd

**DOUBLE TAXATION AGREEMENTS MEETING**

We were grateful for the opportunity to discuss a wide range of double taxation issues with you and your colleagues on 9 September.

It was for us a fruitful exchange and we look forward to learning of the outcome of the negotiations with Greece. It would also be most helpful if Inland Revenue were able to provide a note identifying the Business Profits Article as the basis for exemption (even if "empty") for Greek vessels of any flag in the UK, as we discussed.

There were several other issues on which it might be helpful if I were to confirm our position or interest:

**Saudi Arabia**

We would wish to see the OECD model shipping clause included in the proposed treaty. In the meantime, we would be grateful if you could confirm that the tax currently incurred by dry cargo operators in Saudi Arabia is eligible for unilateral relief.

The tax levied on foreign shipowners/operators earning export freight revenue on calls at Saudi ports is often referred to as an "export tax" but it is in fact an income tax raised under Royal Income Tax Decree of 2 September 1970. The income tax is charged on a deemed profit of 15% of gross earnings of dry cargo freight; it is not charged on oil cargoes. Apparently the rates of income tax are on a sliding scale starting at 25%. Accordingly the effective tax rate paid at the time of loading, or soon after by the local agent, on behalf of the shipowner is 3.75% of gross freight.

The Chamber of Shipping

2-5 Minories London EC3N 1BJ

Telephone 071-702 1100 Facsimile 071-626 8135 (Group 3)

The Chamber of Shipping Limited Registered in England No 2107383



Tanzania

We were pleased to learn of improved prospects for a resumed double tax treaty with Tanzania and would welcome any progress in this respect. Pending such developments we would be grateful if you would consider for unilateral relief the 5 freight tax which is currently incurred by British operators. This is assessed at 6.5% of all manifested freight on exports to the UK via Dar es Salaam and Tanga at a rate of 55%. The latter figure is intended to reflect the proportion of exports which is not transit cargo from neighbouring countries.

Colombia

Developments towards conclusion of a treaty with Columbia were most encouraging. As I mentioned, British shipowners are currently experiencing serious difficulties with regard to the interpretation of income tax regulations by the authorities. We would therefore wholly support the treaty being made retrospective, as you suggested might be possible in this instance.

Other areas of particular interest were Vietnam, and the possibility that you could have a quiet word with the Taiwanese when in Sydney. I will revert on both these subjects in due course.

Meanwhile, thank you for a useful meeting and for your various efforts in pursuing these matters.

Yours sincerely

*Baroline Boyle*

Miss J E M Udall  
International Policy

## **NEGOTIATION OF A DOUBLE TAXATION AGREEMENT WITH COLOMBIA**

We have provided the Colombian authorities with a draft of a proposed double taxation convention for initial consideration and are awaiting their response.

### **Background**

During the Prime Minister's recent visit to Colombia, President Gaviria asked that a double taxation agreement be concluded. The Prime Minister said that we would give this favourable consideration.

An initial draft together with some explanatory notes has been prepared by us and was forwarded to Colombia at the end of July. The draft supplied is not intended to pre-empt negotiations, but rather to serve as a base for discussion in conjunction with any draft the Colombians might wish to provide.

### **Line to Take**

We await a response and, if positive, will be happy either to host initial negotiations in London or for discussions to commence in Bogota.

**T G LAWSON**  
**International Division, Inland Revenue**  
**(GTN 3541) 6832**



MS E Boyles  
Latin America Department  
Foreign and Commonwealth Office  
King Charles Street  
London SW1A 2AH

6497

29 July 1992

**DOUBLE TAXATION: COLOMBIA**

I enclose four copies of a draft text for a comprehensive double taxation agreement in the United Kingdom's preferred form, as promised to you recently by Tom Lawson. Please retain one copy for yourself and pass the remainder to our Embassy in Bogota with the request that they, in turn, pass two copies to the relevant Colombian Ministry.

We understand that the Colombians will be looking to us for help in drawing up the eventual agreement. To this end I have appended to each draft a note explaining certain provisions in it. (The note should be handed over together with the draft). We shall, of course, be willing to answer any initial questions the Colombians may have.

When handing over the documents will the Embassy please thank the Colombians for their recent

approaches and explain that we have prepared a draft to indicate the kind of agreement we normally enter into. It should be emphasised that the draft is not intended to pre-empt negotiations but could usefully serve as a basis for discussions in conjunction with any draft that the Colombians themselves might wish to provide. We should be pleased to have a response and hear their proposals for negotiations.

If Colombia's response is positive, we shall be happy to host negotiations in London at an early date. Alternatively, we are willing to go to Bogota - in which case we would wish to combine the visit "back-to-back" with negotiations with another South American country.

For your and the Embassy's information, we have formally proposed negotiations with Chile and Argentina away from home in November this year. If either proposal proves impractical, that will create a "slot" for talks with Colombia. Failing that eventuality, we will not have the resources to support an expedition to Bogota until spring 1993.

The Prime Minister gave an account of his visit and of his impressions of President Gaviria. He thought it was amazing no British Prime Minister had previously been to Latin America. There was a disproportionate gain to be had from investment and the help we were giving the Colombians. He regretted that we were not able to do more e.g. on English language. Our help in the anti-drugs campaign had been tremendously effective and was greatly appreciated.

The Prime Minister said that BP should make a real effort to lay on something worthwhile for President Gaviria when he visits here next year e.g. a visit to one of their North Sea oil rigs.

