

# Colombia

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RISK & COMPLIANCE REPORT

DATE: March 2017

<b>Executive Summary - Colombia</b>	
<b>Sanctions:</b>	None
<b>FAFT list of AML Deficient Countries</b>	No
<b>Higher Risk Areas:</b>	US Dept of State Money Laundering Assessment Not on EU White list equivalent jurisdictions Failed States Index (Political Issues)(Average Score) International Narcotics Control Majors List
<b>Medium Risk Areas:</b>	Corruption Index (Transparency International & W.G.I.) World Governance Indicators (Average Score)
<p><b>Major Investment Areas:</b></p> <p><b>Agriculture - products:</b> coffee, cut flowers, bananas, rice, tobacco, corn, sugarcane, cocoa beans, oilseed, vegetables; shrimp; forest products</p> <p><b>Industries:</b> textiles, food processing, oil, clothing and footwear, beverages, chemicals, cement; gold, coal, emeralds</p> <p><b>Exports - commodities:</b> petroleum, coal, emeralds, coffee, nickel, cut flowers, bananas, apparel</p> <p><b>Exports - partners:</b> US 39.4%, Spain 5.1%, China 4.9%, Netherlands 4.3% (2012)</p> <p><b>Imports - commodities:</b> industrial equipment, transportation equipment, consumer goods, chemicals, paper products, fuels, electricity</p> <p><b>Imports - partners:</b> US 30.2%, China 11.5%, Mexico 10.3%, Brazil 5.2% (2012)</p>	

**Investment Restrictions:**

Foreign investors face exceptions and restrictions in the following sectors: television concessions and nationwide private television operators, radio broadcasting, movie production, maritime agencies, national airlines, and shipping. Portfolio investment in financial, hydrocarbon, and mining sectors are subject to special regimes, such as investment registration and concession agreements with the Colombian government, but are not restricted in the amount of foreign capital permitted.

Prohibition on any foreign ownership interest in commercial ships licensed in Colombia. Restrictions on the the percentage of FDI in maritime entities to 30 percent, and foreign ownership in national airline or shipping companies to 40 percent.

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## Section 1 - Background

Colombia was one of the three countries that emerged from the collapse of Gran Colombia in 1830 (the others are Ecuador and Venezuela). A nearly five-decade long conflict between government forces and anti-government insurgent groups, principally the Revolutionary Armed Forces of Colombia (FARC) heavily funded by the drug trade, escalated during the 1990s. More than 31,000 former paramilitaries had demobilized by the end of 2006 and the United Self Defense Forces of Colombia as a formal organization had ceased to function. In the wake of the paramilitary demobilization, emerging criminal groups arose, whose members include some former paramilitaries. The insurgents lack the military or popular support necessary to overthrow the government, but continue attacks against civilians. Large areas of the countryside are under guerrilla influence or are contested by security forces. In October 2012, the Colombian Government started formal peace negotiations with the FARC aimed at reaching a definitive bilateral ceasefire and incorporating demobilized FARC members into mainstream society and politics. The Colombian Government has stepped up efforts to reassert government control throughout the country, and now has a presence in every one of its administrative departments. Despite decades of internal conflict and drug related security challenges, Colombia maintains relatively strong democratic institutions characterized by peaceful, transparent elections and the protection of civil liberties.



## Section 2 - Anti – Money Laundering / Terrorist Financing

### FATF status

Colombia is not on the FATF List of Countries that have been identified as having strategic AML deficiencies

### Compliance with FATF Recommendations

The last Mutual Evaluation Report relating to the implementation of anti-money laundering and counter-terrorist financing standards in Colombia was undertaken by the Financial Action Task Force (FATF) in 2008. According to that Evaluation, Colombia was deemed Compliant for 19 and Largely Compliant for 21 of the FATF 40 + 9 Recommendations. It was Partially Compliant or Non-Compliant for 1 of the 6 Core Recommendations.

