
UK – Andean Trade Agreement
Briefing
November 2021

UK – Colombia Trade

In May 2019 the UK and Colombia signed the UK-Andean Trade Agreement, rolled over from the pre-existing deal between the European Union and the Andean countries (Colombia, Ecuador and Peru). The TUC is concerned that the Colombian government is systematically violating commitments it made in the agreement to uphold human, labour, and trade union rights. The TUC and its sister union organisations in Colombia have serious concerns about the situation and believe the agreement should be suspended until human and labour rights are respected.

Commitments in the UK-Andean agreement:

Article 1 of the UK-Andean Trade Agreement¹ states 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 the Parties. Respect for these principles constitutes an essential element of this Agreement.'*

Article 269 commits both parties *'to the promotion and effective implementation in its laws and practice and in its whole territory of internationally recognised core labour standards as contained in the fundamental Conventions of the International Labour Organisation.'*

Section 3A recognises the duty of both parties to protect the right to freedom of association and effective collective bargaining.

The fundamental Conventions of the ILO stipulate freedom from forced labour and child labour, equal pay, freedom from discrimination at work, and:

'that workers shall enjoy adequate protection against acts of anti-union discrimination [...] Workers' and employers' organizations shall enjoy adequate protection against any acts of interference by each other [...] The convention also enshrines the right to collective bargaining'²

And further:

*"the rights conferred upon workers' and employers' organizations must be based on respect for [...] civil liberties ... and that the absence of these civil liberties removes all meaning from the concept of trade union rights."*³

However, there is no mechanism in the agreement to enforce these labour and human rights commitments – thus sanctions cannot be applied via the agreement for violations. However, the agreement does require governments to establish civil society monitoring bodies that involve unions, employers and other civil society groups - Domestic Advisory Groups – to monitor adherence to labour and human rights commitments. The UK government is currently developing plans to establish the Domestic Advisory Group in the UK.

The TUC is calling for the UK government to set up a process whereby it investigates and raises formal concern with the Colombian government if the Domestic Advisory Group raises a complaint about labour or human rights violations in Colombia.

TUC concerns

Colombia has a long and ongoing history of violating both human rights and labour rights. These violations take place within a context of legal impunity for violence against trade unionists and excessive police repression of democratic protest.

Since the UK-Andean agreement was worded, the Colombian state signed an internationally recognised peace agreement with the FARC in November 2016. The TUC regrets that the UK government did not consider the Colombian government's failure to uphold many of its obligations under the peace agreement while it was negotiating the UK-Andean trade agreement. Neither does the text of the UK-Andean agreement explicitly refer to the 2016 peace agreement. This is particularly concerning given that the UK holds the pen in the UN Security Council for the agreement.

Trade Union and Labour Rights

Colombia's appalling record on trade union freedom and labour rights has been a constant source of serious concern for trade unions and at the ILO. Unions in the US, EU and UK have opposed trade agreements with Colombia because of its ongoing abuse of trade union rights.

Key concerns include:

- Although interference with freedom of association is technically illegal under Section 200 of the Colombian penal code, Colombian trade unions have protested that there is *"complete impunity in relation to the enforcement of section 200 as there have been no convictions."*⁴ This is despite widespread abuses from employers and the government itself, as with a recent case of union-busting on Colombia's major air carrier.⁵
- According to the ITUC Global Rights Index, Colombia is the deadliest place in the world to be a trade unionist. Between March 2020 and April 2021, 22 trade unionists were murdered, up from 14 the previous year.⁶ Particularly at risk are schoolteachers and agricultural workers.⁷