P W FAWCETT

Mr. Carlos Jones said because of the small size of the Colombian bureaucracy they would look to us for help in drawing up, for instance, the double taxation agreement and the



② Mr Rusznick

(for Colombia file:

has the 2ft model  
gone yet: it was promised (of July)  
From the Private Secretary

CC Mr Lewis

Mr Sullivan

Mr Warden

John Shepherd



10 DOWNING STREET  
LONDON SW1A 2AA  
20 JUL 1992

Mr Fellgett  
FST, CST, PMG.  
Sir T. Burns, Mr Norick  
Mr Mountfield,  
Mr Robson, Mr Evans 1/P

PS/IR

Mr Shepherd

In case this does  
not reach you by another  
route, you will be  
interested in their  
comment.  
17 July 1992  
I have a copy because  
we briefed at surplus Act

WJF

MEETING BETWEEN THE PRIME MINISTER AND THE CHAIRMAN  
OF BP, THURSDAY 16 JULY

Thank you for your letter of 15 July with briefing for the call on the Prime Minister yesterday by the new Chairman of BP, Lord Ashburton and the Chief Executive, David Simon. Mr Garel-Jones was present.

It was not altogether clear why Lord Ashburton wished to call other than to preserve the meeting set up with his predecessor and to make his number with the Prime Minister.

Colombia

Both Lord Ashburton and Mr Simons expressed gratitude for the boost to their standing in Colombia which had been given by the Prime Minister's visit. They were grateful for the Protocol which had been agreed during the visit and for the impact which the visit had made on the Colombian attitude on tax issues. There had been a rise in import tax but considerably more modest than anticipated.

The Prime Minister gave an account of his visit and of his impressions of President Gaviria. He thought it was amazing no British Prime Minister had previously been to Latin America. There was a disproportionate gain to be had from investment and the help we were giving the Colombians. He regretted that we were not able to do more e.g. on English language. Our help in the anti-drugs campaign had been tremendously effective and was greatly appreciated.

The Prime Minister said that BP should make a real effort to lay on something worthwhile for President Gaviria when he came here next year e.g. a visit to one of their North Sea oil rigs.

Mr Garel-Jones said because of the small size of the Colombian bureaucracy they would look to us for help in drawing up, for instance, the double taxation agreement and the investment protection and promotion agreement which had been agreed in principle during the Prime Minister's visit.



INTERNATIONAL DIVISION

Ref: .....

FROM: J B SHEPHERD  
EXTN: 7019  
DATE: 14 JULY 1992

cc Mr Fawcett  
Mr Lawson  
Mr Hopkins  
Mr Reszetniak

Mr Spence

AIDE MEMOIRE - LATIN AMERICA

1. The 1992/3 Treaty Network Overview served to illuminate the intense commercial interest in Latin America and following discussion of branch operating plans 7 July you agreed that responsibility for Latin America (to include central America and the Caribbean basin) should switch to INT2 (Mr Fawcett) where it can be combined with the United States interest.
2. The logical pair of countries for back to back talks before the end of 1992 are Chile and Argentina. Both have had UK draft model agreements to study and both have now indicated their readiness to open negotiations. I have had personal discussions with the key players in each country and I suggest that I should now write to each of them introducing Peter Fawcett as my successor and seeking to set up talks during October.
3. Colombia is a lower order priority and we discussed this informally the other day. Since the Prime Minister's visit it has climbed a bit in political significance and we are sending a draft UK model agreement this month. Whether it will be feasible to open talks in 1992/3 depends to a considerable extent on their response.
4. Brazil continues to be the big prize: but it is not ripe for an immediate approach and what indications there are suggest that it will be a difficult nut to crack because of their continuing insistence on source state taxing right and their policy presumption in favour of going for matching credit for tax given up under the treaty. The weak way in which certain of our G6 partners have dealt with them doesn't improve our chances (Netherlands and France). But you and Mr Fawcett will want to review the tactics and prospects for a demarche perhaps in 1993/94. I do not have any direct contacts in Brazil, they are members of the United Nations Group of Tax Experts, but did not attend last Decembers meeting of that body.



5. On a high note, Guyana has this week signified that it is ready to sign the initialled treaty and WIAD and NTD/FCO are pulling out all the stops to get the treaty signed in Guyana this Summer. Together with the Falkland Islands protocol already on board we shall have some positive achievements to point to in the Autumn.

6. Mexico and Venezuela need to be prodded again for progress on the initialled drafts and letters from me introducing Peter Fawcett will provide a pretext.

*N.*

J B SHEPHERD

MR. SHEPHERD

We are committed to doing no more than exploring the question of a dta. Clearly, however, the FCO are expecting departments to progress matters fairly quickly. We should, therefore, set about preparing a draft text to send to Colombia. *Wellman* 25/6.

RESTRICTED

Mr Thompson, NCAD

From A R Murray, LAD  
Date 18 June 1992

cc Mr Dougal, Joint Directorate  
Mr Jones-Parry, ECD(E)  
Mr Tebbit, ERD  
Mr Williams (International Div, Inland Revenue) ✓  
Mr Bowder, DTI  
Mr Beamish  
Ms Boyles, LAD

*25/6.*

PRIME MINISTER'S VISIT TO COLOMBIA: 9-10 JUNE: FOLLOW-UP ACTION

1. You will have seen telegrams from Bogota reporting on the Prime Minister's visit (copies enclosed for ease of reference, including the text of the Joint Communiqué signed by the President and the Prime Minister). There are a number of points for follow-up action. I believe it is important that we should be able to point to progress on as many as possible before the proposed visits of the Home Secretary to Colombia in September, and of Foreign Trade Minister Santos to UK in October, and I should be grateful if the lead departments indicated could set things in motion accordingly.