### US Department of State Money Laundering assessment (INCSR)

**Colombia is categorised by the US State Department as a Country/Jurisdiction of Primary Concern in respect of Money Laundering and Financial Crimes.**

#### OVERVIEW

Despite the Government of Colombia's fairly strict AML regime, the laundering of money, primarily from Colombia's illicit drug production and illegal mining but also from domestic terrorist groups, continues to penetrate its economy and affect its financial institutions. Colombia is taking appropriate steps by addressing some of the inefficiencies in its asset forfeiture regime and should continue to look for additional ways to increase efficiency and streamline an overly cumbersome judicial system. The Colombian government should find legal and administrative mechanisms to address the lack of interagency cooperation, which continues to hamper the government's progress in implementing an effective and efficient AML regime.

#### VULNERABILITIES AND EXPECTED TYPOLOGIES

The postal money order and securities markets; the smuggling of bulk cash, gasoline, liquor, and household appliances; wire transfers; remittances; TBML; casinos, games of chance, and lotteries; electronic currency; prepaid debit cards; and prepaid cellular minutes are various techniques used to launder illicit funds. Trading of counterfeit items is another method used to launder illicit proceeds. The 104 FTZs in Colombia are vulnerable due to inadequate regulation, supervision, and transparency.

Criminal organizations smuggle merchandise to launder money through the formal financial system using trade, the non-bank financial system, and the black market peso exchange mechanism. Purchased goods are either smuggled into Colombia via neighboring countries or brought directly into Colombia's customs warehouses, avoiding taxes, tariffs, and customs duties. Counterfeit and smuggled goods are readily available in well-established black markets. Invoice-related TBML schemes are also used to transfer value. Evasion of the normal customs charges is frequently facilitated by the complicity of corrupt customs authorities.

Money laundering also occurs through regionally-run lotteries, called "Chance," which are easily exploitable due to weaknesses in the reporting system of these games to central government regulators.

## **KEY AML LAWS AND REGULATIONS**

The AML legal regime and regulatory structure in Colombia generally meets international standards, and Colombia has enacted comprehensive CDD and STR regulations. Enhanced due diligence for PEPs is required.

Colombia cooperates with the United States in money laundering investigations, and exchange of information occurs regularly. In November 2016, Colombia and the United States signed a new asset sharing agreement. Recently, the Colombian legislature began considering changes to its 2014 Asset Forfeiture Reform Law, which would address some of the deficiencies in the current law and streamline the administrative and judicial processes of the asset forfeiture regime.

Colombia is a member of the GAFILAT, a FATF-style regional body.

## **AML DEFICIENCIES**

Key impediments to developing an effective AML regime are underdeveloped institutional capacity, limited interagency cooperation, and an inadequate level of expertise in investigating and prosecuting complex financial crimes. The lack of interagency cooperation, a reluctance to share information, and bureaucratic stove-piping are factors that continue to limit the effectiveness of Colombia's AML regime. Despite improvements, regulatory institutions have limited analytical capacity and tools and lack the technology to effectively utilize the vast amount of available data.

COLJUEGOS, the gaming supervisor, continues to make limited gains by adding analytic capacity. However, the agency still suffers from a lack of resources, unfamiliarity with how to process and share information with prosecutors and judicial police, and a lack of information-sharing agreements with other regulatory and intelligence agencies.

Colombian law restricts the disclosure of financial intelligence from Colombia's FIU, the Unit for Information and Financial Analysis (UIAF), to the Attorney General's Office (AGO) only. The legal requirement that prosecutors conduct investigations means many cases already investigated by UIAF must be re-examined by the AGO, increasing case processing time and adding unnecessary work for prosecutors.

