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From: [Redacted]  
 Sent: 21 December 2012 16:09  
 To: [Redacted]  
 Cc: Kate Smith [Redacted]  
 [Redacted] Corin Robertson [Redacted] Fiona [Redacted]  
 Clouder [Redacted]  
 Subject: RE: PROTECT: BOLIVIA: Nationalisation of Malkhu Khota mine - UK Investment Treaty  
 Attachments: uk-bolivia\_bit.pdf

I lead on BITs in BIS and will try to answer some of the questions raised below.

As you will see from Article 13 of the attached, the UK-Bolivia BIT has a 20 year 'sunset clause'. This means that any covered investments will continue to be covered for 20 years after the Bolivians revoke the BIT.

[Redacted]

I'm afraid I don't have a database of cases brought under UK BITs, though I know there was a case brought by a UK company against Bolivia in 2010. People in Post are probably better placed to provide information on previous uses of the UK-Bolivia BIT.

The impact of the revocation of the BIT on UK businesses would be that new investors would not have access to international arbitration (and would therefore have to rely on domestic courts) and would not be protected by the strong investment protection standards of the UK-Bolivia BIT.

[Redacted] Existing investors would, as explained above, continue to be covered by the terms of the BIT for 20 years. It is clearly in UK businesses' interests for the BIT to remain in force but if the Bolivians wish to terminate it, there is nothing we can do about it aside from trying to convince them not to...

Hope that helps. Happy to discuss further, though I'm on leave from now until 7th January.

[Redacted] | EU Investment Policy | Department for Business, Innovation and Skills |  
 [Redacted] | 1 Victoria St, London SW1H 0ET | [Redacted]

From: [Redacted]  
 Sent: 21 December 2012 14:54  
 To: [Redacted]  
 Cc: Smith Kate [Redacted]  
 [Redacted] Robertson Corin [Redacted] Clouder [Redacted]  
 Fiona [Redacted]

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**Subject:** RE: PROTECT: BOLIVIA: Nationalisation of Malkhu Khota mine - UK Investment Treaty

/all,

I've spoken to Kate about this, we wondered if there was a little more information on the BIT...

Do we know if it has been used successfully for similar purposes since it was signed in '92? What would the revocation of the treaty by the Bolivians mean for the company and its attempts to seek redress? Perhaps more importantly what would the impact be on UK businesses now and in the future?

– Do you have a copy of the treaty?

Thanks,

Venezuela and Bolivia Desk Officer | South America Department | Foreign and Commonwealth Office | King Charles Street | London | Email: | Telephone: | Fax:

**From:**

**Sent:** 19 December 2012 21:55

**To:**

**Cc:** Kate Smith

Corin Robertson

Hona Clouder

**Subject:** RE: PROTECT: BOLIVIA: Nationalisation of Malkhu Khota mine - UK Investment Treaty

Thanks for the update and other email you forwarded yesterday. I spoke with the Canadian Foreign Affairs Department's

Thanks.

Trade and Economic Advisor, British High Commission  
80 Elgin Street, Ottawa, Ontario, K1P 5K7

(Phone)  
(FTN)

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**From:** [REDACTED]  
**Sent:** 17 December 2012 16:11  
**To:** [REDACTED]  
**Cc:** Kate Smith [REDACTED]  
[REDACTED] **Corin Robertson** [REDACTED] **Fiona Clouder** [REDACTED]  
**Subject:** RE: PROTECT: BOLIVIA: Nationalisation of Mallkhu Khota mine - UK Investment Treaty

[REDACTED]

Following a letter from South American Silver to the Bolivians in which they referenced the company's rights under the UK-Bolivia Bilateral Investment Treaty, [REDACTED] from South American Silver in Vancouver called me today with an update.

[REDACTED]

[REDACTED] I said that whilst we did not need to know the content of any discussions, we would appreciate a heads up when the UK Treaty is discussed – and if in due course the company chooses to move to international arbitration.