Drugs

(a) President Gaviria said that Colombia would welcome further financial assistance in the drugs field (in the region of what she had received in 1989/91). The Prime Minister did not make a specific commitment but did promise continued support and cooperation. It was agreed that the Home Secretary would visit Colombia later in the year to examine the drugs problem and to evaluate the outcome of the British assistance programme thus far. (NCAD and Home Office).

(b) The Prime Minister proposed a discussion by experts on an agreement for confiscation of assets of drug traffickers. (ERD).

Trade

(c)(i) Trade preferences: President Gaviria pressed for an extension of the four year EC Special Cooperation Plan for Colombia. (ECD(E)).

(ii) Banana quotas: The Prime Minister, in response to Gaviria's pressure, asked the Colombians to provide a paper on the bananas issue, which he undertook to pass on to the EC Commission. (ECD(E)).

(iii) Coffee: Gaviria sought Britain's help over a new coffee agreement if possible by October. (ERD).



RESTRICTED

- 11
- (iv) The President and the Prime Minister agreed that consideration should be given to the formation of a bilateral trade facilitation group (Joint Directorate/DTI).
  - (v) President Gaviria proposed a Double Taxation Agreement; the Prime Minister said we would consider this. (ERD/Inland Revenue).
  - (vi) Investment: President Gaviria and the Prime Minister agreed that we would aim to produce an IPPA ready for signature in October. (Joint Directorate).
  - (vii) It was agreed that the Colombian Minister for Foreign Trade, Sr Santos should pay a visit to the UK in October (during which inter alia he would sign the IPPA). (Joint Directorate/DTI/LAD).

2. I should be grateful if recipients of this minute could set in motion the necessary follow-up work. I propose to review progress in about a month's time. We will need to move with despatch if we are to have something ready for the ministerial visits in September/October.

*A R Murray*

A R MURRAY  
LATIN AMERICA DEPARTMENT

pm.col.follow2

INTERNATIONAL DIVISION

Ref: .....

FROM: S M RESZETNIAK

EXTN: 6797

DATE: 4 June 1992

Mr Pritchard  
Statistics Office

**INTERNATIONAL DIVISION TREATY OVERVIEW PROJECT:  
SOUTH AMERICA AND FALKLANDS**

I should be grateful if you could kindly supply economic data (ie dividend etc flows to and from the UK) in relation to the following countries, with which double taxation negotiations are underway or in prospect. The listing represents something like our current order of priorities.

Mexico  
Venezuela  
Chile  
Ecuador  
Argentina  
Bolivia  
Colombia  
Uruguay  
Peru

With thanks for your assistance.

*Steven Reszetniak*

S M RESZETNIAK  
95 West



Mr Lawson

The only  
"rep" on  
Colombia

J B Shepherd Esq  
Inland Revenue  
International Division  
Somerset House  
London WC2R 1LB

(but BP  
expressing of  
interest)

Stage 3/2

Department of  
Trade and Industry

Kingsgate House  
66-74 Victoria Street  
London SW1E 6SW

Enquiries  
071-215 5000

Telex 8813148 DIHQ G  
Fax 071-931 0397

Direct line 071 215 5345

Our ref

Your ref

Date 8 May 1992

Dear Brian,

### DOUBLE TAXATION NEGOTIATIONS IN 1992/93

Thank you for sending to me a copy of your letter of 1st April to Roger Bone at the FCO on this subject.

We agree with your priorities for Latin America and we look forward to the conclusion of agreements with Mexico and Venezuela. Our next priorities would be Brazil, Chile and Argentina as you suggest. The UK has particularly large investments in Brazil and a growing presence in Chile and Argentina. One further priority is Colombia, which is one of our most promising markets in Latin America. (BP have invested and are about to invest significant amounts in the energy sector following their large oil find at Cusiana; there are many other investment opportunities in this and other sectors.) We support our Ambassador in La Paz's request for negotiations to begin with Bolivia, although perhaps in slower time, as Bolivia is a small market.

We support the continuation of negotiations towards a full treaty with Guyana. We also support the early conclusion of a double taxation agreement with Ghana. The recovery programme there remains on course, and the turn-around in Ghana's economic performance has become something of a model for others in Africa to follow. Attracting more foreign investment is an important part of Ghana's current economic policy strategy. As you will know we signed an IPPA with them last September and they are already members of MIGA. We see a double taxation agreement as the logical next step.

I understand that the negotiations with Malta (mentioned at the foot of page two of your letter) cover possible revisions to the existing agreement which have been initiated by the Inland Revenue.



## INVESTMENT PROMOTION AND PROTECTION AGREEMENTS (IPPAS)

By April 1992 the UK had signed 48 bilateral IPPAs of which 40 are now in force. We are currently negotiating agreements with over 30 other countries, mainly in Latin America, Africa, the Caribbean and Eastern Europe. The attached SITREP is both a position paper on outstanding negotiations as at the end of April and a record of the status of Agreements already signed and their extension to territories for whose international relations HMG is responsible.