Lack of familiarity with the 2014 asset forfeiture law, especially outside of Bogota, continues to challenge the judicial sector. Moreover, a Supreme Court decision introduces an additional step to the proceedings, requiring prosecutors to first appear before an arraignment judge before the case can continue to the higher courts. The government reorganized the body in charge of managing seized assets to increase the speed by which these assets could be discharged; however, the AGO still retains the right to seize certain assets using a separate legal procedure. A lack of sound practices, standards, and coordination between the two entities continues to be an impediment.

## **ENFORCEMENT/IMPLEMENTATION ISSUES AND COMMENTS**

Despite Colombia's robust legal and institutional AML infrastructure, key impediments are the lack of interagency cooperation, limited information sharing among the relevant agencies, an ineffective and inefficient judicial system, and a lack of expertise and experience in investigating and prosecuting complex financial crimes, especially outside of Bogota. Some Colombian policymakers recognize these challenges and have been working to address them, yet institutional deficiencies remain. After the unexpected departure of the UIAF director in April 2016, Colombia's FIU has been without a permanent director for most of 2016, creating uncertainties regarding the policies and direction of a key AML institution.

The Colombian Attorney General's Office reported that 60 money laundering cases resulted in a final judicial decision in 2016. Of these 60 cases, 51 concluded with a conviction.

### **Current Weaknesses in Government Legislation (2013 INCRS Comparative Tables):**

According to the US State Department, Colombia does not conform with regard to the following government legislation: -

**Arrangements for Asset Sharing** - By law, regulation or bilateral agreement, the jurisdiction permits sharing of seized assets with third party jurisdictions that assisted in the conduct of the underlying investigation.

### **EU White list of Equivalent Jurisdictions**

Colombia is not currently on the EU White list of Equivalent Jurisdictions

### **World Governance indicators**

[To view historic Governance Indicators Ctrl + Click here and then select country](#)

### **Failed States Index**

[To view Failed States Index Ctrl + Click here](#)



## **Offshore Financial Centre**

Colombia is not considered to be an Offshore Financial Centre

### US State Dept Narcotics Report 2017:

Colombia is the world's top producer of cocaine, as well as a source country of heroin and marijuana. Although the Colombian government continues to counter the production and trafficking of illicit drugs through eradication operations, aggressive interdiction, and law enforcement activity, potential pure cocaine production in 2015 (the most recent year for which data is available) surged 60 percent to 495 metric tons (MT), 185 MT above 2014 production. The rise is attributed to the largest single-year increase of coca cultivation in Colombia ever recorded (immediately following the second largest single-year increase in more than a decade). The United States estimates the quantity of coca cultivation increased 42 percent in 2015 to 159,000 hectares (ha) from 112,000 ha in 2014, a nearly 100 percent increase since 2013.

The Colombian government reported seizing 421 MT of cocaine and cocaine base in 2016, a 124 MT increase over 2015. The Colombian government also eliminated tons of potential cocaine through manual eradication of 17,642 ha of coca during 2016. Colombia suspended aerial eradication in October 2015, making 2016 the first full year without aerial eradication.

According to the U.S. Drug Enforcement Administration (DEA), approximately 90 percent of the cocaine samples seized in the United States in 2015 and subject to laboratory analysis were of Colombian origin.

### Conclusion

Colombia continues to take steps to combat the drug trade. These efforts have kept hundreds of metric tons of drugs each year from reaching the United States and other markets and helped Colombia take important strides towards reaching a just and lasting peace. Building on these gains, Colombia is also exporting security expertise and training to international partners. Peace accord implementation will require the Colombian government to devote unprecedented resources to enhance government presence, improve security, increase public services, build infrastructure, and generate licit economic opportunities in regions historically influenced by organized criminal groups. While the Government of Colombia continues to pursue robust interdiction efforts against trafficking organizations and criminal networks, the preliminary estimated coca cultivation and cocaine production figures for 2016 indicate a dramatic increase in cultivation and cocaine production. The U.S. government continues to encourage the Colombian government to implement whole-of-government counternarcotics and economic development activities, including eradication, in areas of significant coca cultivation.