In late October, the Bolivian MFA formally requested a copy of the diplomatic notes extending the UK Treaty to Bermuda (where Canadian South American Silver is registered). Aside from this, the Bolivians have made no mention of South American Silver to us, nor have they indicated a desire to speed up the formal renunciation of our Bilateral Investment Treaty (although we know they intend to do so, in line with a decision to tear up all Bilateral Investment Treaties considered incompatible with the 2009 Constitution).

We will continue to [REDACTED] monitor the situation, but it would be useful in due course to have a steer from the Department on whether we would be expected to do anything more in the event of a claim under the UK Treaty. [REDACTED]

[REDACTED]

Please let us know if you hear anything further, and all the best for the holidays.

[REDACTED]

[REDACTED]  
Deputy Head of Mission  
British Embassy La Paz

Tel: [REDACTED]  
Fax: [REDACTED]  
FTN: [REDACTED]  
[www.gov.uk/fco](http://www.gov.uk/fco)  
Twitter: @ukinbolivia

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**From:** [REDACTED]

**Sent:** 13 August 2012 17:36

**To:** [REDACTED] **Fiona Clouder**

**Cc:** Kate Smith

[REDACTED] **Corin Robertson**

**Subject:** RE: PROTECT: BOLIVIA: Nationalisation of Mallkhu Khota mine - UK Investment Treaty

[REDACTED]

As promised, I spoke today with [REDACTED] the Canadian Department of Foreign Affairs (DFAIT).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

If you need anything else, don't hesitate to let me know.

Best,

[REDACTED]

[REDACTED]  
Trade and Economic Advisor, British High Commission  
80 Elgin Street, Ottawa, Ontario, K1P 5K7

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[REDACTED]

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**From:** [REDACTED]  
**Sent:** 03 August 2012 12:20  
**To:** [REDACTED] Fiona Clouder  
**Cc:** Kate Smith [REDACTED]  
[REDACTED] Corin Robertson  
**Subject:** RE: PROTECT: BOLIVIA: Nationalisation of Mallkhu Khota mine - UK Investment Treaty

Fiona

The Bolivian government passed a Supreme Decree last night nationalising the mine and handing over control to state mining company COMIBOL. The Decree states that the total sum of investment made by Mallkhu Khota will be determined via independent valuation within 120 days, and that COMIBOL will compensate the company accordingly.

This has been followed by [REDACTED] comments from the Minister of Mining Mario Virreira, who said that the Bolivian government does not have an agreement with the Canadian South American Silver, but rather with Mallkhu Khota (the Bolivian company). [REDACTED]

[REDACTED]

It is for the Canadians to determine next steps, but I am copying to Ottawa so they can make initial contact there and ask to be kept informed (although there is a Canadian cooperation office here, the Canadian Ambassador for Bolivia covers from Lima). Depending on the results of the valuation, arbitration may well follow, at which point their only recourse to international arbitration will be via our Investment Treaty because of the Bermuda link. [REDACTED]

Best

[REDACTED]

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**From:** [REDACTED]  
**Sent:** 03 August 2012 11:57  
**To:** Fiona Clouder [REDACTED]  
**Cc:** Kate Smith [REDACTED]  
[REDACTED]  
**Subject:** PROTECT: BOLIVIA: Nationalisation of Mallkhu Khota mine - UK Investment Treaty

Fiona,

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You will want to be aware. BE La Paz was visited earlier in the week by the CEO of Canadian mining company South American Silver Corp – Phillip Brodie-Hall. The company had seen its operating licence revoked in Bolivia following a conflict with local social groups in relation to its large silver mine – Mallkhu Khota. The Bolivian government then announced yesterday that it was fully nationalising Mallkhu Khota.

It transpires that a subsidiary (South American Silver Ltd) had the concession to operate Mallkhu Khota, and that the subsidiary is registered in Bermuda. The CEO told Post that as Canada does not have a bilateral investment treaty with Bolivia, their interests are covered by the UK-Bolivia Investment Treaty currently in force. Therefore their only recourse to international arbitration, should they choose to go down that route, would be via the UK-Bolivia BIT. FCO legal advisors have looked at the BIT, and confirm that it does indeed extend to Bermuda.