INVESTMENT POLICY SECTION  
JOINT DIRECTORATE

## DISTRIBUTION:

Mr Crowe  
Mr Miles  
Mr Dougal, Joint Directorate  
Mr Grainger, Legal Advisers  
Mr Voysey, Joint Directorate  
Mr Siddiqi, Joint Directorate  
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SPD  
WAD  
WIAD  
Mr Pennell-Buck, ITP/2B DTI  
Mr P Wanless, H M Treasury  
Mr T West, ECGD  
Ms C Lunniss Bank of England  
Mr P Hopkins International Division, Inland Revenue

RECORD OF AGREEMENTS SIGNED TO DATE PLUS EXTENSIONS (ONLY)

Mr J Crozier, Division A, Home Office



closure status: Open  
IN CONFIDENCE

managed to hold an initial exchange of views with the Chileans in London on 10 April which resulted in a draft text that both sides need to study further. Further progress however also awaits Chilean Congressional ratification of IPPAs Chile has already signed.

#### COLOMBIA

The Post has been pursuing progress periodically since 1985. But in 1988 we were told our draft still presented legal problems which would require domestic legislation to resolve. The Colombians have however the latest model texts and during Mr Sainsbury's visit to Bogota in February this year, the Colombian Minister of Foreign Trade told him Colombia had to decide either to reach agreement on an IPPA alone, or have one to which other Andean Pack members would subscribe. We understand that the Colombians are about to draw up guidelines and draft their own model agreement.

#### COMOROS ISLANDS

Model text handed over in November 1985 when Comoran MFA pointed out that they had their own Code of Investment. Little prospect. Low priority.

#### CUBA

No recent evidence of any UK commercial interest in investment. No approach. None planned.

#### CYPRUS

In February 1983 Nicosia advised against an approach because there would be no advantage to either country. This was still the position in 1988. Trouble-free repatriation of capital suggests that relations are good enough without an IPPA.

#### DJIBOUTI

Following a lack of progress towards a multilateral convention through the Euro/Arab dialogue, a bilateral approach will be considered in due course. Low

IN CONFIDENCE

IP5ABI



COLOMBIA

Photo-copies attached!

Do they tax on a  
"territorial" basis  
ie should a DTA  
with them include  
"Subject to tax"  
provisions?

Sources: (1) IBFD - Taxation  
in Latin America  
(2) Ash David  
Williams

**a) Exempt persons**

The following are not considered taxable persons:

the national State, the departments, the intendancies and commissaries, the Special District of Bogotá, the

Foreign corporations and companies and non-resident individuals are subject to tax only on their Colombian-source income.

Foreign companies, for income tax purposes, are those which, in accordance with foreign laws and having



Group of Six - London April 1984

LATIN AMERICA	UK	FRANCE	GERMANY	NL	BELGIUM
BARBADOS	-	-	Following first round in December 1988 FRG cannot agree treaty unless International Business Companies are excluded. But this is unacceptable to Barbados.	-	-
BOLIVIA	-	-	Negotiations in prospect FRG has offered dates but no confirmation yet received.	-	-
BRAZIL	Still awaiting formal response to ICC document.	-	-	No movement from Brazil.	-
CHILE	No progress on prospect for talks.	1977 air and sea treaty ratified by France in March 1988.	No progress on prospect for talks.	-	-
COLUMBIA	-	No progress on prospect for air treaty.	Informal talks reveal no interest in DTA from Colombia.	-	-
ECUADOR	Air and sea negotiations continuing by correspondence. Progress is slow.	1986 initialled text now signed March 1989.	No progress.	-	No progress.
GUYANA	Comments now received on UK draft sent at Guyanan request. Guyana terminated existing treaty in 1971.	-	-	-	-
JAMAICA	-	-	First round in December 1988 following approach by Jamaica for re-negotiation of 1974 DTA. Agreement likely at second round. FRG moved marginally towards UN.	-	-
NETHERLANDS ANTILLES	Third round talks in June 1988 to secure new treaty with strong limitation of benefits article. Existing treaty terminated (along with Aruba) from April 1989.	-	-	-	Awaiting response from Netherlands Antilles.
OECS	No change. Still awaiting complete response from all members of OECS.	-	-	-	-
PERU	Still awaiting response to UK proposal for air and sea treaty.	-	-	-	-
TRINIDAD AND TOBAGO	-	Treaty takes effect from April 1989.	-	-	-





BRITISH EMBASSY  
Commercial Section  
Bogotá

ECO 106/2

28 January 1986

A PARDOE  
Inland Revenue  
Policy Division  
Somerset House  
London WC2R 1LB

*Dear Andrew,*

UK/COLOMBIA DOUBLE TAXATION CONVENTION

1. Thank you for your letter of 16 January. Although Colombia in the person of the Minister of Development, has come up with some ideas for the reform of Decisión 24 and now holds the Presidency of the Commission of the Cartagena Agreement, exercised by the Head of Incomex Dra. Nohra Rey de Marulanda, the Presidential meeting has not taken place and there have been no new developments. Whether anything will now happen in the Betancur Presidency is open to doubt.
2. As far as a limited agreement relating to air transport and shipping profits is concerned I have had a look at our 1978 papers (which have been heavily weeded). It is not clear from them whether the draft dated April 1978 which is on file was ever presented to the Colombians. I assume, however, from para 2 of your letter that it was — but did not meet with any response. I know that several countries (we have a copy of an agreement with Italy on file) have such agreement and I would be happy to propose to the Colombians that we offer them a revised draft. I suggest, however, that we do this after we have, we trust, successfully renegotiated the UK - Colombia Air Services Agreement, which was denounced by Colombia last year and which will be on the agenda for the forthcoming Anglo-Colombia talks over which our P.U.S. will lead for the U.K. in Bogotá on 19 February.
3. My German colleague has told me that although they have a limited agreement with Colombia over air transport and shipping profits they have made no progress over a general double taxation agreement (see my letter of 23 July 1985 to Miss King, TRED, FCO). President Betancur's planned visit to Bonn in November 1985 did not take place and the Germans are sceptical of any progress in the remaining months of his Presidency. They have also learned from their Embassy in Lima that neither double taxation nor investment protection and promotion appear to be very high on the Andean Pact's list of subjects for priority consideration with a view to relaxation.