While Colombia expects to pay for the great majority of its post-accord needs, it will look to the international community for critical catalytic assistance. On February 4, 2016, the Administration of President Obama announced a framework for bilateral relations looking toward a post-peace accord era known as "Peace Colombia," and a budget request of \$450 million for fiscal year 2017 to support ongoing U.S. assistance to Colombia.

### US State Dept Trafficking in Persons Report 2014 (introduction):

Colombia is classified a Tier 2 country - is a country whose government fully complies with the Trafficking Victims Protection Act's (TVPA) minimum standards.

Colombia is a source country for men, women, and children subjected to sex trafficking, and a source and destination country for men, women, and children subjected to forced labor. Groups at high risk for internal trafficking include internally displaced persons, Afro-Colombians, indigenous Colombians, Colombians with disabilities, and Colombians living in areas where armed criminal groups are active. Sex trafficking of Colombian women and children occurs within the country. Authorities reported high rates of child prostitution in areas with tourism and large extractive industries, and NGOs reported that sex trafficking in mining areas sometimes involves organized criminal groups. NGOs reported that transgender Colombians and Colombian men in prostitution are exploited in sex trafficking in Colombia. Colombian labor trafficking victims are found in mining, agriculture, and domestic service. Colombian children working in the informal sector, including as street vendors, are also vulnerable to labor trafficking. Colombian children and adults are exploited in forced begging in urban areas. Illegal armed groups forcibly recruit children to serve as combatants and informants, to cultivate illegal narcotics, or to be exploited in prostitution. Organized criminal groups force vulnerable Colombians, including displaced persons, into sex trafficking and forced criminal activity—particularly to sell and transport illegal narcotics and serve as lookouts or assassins.

Colombian women and children are found in sex trafficking around the world, particularly in Latin America, the Caribbean, Asia, and Western Europe. Colombian men and women are exploited in forced labor—including in domestic service—in Latin America and to a more limited extent, North Africa. During the year, Colombian men were identified in forced labor in Argentina in furniture and basket production and peddling. To a more limited extent, children from neighboring countries are subjected to sex and labor trafficking in Colombia. Colombia is a destination for foreign child sex tourists primarily from North America, Europe, and other Latin American countries.

The Government of Colombia does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. Authorities continued to undertake awareness campaigns and investigate and prosecute transnational trafficking cases. Authorities increased the number of labor trafficking investigations and reported six convictions related to child recruitment by illegal armed groups in 2013, some of which may have involved forcible child recruitment. The government offered victims of transnational trafficking repatriation and short-term emergency assistance and provided services to child victims of sex trafficking and of forcible recruitment by illegal armed groups. The government did not demonstrate concrete progress in identifying victims from vulnerable populations, providing specialized services to victims, and prosecuting and convicting perpetrators of internal trafficking. Authorities did not treat all internal sex trafficking cases and recruitment of children by illegal armed groups as human trafficking, which hindered efforts to accurately assess government efforts to identify and assist victims and to investigate and prosecute trafficking cases. Departmental governments lacked sufficient funding, staff, or interagency coordination to provide adequate specialized services to victims of

trafficking. The government's victim assistance decree, required by the 2005 trafficking law and initially drafted in 2008, remained pending.

## US State Dept Terrorism Report 2015

Colombia is currently identified by the US Secretary of State as a Safe Haven for International Terrorism

**Overview:** In 2015, Colombia experienced overall decreased terrorist activity according to Defense Ministry statistics, due in large part to a unilateral ceasefire declared by Colombia's largest terrorist organization, the Revolutionary Armed Forces of Colombia (FARC). Although the government and the FARC reached tentative, partial agreements on land reform, political participation, drug trafficking, and victims' rights (including transitional justice), no overall bilateral peace agreement had been concluded by the end of the year. The government continued exploratory talks with the other major terrorist organization in Colombia, the National Liberation Army (ELN), although formal peace negotiations had not started by year's end. U.S.-Colombian counterterrorism cooperation remained strong.