When the Bolivian government came into power, it stated its intention to tear up all bilateral investment treaties and re-negotiate them, though has been slow to actually do so.

You should also be aware that there was a significant amount of violence at Mallkhu Khota.

Post are in touch with our High Commission in Ottawa, and will continue to engage with Phillip Brodie-Hall on the Canadians' plans. Any decision by Canada to file a claim is likely to take time.

Happy to discuss further as needed. We will keep you updated.

Many thanks

Desk Officer for Venezuela and Bolivia | South America Department WH2.323 | Foreign & Commonwealth Office | London SW1A 2AH | email: | telephone: | fax: | ftn: | url: [www.fco.gov.uk](http://www.fco.gov.uk)

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**From:** [REDACTED]  
**Sent:** 18 December 2012 13:47  
**To:** [REDACTED] **Corin Robertson**  
**Cc:** [REDACTED]  
**Subject:** RE: South American Silver  
**Security Label:** PROTECT

Thanks [REDACTED] I had a brief email exchange with the [REDACTED] yesterday at the Cdn Dept of Foreign Affairs. I'm suppose to follow-up today, so will let you what I hear.

-Mark

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**From:** [REDACTED]  
**Sent:** 18 December 2012 08:37  
**To:** [REDACTED] **Corin Robertson**  
**Cc:** [REDACTED]  
**Subject:** FW: South American Silver

[REDACTED] Corin,

To be aware we are keeping the Canadians in the loop locally.

Best,

[REDACTED]

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**From:** [REDACTED]  
**Sent:** 18 December 2012 09:29  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** FW: South American Silver

Please see the below email from the British DHOM (also copied in this message) regarding her recent contact with SAS.

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**From:** [REDACTED]  
**Sent:** December 17, 2012 4:34 PM  
**To:** [REDACTED]  
**Subject:** South American Silver

[REDACTED]

[REDACTED] of South American Silver called me today from Vancouver to update me on the situation, as the company sent a letter to the Bolivians in October in which they mentioned the UK bilateral investment treaty. [REDACTED] at the Bolivian MFA has since asked us for copies of the paperwork which proves the UK-Bolivia Treaty is valid in Bermuda, where South American Silver are registered.

I told [REDACTED] that whilst we do not of course need to be involved in any commercially sensitive discussions, we would appreciate a heads-up if and when our Treaty is discussed or likely to be invoked. [REDACTED] offered to send me their open source news round-up. Otherwise we await the company's decision on next steps.

I would be grateful if you could copy this email to your Embassy in Peru.

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Thanks

[REDACTED]

[REDACTED]  
Deputy Head of Mission  
British Embassy La Paz

Tel: [REDACTED]  
Fax: [REDACTED]  
FTN: [REDACTED]  
[www.gov.uk/fco](http://www.gov.uk/fco)  
Twitter: @ukinbolivia

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**From:** [redacted]  
**Sent:** 05 October 2012 15:00  
**To:** [redacted]  
**Cc:** [redacted]  
**Subject:** RE: More problems at Mallku Khota

<b>Tracking:</b>	<b>Recipient</b>	<b>Delivery</b>	<b>Read</b>
	[redacted]	Delivered: 05/10/2012 15:00	Read: 05/10/2012 15:00
	[redacted]	Delivered: 05/10/2012 15:00	
	[redacted]	Delivered: 05/10/2012 15:00	Read: 05/10/2012 15:24

**Security Label:** PROTECT

Nothing so far. I imagine they are trying to negotiate something [redacted] Going to international arbitration to obtain compensation is usually the last step.

**From:** [redacted]  
**Sent:** 05 October 2012 09:35  
**To:** [redacted]  
**Cc:** [redacted]  
**Subject:** RE: More problems at Mallku Khota

Thank you for the update on this. Do keep us informed of any further developments.

Have you heard anything further about the potential for Canada to seek compensation for Mallku Khota's nationalisation through the UK-Bolivia BIT?