page 2  
ECO 106/2  
28 January 1986  
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4. I must confess that I find this to be a very depressing subject —not least because there is a copy of a letter of ours, dated 10 March 1961, on file which talks about "the possibility of re-awakening the interest of the Colombian government in a double taxation agreement!" When did this saga begin?

*your friend*  
*[Signature]*  
R.W. JAMES

*BS. Since drafting the done I have seen  
from our 1981 file that the  
draft to the Colombians is November  
your year — but without any apparent  
response!*

C.C.: SAmD, FCO  
TRED, FCO

RWJ/php

*[Faint background text from another document:]*  
...and the ... Shipping have expressed  
... shipping line, ...  
... agreed schedule with ...  
... response from the ...  
... point to them. If their reaction is favourable ...  
... draft for consideration.

*[Faint handwritten notes:]*  
...  
... Pantoe





Inland Revenue  
POLICY DIVISION  
Somerset House  
London  
WC2R 1LB

Roger James Esq  
British Embassy  
Bogota  
Colombia

Telephone Enquiries 01-438 7583

Your reference

Our reference

Date

16 January 1986

Dear Roger

UK/COLOMBIA DOUBLE TAXATION CONVENTION

I refer to your letter to TRED of 28 February 1985 and would be grateful to know if the Presidential meeting you mentioned as being scheduled for later in 1985 has taken place and, if so, whether as a result there have been any developments on the double taxation front.

If it appears that little progress is likely as regards a comprehensive double taxation agreement, it would perhaps be appropriate to mention the possibility of a limited agreement relating solely to air transport and shipping profits. An agreement on these lines was put to the Colombians in 1978 but met with no response from them. It would take the form of an exchange of letters and provide for each country to exempt from its taxes the income, profits and capital gains derived from international transport by airlines and shipping companies of the other country. Where both sides are willing to enter into such an agreement it can normally be negotiated and brought into effect fairly quickly.

Both British Airways and the General Council of British Shipping have expressed interest in such an agreement - the Liverpool shipping line, Harrisons, operate a jointly agreed schedule with Flota Mercante Grancolombiana - and we would be interested in any response from the Colombians. Perhaps if a suitable opportunity arises you could put the point to them. If their reaction is favourable we will prepare a fresh draft for consideration.

Yours sincerely

Andrew Pardoe

PARDOE

SAMD, FCO



Mr T S Donaghy  
General Council of British Shipping  
30/32 St Mary Axe  
LONDON  
EC3A 8ET

7019

31 December 1985

Dear Tom,

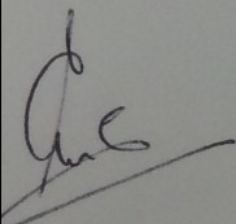
COLOMBIA

Thank you for your letter of 23 December.

As you know, we are not making much progress in getting talks going with the Colombians on a comprehensive agreement. However, in view of the services operated by the Harrison line and Flota Mercante Grancolombiana, there might perhaps be some scope for a limited agreement covering shipping and possibly air transport. We shall have some soundings made through the Embassy in Bogota but I would not wish to raise false hopes as experience suggests that the Colombian Ministry of Finance are not keen on double taxation agreements at present.

I will keep you informed of developments.

With best wishes for the New Year.



McGIVERN



POLICY DIVISION

From: E McGivern  
Date: 30 December 1985

Mr Pardoe

Please write to the desk and tell them about this joint shipping service with the Colombian line and ask the Embassy to approach the Ministry of Finance to see whether, pending decisions on the possibility of talks on a comprehensive agreement, they would be interested in a limited agreement giving reciprocal exemption for shipping and air transport profits. If so UK will prepare a draft.

*QMB*

E MCGIVERN  
30 December 1985

Keith

Could you please prepare a draft note for desk/post. We can discuss in my return next week.

A. 6/1/86

Telephoned Ruth Oglethorpe SAMD, FCO  
to ask if there was ~~for~~ any feedback  
from Bogotá on DT position. Ruth  
explained we were considering the possibility  
of a limited agreement & asked for her





Inland Revenue  
**POLICY DIVISION**  
Somerset House  
London  
WC2R 1LB

T S Donaghy Esq  
General Council of British Shipping  
30/32 St Mary Axe  
LONDON  
EC3A 8ET

Telephone Enquiries 01-438 6333

Your reference

Our reference

Date

6 August 1985

Dear Mr Donaghy,

You wrote to Eugene McGivern on 25 June about double taxation talks with Colombia. Mr McGivern is currently on leave and I am replying on his behalf.

You may remember that in October last year we notified representative bodies, in confidence, of impending discussions with Colombia on a comprehensive double taxation agreement. The Colombians have since indicated that they are not yet ready to begin talks and we are at present uncertain of their intentions. As far back as 1937 an approach was made to Colombia for a limited agreement covering profits from international transport, but this and subsequent approaches have met with no positive response. For our part we are keen to start talks, whether on a limited or comprehensive agreement, whenever the Colombians are ready and of course if there are any developments we will keep you informed.