The Colombian government continued its military pressure against insurgents in 2015, although it gradually reduced military actions over the course of the year, including certain periods when it suspended aerial bombardments against FARC targets. That suspension remained in place at year's end. In response to the FARC observation of a unilateral ceasefire starting on December 20, 2014, President Santos announced on March 10 that the armed forces would refrain from bombing FARC guerrilla camps. However, following a FARC attack in Cauca department on April 15 that killed 11 soldiers and wounded 20 others, Santos ordered the military to resume aerial strikes against the FARC. The FARC lifted its self-imposed unilateral ceasefire on May 22 and initiated a wave of attacks against security forces and infrastructure for the next two months. The FARC then resumed its unilateral ceasefire on July 20, and it remained in place through the end of the year. On July 25, Santos again suspended aerial bombardments of FARC camps as a de-escalation measure. On September 23, the government and the FARC jointly announced their intention to sign a peace agreement by March 23, 2016. Meanwhile, Santos ordered the military to intensify strikes against the ELN in response to an October 26 ELN attack on a military foot patrol escorting election workers and ballots, which resulted in the death of 11 soldiers and one police officer and the capture of two soldiers (who were released several weeks later). In 2015, the number of members of Foreign Terrorist Organizations – including the FARC and ELN – killed in combat, captured, and demobilized, decreased compared to the previous year. In 2015, the number of civilian deaths from conflicts with guerrilla organizations decreased compared to the previous year.

While Colombia has openly condemned ISIL and its objectives, Colombia is not a member of the Global Coalition to Counter ISIL.

**2015 Terrorist Incidents:** The FARC and ELN focused on low-cost, high-impact asymmetric attacks, as they did in 2014. The most common forms of terrorist activity were the launching

of mortars at police stations or the military, explosive devices placed near roads and paths, sniper attacks, roadblocks, and ambushes. In 2015, Colombian government statistics showed a decrease in attacks from 2014. Terrorist attacks on infrastructure – including oil pipelines and energy towers – also decreased in 2015 compared to 2014, according to Defense Ministry statistics. Security forces and government buildings were the most common terrorist targets, although civilian casualties also occurred throughout the year. Attacks were most common along the Venezuelan border in the departments of Arauca, Norte de Santander, and La Guajira; in the southwestern departments of Nariño and Cauca; and in the northwestern department of Antioquia. Among the terrorist attacks recorded in 2015, several were notable for their severity or significant press coverage:

- Throughout the year, the ELN continued to place bombs throughout the country, including in Bogota. From February 2 through March 12, the ELN planted IEDs around Bogota, two targeting the police and one targeting a political party headquarters. Police arrested the Bogota-based criminal gang members the ELN had contracted to plant the devices, who admitted that planning was underway for additional attacks against police targets. On July 2-3, ELN pamphlets were found at the scenes of IEDs and pamphlet bomb explosions during evening rush hour at several locations in downtown Bogota, which caused minor injuries. Police arrested 15 ELN members/supporters, including two captured with bombs and pamphlets, although they were released by the court weeks later.
- Throughout the year, the ELN continued its kidnapping activities. Among others, the ELN kidnapped a Dutch citizen in Norte de Santander department in January (released in February), seized two hostages at a road checkpoint for ransom in Choco department on February 11, and kidnapped four geologists preparing to carry out studies on mining for the Colombian Geological Service in Norte de Santander department on February 24.
- Throughout May and June, FARC bombings of electricity towers and police stations in Norte de Santander, Valle del Cauca, and Nariño departments left almost a million people without power for several days. These attacks included a June 1 FARC attack on electrical infrastructure in the poverty-stricken city of Buenaventura on the Pacific coast that left approximately 400,000 Colombians without power, a June 2 FARC attack on electrical pylons in the southwestern city of Tumaco that left approximately 200,000 people without electricity, followed by another attack on Tumaco on June 20 affecting 260,000 people.
- On June 7, the FARC forced 19 oil tankers to dump their contents (estimated at 222,000 gallons of crude oil) on a roadway near Puerto Asis, Putumayo department, which caused a massive oil spill and a significant environmental hazard.
- Beginning June 8, FARC guerrillas conducted strikes against oil pipelines, hitting the Transandino Pipeline five times and bombing the Caño Limon-Covenas Pipeline on June 17 and July 1. Environment Minister Gabriel Vallejo characterized the spills caused by the Transandino attack as “the worst oil spill in Colombia in the last 10 years.”
- On October 26 in Boyaca department, an ELN attack on a military foot patrol escorting election workers and ballots resulted in the death of 11 soldiers and one police officer and the capture of two soldiers. The captured soldiers were released on November 16.