- With over 3000 trade unionists murdered since 1971 there is considerable and justified fear of engaging in free collective bargaining, with only 3-5% of the population organised in trade unions.⁸
- According to the ILO, the Colombian state exploits laws designed to exclude 'essential services' from normal trade union organisation, including the right to strike, to restrict collective bargaining in sectors such as the oil industry and public transport.⁹
- The ILO currently has 22 open cases relating to restriction of collective bargaining in Colombia, including cases related to the murder of trade unionists and the arbitrary cancellation of trade union registration.¹⁰
- Under the pretext that a particular labour stoppage is illegal, companies can file for the formal dissolution of unions they are in dispute with, which the ILO has described as "an extreme form of interference", especially in cases where labour stoppages are only illegal as a result of laws in contravention of ILO standards.¹¹
- Colombia's major trade union federations, CUT and CTC, have raised protests over the use of illegal labour intermediation. Employers have been allowed to create fake 'unions' which act as employment agencies, with workers having no say over the terms and conditions imposed on them via these bodies. These contracts between employers and fake unions have proliferated within the healthcare sector and the government has repeatedly ignored official trade union demands to legislate against the practice.¹²
- The ILO has noted the impunity still enjoyed by those committing violence against trade union members, with only a tiny minority of cases resulting in successful prosecutions and investigations being limited to individual perpetrators and not instigators.¹³

Human Rights

The ILO recognises the fundamental link between trade union rights and human rights, in which the rights conferred to worker's organisations must be premised on respect for civil and political freedoms.¹⁴

Trade with Colombia takes place in the context of a human rights crisis in which there can be no meaningful discussion of labour standards outside the framework of the overall human rights situation.

Key concerns include:

- Social leaders and civil rights activists are under constant and extreme threat in Colombia. According to a recent Justice for Colombia report, more than 962 Human Rights Defenders have been killed in Colombia in the four-year period between 2017 and 2021¹⁵ - Indepaz reports 131 activists killed so far this year.¹⁶ There is also a particular danger to environmental activists, with 65 environmental defenders murdered in 2020 alone.¹⁷ A recent Amnesty International Report also documented the impunity with which violent crimes against civil society activists are committed.¹⁸

- The implementation of the 2016 peace agreement which ended the conflict between the FARC and the Colombian state has been put at risk by the failure of the current Government to meet its obligations, with numerous areas stalled including implementation of crucial chapters of the agreement dealing with the causes of the conflict on rural reform and political participation.¹⁹
- A staggering number of former FARC combatants have been assassinated - a total of 292 by September 2021, as documented by the UN Verification Mission.²⁰
- Colombia is experiencing a crisis of state sponsored violence, including gender-based violence. During national demonstrations between April and September 2021 there were over 7000 acts of police violence reported,²¹ leaving at least 44 protesters dead.²²
- Following the protests, the Inter American Commission on Human Rights made a working visit to Colombia and found that 113 acts of gender-based violence were documented. Of these cases, 112 allegedly involved the security forces, including 99 incidents against women and 13 against LGBT persons. The complaints include 27 cases of sexual violence, 5 incidents of forcible rape, and 22 incidents of groping.²³
- In March 2021, the UN High Commissioner for Human Rights reported that *"Colombia continues to face endemic violence ... In various parts of Colombia, there has been an intensification of violence and increased territorial and social control by non-state armed groups and criminal groups."* The report highlights the urgent need for the Colombian state *"to adopt a public policy to dismantle criminal organizations, including those referred to as successors of paramilitarism and their support networks, responsible for homicides and massacres against human rights defenders and leaders of social or political movements."*²⁴
- A key demand of Colombian trade unions and social organisations is for the government to meaningfully confront the killings of social leaders and trade unionists, which has been repeatedly documented in UN reports. After almost four years of government policy on this, a strategy to address this crisis has still not been fully articulated or implemented.

Government inaction

Despite the violations listed above which contravene the commitments the Colombian government has signed up to in the UK-Andean agreement, the UK government has failed to express concern to the Colombian government in this context.

A review of the treaty which took place between the UK and Colombian governments in July 2020 contained no reference to labour standards or trade union rights, neither did it reference the well documented violence against individual trade unionists and other civil society activists in Colombia.²⁵

Opposition to the EU-Andean Agreement

European trade unions have been vocal in their opposition to the EU-Colombia trade agreement²⁶ and the EU's own Implementation Assessment of the agreement concluded that serious and systematic breaches of labour and human rights still take place in Colombia, with increasing frequency.²⁷

Members of the European Parliament have expressed opposition to the agreement in open letters²⁸ and in the parliament itself.²⁹

Position of the TUC on UK-Andean Agreement

The TUC has joined the Colombian trade union centres CUT and CTC in a joint statement demanding the UK-Andean trade agreement is suspended until effective measures to ensure labour standards and human rights are observed and enforced.³⁰

However, while the trade agreement remains in place, it is vital that scrutiny and enforcement takes place with regards to human rights and labour standards. The TUC is also calling on trade envoys from both countries to engage with Colombian trade unions to monitor compliance with the terms of the agreement. As noted above, the TUC is calling for the UK government to set up a process whereby it investigates and raises formal concern with the Colombian government if the Domestic Advisory Group raises a complaint about labour or human rights violations in Colombia.