Yours sincerely

J ALLEN



ECO 106/2

Miss J. M. King  
TRED  
FCO  
LONDON



BRITISH EMBASSY  
Commercial Section  
Calle 98 No 9-03, Piso 4  
Bogotá D. E.  
Tel 218 18 50

*Dear Miss King,*

23 July 1985

DOUBLE TAXATION AGREEMENT

1. Correspondence rests with my letter of 28 February. Not surprisingly perhaps, in view of para 2 of my letter,, we have heard nothing further from the MFA. My German colleague however took the opportunity of a recent speech by Sr. Dario Bustamante, Deputy Director of the National Planning Department, to raise the question of the importance to the potential German Investors not only of a Double Taxation Agreement but also of an investment promotion and protection agreement, German proposals for both having been presented to the Colombian Foreign Ministry. Dr. Bustamante said of course that the Colombians understood the German investors' concerns and would examine them sympathetically.

2. The reality of the matter is that the Germans have made no more headway than we have. At the 50th anniversary celebrations of the establishment of the Colombo German Chamber of Commerce several months ago the German Deputy Economic Minister told the Colombians that they hoped that a double taxation agreement could be signed when President Betancur visits the FGR in November. The German Embassy proposed to the Colombians a month ago that discussions should be held in Bonn in October. So far they have not received a reply. I will however keep in touch with my German colleague and let you know if he makes any progress. In view of the last sentence of my letter of 28 February he is not very optimistic !.

James



POLICY DIVISION

Note of telephone conversation

Whilst speaking to Way of British Airways on a separate matter I took the opportunity to enquire generally about S. America.

Way said they would be interested in having the ~~protected~~ protection of a DTA vis à vis Colombia. I said we would consider an approach but warned that past experience was not encouraging. Colombia had in the past expressed interest in a DTA from time to time but whenever we had responded positively the Colombians had subsequently backtracked, giving one excuse or another.

As regards Venezuela, Way said that when B Cal was flying there they (B Cal) had



not been taxed as they were actually  
operating aircraft. BA on the other hand  
been taxed on income generated by the  
ticket sales office - apparently not being let  
off as they were not operating aircraft to  
Colombia Venezuela. I said it seemed to  
me that, although our DTA with Venezuela  
is not in force, the Venezuelans may be  
applying its terms to air transport - we had  
heard of this from some of our counterparts  
in Europe. I asked Way to keep us informed  
& explained the present position regarding  
the DTA.

JK

15/7/65



Trade Relations and Exports Department  
Foreign and Commonwealth Office  
London



BRITISH EMBASSY  
Commercial Section  
Bogota

28 February 1985

ECO 106/1

IPPA / Double Taxation Agreement

My letter of 11 January refers. The Ambassador raised the question of both draft agreements when he called on Villegas, Secretary General MFA and Ordóñez, Under Secretary for Economic Affairs, on 27 February. As far as IPPA was concerned, Ordóñez said it would be very difficult to accept it as it stood and rehearsed some of the problems which had been pointed out to us last year by the National Planning Department. He said that Article 24 remained the greatest impediment to progress. As we knew President Betancur was taking a leading role in seeking revision. There would certainly be a meeting at Presidential level later this year at which this pressure would be maintained resulting, he hoped, in substantial progress. They had received a Presidential instruction however not to proceed with any bilateral talks until this meeting had taken place. The Ambassador asked whether, in view of Colombia's interest in attracting foreign investment, the relaxations which had been made in the past 15 months were Colombia's last word for the time being. Ordóñez thought that there were still possibilities of further relaxation within the current framework, although he did not make any specific proposals. Everyone in Colombian official circles however was convinced that more needed to be done to make Colombia more attractive to foreign investors. He did say that there was a strong undercurrent of opposition in Venezuela to relaxation and some doubt had been expressed as to whether it needed foreign investment at all.

2. As far as Double Taxation was concerned, Colombia was currently in the position of not being able to deviate from the model attached to Article 40 of the Cartagena Agreement (of which he promised us a copy). Again he hoped that progress would be made at the Presidential meeting. Until then he did not see any real point in opening discussions. The Germans have told us in this connection that they have been trying to negotiate an Agreement since 1966!

R.W. JAMES

cc. SAmD, FCO  
Mr. B. Kay, Inland Revenue ✓  
Mr. K.R. Timmins, OT4, DTI  
Mr. J. Metcalfe, Economic Advisers, FCO  
Mr. C.W. Osborne, Caracas  
Mr. N. Jaggers, Bank of England  
ECO 106/2  
ECO 102/3





ECO 106/3

B. Kay Esq,  
Inland Revenue  
Policy Division  
Somerset House  
London WC2R 1LB

BRITISH EMBASSY  
Commercial Section  
Bogotá

20 November 1984

UK/COLOMBIA DOUBLE TAXATION AGREEMENT.

*Dear Sir,*

1. Thank you for your letter of 26 October. I explained what had happened when we spoke on the telephone on 16 November. Again my apologies to our failure to take expeditious action. We have now sent the English text of the draft to MFA (a copy of our note is enclosed) and will follow up with an unofficial translation when, as I hope, we are able to improve on the one which we commissioned in August and which turned out to be defective.