**Legislation, Law Enforcement, and Border Security:** The investigation and prosecution of terrorism cases in Colombia is governed by Section 906 of Colombia's Criminal Code. The purpose of Section 906 is to develop an evidence-based system of justice where cases are tried before a judge based on testimonial, physical, or documentary evidence with a "beyond a reasonable doubt" standard of proof. Most terrorism cases are prosecuted under traditional legal statutes that are used for narcotics trafficking and organized crime, such as conspiracy and illegal possession of firearms authorized for exclusive use of the security forces. There are some specialized statutes that the Attorney General Office's specialized Counterterrorism Unit uses, such as "rebellion" under Section 467 of Colombia's Criminal Code, which criminalize "those who, through armed conflict, seek to overthrow the Constitutionally-enacted government of Colombia." Other specialized statutes in the Criminal Code covering terrorism and related crimes include Articles 144, 340, and 343 – which criminalize terrorism, acts of terrorism, and participation in a terrorist organization; terrorism financing is a crime under Article 345.

The Attorney General Office's specialized Counterterrorism Unit has prosecutors assigned at the national level in Bogota, and in regions of conflict throughout the country. The unit has developed a great deal of expertise in investigating and prosecuting acts of terrorism and insurgency with the Attorney General's own Technical Criminal Investigative Body, Colombia's National Police (CNP), and the country's military forces. The Attorney General's Office also has specialized prosecutors embedded with CNP anti-kidnapping and anti-extortion "GAULA" units throughout the country to handle kidnapping-for-ransom and extortion cases in real-time. In 2015, the U.S. Department of Justice (DOJ) assisted the National Judicial Police Council – presided over by the Attorney General and including members of the CNP and other agencies with investigative authority – in establishing a Standards and Training Commission to develop minimum standards for investigators, forensic experts, and criminal analysts. Colombia also worked on securing international accreditation for its forensic laboratories.

The CNP has specialized counterterrorism units in the Intelligence, Anti-Kidnapping, and Judicial Police Directorates, all with advanced investigation techniques and crisis response capabilities. Law enforcement units display clear and effective command and control within each organization. These specialized law enforcement units are properly equipped and supported with relevant training. Counterterrorism missions are demarcated to a limited extent between law enforcement and military units. Colombia's contemporary military and law enforcement units have an improved record of accountability and respect for human rights. There is room for improvement in interagency cooperation and sharing of terrorism-related information. No single agency has jurisdiction over all terrorism-related investigations and post-incident response, sometimes resulting in poor information sharing and cooperation.

In 2015, Colombian authorities continued to operate military task forces to enhance coordination in combating terrorism. The CNP managed fusion centers to ensure all operational missions coordinate intelligence, investigations, and operations under the command of regional police commanders. Additionally, the National Police Intelligence Directorate continued to operate a 24-hour Citizen Security Center tasked with detecting, deterring, and responding to terrorist attacks, among other crimes.