Thanks

[redacted] | Desk Officer for Venezuela and Bolivia | South America Department WH2.323 | Foreign & Commonwealth Office | London SW1A 2AH | email: [redacted] | telephone: [redacted] | fax: [redacted] | ftn: [redacted] | url: [www.fco.gov.uk](http://www.fco.gov.uk)

**From:** [redacted]  
**Sent:** 04 October 2012 16:13  
**To:** [redacted]  
**Cc:** [redacted]  
**Subject:** More problems at Mallku Khota

Just when things seemed to getting quieter in the mining sector, trouble has flared up again at the Mallku Khota mine in north Potosi. At least three people were injured in a gunfight yesterday between members of communities who support development of the mine (which they would like to see run by Comibol but with the participation of South American Silver) and those who reject it (a minority, but a violent and so far successful minority). The former group have occupied around half the mine, while the opposing group are camped just a hundred metres from them. More trouble is likely.

Those in favour of the mine's development are also demanding that 1,000 people are taken on as salaried miners.



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TSX Symbol: SAC  
 US OTC: SOHAF  
 NEWS RELEASE: 12-22

### South American Silver Provides Update on Bolivian Investment Dispute

**December 12, 2012, Vancouver, British Columbia** — South American Silver Corp. (TSX: SAC, US OTC: SOHAF) is pleased to provide this update on some of the steps taken recently in the investment dispute between the Company's wholly-owned subsidiary South American Silver Limited and the Plurinational State of Bolivia. The dispute arose as a result of acts and omissions of the Government of Bolivia including the issuance of Supreme Decree No.1308 on August 1, 2012, revoking all of the mining concessions held by Compañía Minera Malku Khota S.A. (CMMK). CMMK is a wholly owned subsidiary of South American Silver Limited, which is a protected investor under the Bilateral Investment Treaty between the United Kingdom and Bolivia (the "UK-Bolivia Treaty"). The acts and omissions of the Bolivian Government are in violation of the UK-Bolivia Treaty and of international law.

On July 16, 2012 the Company engaged the international law firm, King & Spalding LLP, to act as lead legal counsel in any international arbitration proceedings against Bolivia. King & Spalding is a leading law firm with extensive experience in investor-state arbitrations, particularly in South America.

On August 2, 2012, on the recommendation of King & Spalding, the Company engaged one of Bolivia's leading law firms to act as co-counsel to King & Spalding. The firm also has extensive experience in investor-state arbitration as well as special expertise in Bolivian and international law.

On September 13, 2012 the Company retained a leading global financial advisory firm to provide expert services to assess the damages suffered by the revocation of CMMK's mining concessions. The firm has vast experience as a damages expert in international arbitrations and has special expertise in mining-related cases.

On October 23, 2012 South American Silver Limited delivered a formal letter to the Bolivian Government notifying it of the investment dispute under the UK-Bolivia Treaty. Notification of the investment dispute triggered a six-month cooling-off period during which the disputing parties may negotiate a settlement. The cooling-off period expires on April 23, 2013.

On December 12, 2012, South American Silver Limited delivered a formal letter to the Bolivian Government reiterating its willingness to meet with Bolivian Government representatives in order to settle the dispute.

Phillip Brodie-Hall, President and CEO of South American Silver said, "We are hopeful that the Government of Bolivia will agree to meet in order to negotiate an early settlement to the dispute. However, if a settlement cannot be reached by April 23, 2013, we will be filing a Notice of Arbitration under the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL) claiming full compensation based on fair market value of the Malku Khota project. Given the size of the project, the claim will be substantial. Indeed, as recently as December 11, 2012, Edgar Alan Pinto, the President of the Bolivian state-owned mining corporation (COMIBOL), was quoted in the Bolivian Press describing the project as one of the most attractive on the South American continent because of its high concentration of silver, indium, gallium and gold."

This News Release and other information related to the investment dispute can be found on the Company's website [www.soamsilver.com](http://www.soamsilver.com). The website will be updated to keep investors informed of progress and developments in the dispute.