2. The subject was not raised when Lady Young visited Bogotá recently. It was however mentioned by the former Colombian Ambassador in London, Sr. Espinosa Valderrama, in his resignation letter to President Betancur which was published on the local press on 7 October. He said "Formal talks on the possibility of reaching bilateral agreements on avoiding Double Taxation and providing adequate Guarantees for British Investment in Colombia will begin shortly".

3. I do not know exactly what problems the Colombians anticipated on arbitration and I think it best not to pursue this point at the present time. Keith Barratt however minuted as follows in a note on file dated 9 August.  
Quote" Based on my experience with ECGD-LBI/CARBOCOL loan, I see a little point in raising this issue with the Colombian authorities in that example, the matter of arbitration was indeed a key issue (even spending hours and hours on discussing a clause giving recourse to the "New York courts" and did this mean a court in New York City; or a Federal Court located in New York.....e argued by lawyers representing the two sides negotiating the agreement in concert with Ministry of Finance lawyers." Unquote.

R. James

cc; J. Ingamells, SAMD, FCO



LADY YOUNG'S VISIT TO COLOMBIA: 8-11 NOVEMBER 1984

DOUBLE TAXATION

1. Points to make

We are willing to open discussions to negotiate a double taxation agreement whenever the Colombians are ready. By laying down rules for the taxation of income flowing between Colombia and the UK, including provisions for the relief of double taxation, such an agreement would create a favourable climate for the development of trade and investment to the mutual benefit of our two countries.

2. Defensive points

None.

3. Background note

There is no double taxation agreement between the UK and Colombia. Previous approaches made to Colombia over the years on the possibility of negotiating either a comprehensive agreement (covering income and capital gains generally) or a limited agreement (covering profits from international transport) have until recently met with little or no response. But during Mr Channon's visit to Colombia in September 1983 the Colombians indicated some interest in an agreement and in May 1984 the Colombian Director of the Department of National Planning said they now wished to negotiate seriously with the UK. A draft text was prepared by Inland Revenue which could serve as a possible basis for negotiations and was passed to the Colombians by our Embassy in Bogata in August. A response awaited from the Colombian side.

[Note by Inland Revenue]



Miss King  
TRED

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Reference.....

Colombia  
IPPA

COLOMBIA

1. The teletype is not promising.
2. Broadly speaking the Colombians say
  - (a) that they could not accept the wide definition of 'investment'
  - (b) that under the Andean Pact and local law there are a number of restrictions on direct foreign investment (there could be some misunderstanding here about the requirements of the IPPA)
  - (c) that Colombia cannot give 'national treatment'
  - (c) that absolute freedom to repatriate capital and returns cannot be guaranteed (however as our model does not require absolute freedom further clarification is needed)
  - (e) that expropriation must be entirely governed by the Constitution of Colombia as opposed to governed by the rules in our IPPA
  - (f) that the Andean Pact prohibits States (in this case ECGD) being subrogated to the right of foreign investors
  - (g) that the Andean Pact prohibits the reference of disputes to any forum other than the local Courts except where it is shown that there has been a denial of justice
3. Any one of points (a), (c), (e), (f) and (g) would normally prevent our reaching agreement on an IPPA. DTI also objects strongly to wide restrictions in foreign investment (point (b)).

JR

2 November 1984

Jane Richardson  
Legal Advisers  
W44/3 233 5313





RESTRICTED  
Inland Revenue  
POLICY DIVISION  
Somerset House  
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Miss Greaves  
Room WH 324  
South American Department  
Foreign & Commonwealth Office  
King Charles Street

Telephone Enquiries 01-438 6333

Your reference

Our reference  
T1169/176/67

Date  
17 August 1984

Dear Miss Greaves

UK/COLOMBIA DRAFT DOUBLE TAXATION CONVENTION

You asked for a note of the differences between our draft and the Model Double Taxation Convention of the Organisation for Economic Cooperation and Development (OECD). Like many other developed countries we subscribe to OECD principles in negotiating double taxation agreements and our draft closely follows the OECD model. There are however some important differences:

Article 12 Royalties

OECD gives exclusive taxing rights to the country of residence: we prefer to extend limited rights to the country of source as being a more realistic approach in dealing with developing countries.

Article 13 Technical Fees

This article does not appear in OECD. It enables the country of source to tax regardless of there being a permanent establishment or fixed base in that country. Our current practice with particularly source-minded countries, as in South America, is to include such an article in our initial draft.

Capital Article

This article is omitted from our draft as we have no tax on wealth as such.

Article 23 Elimination of double taxation

We do not use the OECD article but prefer a more sophisticated version of the credit method (OECD Alternative B) which brings it into line with UK legislation.

You might like to note that there are minor differences in the following articles:



Article 2 Taxes covered, 3 General definitions,  
4 Fiscal domicile, 5 Permanent establishments,  
7 Business profits, 8 Shipping, 9 Associated enterprises,  
10 Dividends, 11 interest,  
14 Independent personal services, 19 pensions,  
22 Income not expressly mentioned, 24 Non-discrimination,  
25 Mutual agreement procedure, 27 Diplomats,  
28 Entry into force, 29 Termination.

I hope this is useful.