Colombian border security remained an area of vulnerability. Law enforcement officers faced the challenge of working in areas with porous borders and difficult topography plagued by the presence of illegal armed groups and illicit drug cultivation and trafficking. The CNP lacked the manpower to enforce uniform policies for vehicle or passenger inspections at land border crossings. Biometric and biographic screening was conducted only at international airports. The Colombian government does not use advance Passenger Name Records. Of a total force of 180,000 officers, the CNP has only 1,500 officers assigned to Customs Enforcement (air, land, and seaports and borders) duties.

Colombia remained a key transit point for the smuggling of third-country nationals who may seek to enter the United States illegally. Porous borders with Ecuador and Venezuela facilitate the movements of third-country nationals through Colombia, and existing maritime narcotics smuggling routes facilitate their onward movement to Central America. While Colombian Immigration regularly detains third-country nationals who have entered the country illegally, the entity lacks both the personnel and enforcement authority to adequately respond to this threat, and the financial resources to repatriate citizens to their home countries via air. The Attorney General's Office is currently investigating corruption by airport officials suspected of letting criminals travel with forged documents. At the end of 2015, five Colombian Immigration officials were facing corruption charges.

Colombia continued cooperation and information sharing with the Panamanian National Border Service, while improved relations with neighboring Ecuador led to some increased cooperation on law enforcement issues. However, starting in August, Venezuela closed the majority of its border with Colombia, deported more than 1,900 Colombians and deployed extra troops in the border region. In addition, more than 20,000 Colombians "self-deported" from Venezuela. Colombia and Venezuela have since agreed to improve coordinated security and law enforcement efforts, including expanding the Bi-National Joint Command and Control Center to include a Bi-National Center for Fighting Transnational Organized Crime, increasing troops along the border, and considering proposals for maritime and fluvial cooperation. However, the border closures remained in place at the end of the year.

Colombian authorities captured, killed, or arrested several high-profile perpetrators of terrorist acts in 2015:

- In January, the military captured Carlos Andres Bustos Cortez (alias *Richard*), the second in command of the FARC's Teofilo Forero mobile column in central-southwest Colombia, accused of engineering terrorist attacks against police stations, buses, shops, and electrical infrastructure.
- In March, the CNP worked with the Attorney General's Office and military to capture five members of a criminal organization the ELN had reportedly hired to place and detonate explosives in Bogota.
- On May 21, a Colombian military aerial bombardment targeting the FARC's 29<sup>th</sup> Front killed 26 FARC fighters in Cauca department, the biggest blow to the FARC in a single attack in several years.
- In October, Colombian authorities arrested Jairo Alirio Puerta Peña (alias *Omar* or *Cuñado*), a FARC member allegedly linked to massacres in Bojaya, Choco department in 2002 and Pueblo Bello, Antioquia department that left hundreds of civilians dead, as well as an attack on a helicopter that killed a number of soldiers in 2000.

- In December, Colombia's Supreme Court approved the extradition to the United States of FARC member Octavio Orrego (alias *Sebastián*) for kidnapping the three Americans in 2003 and killing another American five years later. President Santos denied the extradition, however, based on the ongoing peace negotiations with the FARC.

While kidnappings have declined in recent years, they remained a threat, especially in rural and insurgent-affected portions of Colombia. Organized extortion networks inhibited economic growth, displaced civilians, and subverted the rule of law where they were active, and the alleged failure of victims to accede to extortion demands was regularly cited as the cause for terrorist attacks. The CNP Anti-Kidnapping and Anti-Extortion Directorate have an international kidnapping unit to address kidnappings involving foreign nationals.

Law enforcement cooperation between Colombia and the United States remained strong. Evidence sharing and joint law enforcement operations occurred in a fluid and efficient manner.