¹ <https://www.gov.uk/government/collections/uk-andean-countries-trade-agreement>

²

https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:55:0::NO::P55_TYPE,P55_LANG,P55_DOCUMENT,P55_NODE:CON,en,C098,%2FDocument

³ https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:70002:0::NO:70002:P70002_HIER_ELEMENT_ID,P70002_HIER_LEVEL:3942676,2

⁴ https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:4059852

⁵ https://www.ilo.org/dyn/normlex/en/f?p=1000:50001:0::NO:50001:P50001_COMPLAINT_FILE_ID:3935058

⁶ <https://www.globalrightsindex.org/en/2021/countries/col>

⁷ <https://www.theguardian.com/global/2019/jul/12/colombia-must-curb-anti-union-violence>

⁸ <https://justiceforcolombia.org/news/with-22-murders-colombia-is-again-worlds-deadliest-country-for-trade-unionists/>

⁹ https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100_COMMENT_ID:4059852

¹⁰ https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:4058028

¹¹ https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:4059852

¹² https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:4058028

¹³ https://www.ilo.org/dyn/normlex/en/f?p=1000:50002:0::NO:50002:P50002_COMPLAINT_TEXT_ID:4081818

¹⁴ http://white.lim.ilo.org/qvilis_world/english/infobd/l_intro.html

¹⁵ <https://justiceforcolombia.org/wp-content/uploads/2021/10/Silenced-Social-Leaders.pdf>

¹⁶ <https://www.hrw.org/report/2021/02/10/left-undefended/killings-rights-defenders-colombias-remote-communities>

See also:

<http://www.indepaz.org.co/lideres-sociales-y-defensores-de-derechos-humanos-asesinados-en-2021/>

¹⁷ <https://www.globalwitness.org/en/campaigns/environmental-activists/last-line-defence/>

¹⁸ <https://www.amnesty.org/en/location/americas/south-america/colombia/report-colombia/>

¹⁹ <https://colombiapaceobservatory.files.wordpress.com/2020/12/peace-monitor-report-winter-2020-2021-1.pdf>

²⁰ https://colombia.unmissions.org/sites/default/files/ingles_infografia_informeseptiembre_2021.pdf

²¹ <https://justiceforcolombia.org/news/police-committed-7394-violent-acts-against-protesters-say-human-rights-groups/>

See Also:

<https://www.temblores.org/comunicados>

²² <https://www.theguardian.com/global-development/2021/aug/02/colombians-mourn-after-deadly-protests-as-amnesty-cites-unlawful-repression>

²³ https://www.oas.org/en/iachr/reports/pdfs/ObservacionesVisita_CIDH_Colombia_ENG.pdf

²⁴ <https://reliefweb.int/report/colombia/situation-human-rights-colombia-report-united-nations-high-commissioner-human-0>

²⁵ <https://www.gov.uk/government/news/united-kingdom-colombia-trade-dialogue-a-new-relationship-for-a-new-world>

²⁶ <https://www.etuc.org/en/pressrelease/trade-unions-united-opposing-eu-colombia-peru-trade-agreement>

²⁷ [https://www.europarl.europa.eu/RegData/etudes/STUD/2018/621834/EPRS_STU\(2018\)621834_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2018/621834/EPRS_STU(2018)621834_EN.pdf)

²⁸ <https://www.oidhaco.org/en/members-of-the-eu-parliament-send-out-letter-to-colombian-president-on-the-situation-of-human-rights-and-peace-in-colombia/>

²⁹ <https://justiceforcolombia.org/news/politicians-urge-suspension-of-european-commerce-with-colombia-over-human-rights-violations/>

³⁰ <https://www.tuc.org.uk/uk-and-colombian-trade-unions-call-uk-andean-agreement-be-suspended-until-human-and-workers-rights>