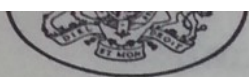
Yours sincerely,  
Keith Allen

K J ALLEN

K Allen

14/5/74





SW1A 2AH

Treasury Office

Telephone 01- 233-3673

Mr B Kay  
Policy Division  
Inland Revenue  
Somerset House  
LONDON WC2R 1LB

Your reference

Our reference

Date 16 July 1984

Dear Mr. Kay,

### COLOMBIA: DOUBLE TAXATION AGREEMENT

1. When Mr MacDonald of our Embassy in Bogota recently called on Sr Villegas, the Secretary General of the Colombian Ministry of Foreign Affairs, the question of a Double Taxation Agreement was discussed.
2. Mr MacDonald reports: "Villegas asked that careful note be taken of the need to provide a special clause on arbitration. This is always a particularly difficult point for Colombians. Villegas hoped that we might produce some novel proposal to get round this obstacle which he acknowledged as a Colombian one but as it is enshrined in their legislation the prospects of amendment are infinitesimal. I said that I would report but asked Villegas if he had any suggestions of his own to offer. He said he preferred not to at this stage.
3. I would be grateful for your comments.

Yours ever, Catherine Nettleton

C Nettleton (Miss)

South America Department

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## 1. GENERAL

A separate note on Double Taxation Agreements is attached. Broadly, the UK seeks, on a reciprocal basis, moderation of taxes on income flowing from one country to residents (companies and individuals) of the other. As regards developing countries the UK is prepared, in the context of an overall satisfactory agreement, to agree to give "matching credit" for tax spared by a partner country to encourage investment for development purposes. Frequently the tax laws of such countries provide tax holidays to encourage development in specific geographical or industrial areas. Under our domestic law unilateral relief is given by way of credit only for foreign tax actually paid. We are enabled however to give credit under a double taxation agreement for the tax spared by a partner country by way of pioneer relief as if it had actually been paid. This means that the benefit of the incentive flows through to the investor and is not frustrated.

## 2. PREVIOUS APPROACHES TO COLOMBIA

As far back as 1937 an approach was made to Colombia for a limited agreement covering profits from international transport only. These have been renewed from time to time and the possibility of a comprehensive agreement also mentioned but without positive response. More recently (1982) the Colombians gave us as a reason for deferring any discussions the fact that they were engaged in measures to review their fiscal policy: but they did not close the door to the possibility of an agreement.

## 3. LATEST DEVELOPMENTS

The matter was again raised during Mr Channon's visit to Colombia in September 1983 and the Colombian Vice Minister of Finance and Public Credit indicated that Colombia would be interested in an agreement. In May this year the Colombian Director of the Department of National Planning said that Colombia now wishes to negotiate seriously with the UK on a double taxation agreement.

Interested departments have been consulted and all are in favour of such an agreement: Inland Revenue also would wish to break into South America (we have no comprehensive agreement with any South American country). Inland Revenue is at present preparing a draft text to pass to the Colombian via the Embassy in Bogota with the proposal that negotiations should commence. The draft will show the Colombians the kind of agreement we have in mind and without pre-empting negotiations will serve as a basis for discussions. The Colombians will be invited to respond with their own draft if they so wish. The possibility of an agreement limited to international transport only (which is covered in a comprehensive agreement) will be held in reserve.



Present

Sr Jorge Ospina, Director, Department of National Planning  
Sr Manuel Vargas, Assistant Director, Proexpo, London

Mr H Owen )  
Mr J Woolf ) OT5

1 Sr Ospina said Colombia was on an investment promotion drive and had recently modified the rules of Decision 24 to attract more foreign investment. An Investors' Forum was being held in Bogota, 2 - 5 July, the first of a series. A list of projects on offer for capital or technology investment was available and it was hoped UK firms would be interested. The Proexpo office in London was the contact point for UK firms.

2 Mr Owen said the Department would be happy to publicise the forum via EIS and "British business" and asked if a short piece could be provided for publication. Sr Vargas undertook to do this. Mr Owen said LATAG could also be involved in publicising the event.

3 Mr Owen said that UK investment in Colombia had in the past been restricted by the terms of Decision 24 and that we welcomed the recent relaxation. However, the conclusion of an Investment Promotion & Protection Agreement and a Double Taxation Agreement would make Colombia more attractive to UK investors. An IPPA had last been discussed some 18 months ago, without further progress. Regarding a DTA, the UK understood Colombia was in favour of this but when the matter was last discussed there was a need to allow the passage of certain fiscal reforms to take place first.

4 Sr Ospina confirmed Colombia now wished to negotiate seriously with the UK on double taxation. To this end, it was agreed Mr Owen would write to the Inland Revenue and Sr Ospina would contact the Colombian Finance Ministry to put the two sides in touch.

5 Regarding IPPAs, Sr Ospina agreed with Mr Owen that there was a general reluctance in South America to negotiate these because of the objection to international law taking precedence over domestic regulations. However, the need to encourage foreign investment by offering protection to investors was recognised. Colombia was at present discussing with the USA a limited form of IPPA. Sr Ospina said he would write to Mr Owen in about a month to report the outcome of these discussions. In the light of any results, it might be possible to start talks on similar lines with the UK. Another route forward could be for the Andean Pact as a whole to consider changes in its rules to allow the signing of some form of IPPAs.

6 Mr Owen asked if such an approach to the Pact might be internal, ie by Colombia or external, ie by the EC. Sr Ospina thought Colombia was now ready to initiate discussions within the Pact but that these would be given added impetus if an approach was made by the Community. With Sr Ospina's agreement, Mr Owen undertook to draw to FCO's attention the possibility that a Community approach to the Pact on IPPAs could be timely.

J Woolf  
OT5/2b

30 May 1984