Colombia continued to participate in the Department's Antiterrorism Assistance program. The program provided instruction and resources to assist Colombia in building advanced, self-sustaining CNP capabilities to secure borders from terrorist transit, to investigate terrorists and terrorist incidents, and to protect critical infrastructure. Colombia continued to establish itself as a regional provider of law enforcement and counterterrorism training, particularly with regard to anti-kidnapping efforts and dignitary protection.

**Countering the Financing of Terrorism:** Colombia is a member of the Financial Action Task Force of Latin America, a FATF-style regional body. Colombia stands out as a regional leader in the fight against terrorism financing, and has become a key part of a regional financial intelligence unit initiative aimed at strengthening information sharing among Latin American countries. Colombia's financial intelligence unit, Unidad de Informacion y Analisis Financiero, is a member of the Egmont Group, a global association of financial intelligence units. On April 15-16, more than 90 prosecutors and investigators from the Argentina, Brazil, Chile, Colombia, Panama, Paraguay, and the United States met in Cartagena for the first U.S. Department of Justice Office of Overseas Prosecutorial Development, Assistance, and Training (OPDAT) Regional Counterterrorism Workshop focused on safeguarding the financial system in Latin America from abuse by terrorist organizations, including Hizballah, FARC, and ELN. A second OPDAT Regional Counterterrorism Workshop focusing on Terrorism Financing in Free Trade Zones in Latin America took place in Panama City, Panama in late October, with participation from seven countries, including Colombia. On November 13, OPDAT hosted a one-day seminar on Terrorism Financing and Terrorism-Related Money Laundering in Barranquilla, attended by approximately 42 Colombian prosecutors and investigators.

**Countering Violent Extremism:** Colombia employed a strong and modern multi-agency approach to countering radicalization to violence and violent extremism, with a focus on encouraging individual members and entire units of the FARC and ELN to demobilize and reintegrate into society. In 2015, the number of FARC and ELN members who demobilized decreased slightly. The demobilization and reintegration programs provide medical care, psychological counseling, education benefits, technical training, and job placement assistance for demobilized combatants. In order to receive benefits, demobilized



combatants must check in monthly with program managers. Recidivism rates were estimated at between seven and 20 percent.

The Colombian armed forces and police employed a number of fixed and mobile radio transmitters to broadcast strategic messaging to individuals considering leaving the FARC or ELN. Such messaging was also seen in print, television, and alternative media. The Colombian military and police employed the same media forms to counter FARC and ELN recruitment efforts. Additionally, the Ministry of Defense organized highly publicized festivals and social events with celebrity participation to discourage the recruitment of vulnerable youth. Moreover, with international community support, the government's Inter-Institutional Committee for the Prevention of Recruitment of Children supported numerous recruitment prevention initiatives all over the country reaching more than 500,000 children at high risk. The Committee also worked with mayors to include prevention of recruitment activities in their development plans.

**International and Regional Cooperation:** Colombia is a founding member of the Global Counterterrorism Forum and is actively involved in the UN, OAS and its Inter-American Committee Against Terrorism, the Pacific Alliance, and the Union of South American Nations. The CNP operates an INTERPOL office of approximately 70 analysts, agents, and support staff. Colombia also led the creation of the American Police Community (Ameripol) in 2007, and helped found the Latin American and Caribbean Community of Police Intelligence in 2005, whose Technical Secretariat is based in Bogota.

Colombia is becoming a leader in providing security training and assistance to other countries in the region. The CNP and military continued to operate schools that train security personnel from around the region. In 2015, Colombia conducted 118 security trainings for more than 2,864 non-Colombian individuals – a significant increase over 2014 – on citizen security, crime prevention and monitoring, military and police capacity building, anti-kidnapping, anti-extortion, hostage negotiation, and cybersecurity training. Colombia also provided judicial training to regional judges and prosecutors handling drug trafficking and terrorism cases, offered basic and advanced helicopter training to pilots from countries throughout Latin America, and maintained its elite *Lancero* and *Jungla* Special Forces courses open to students from other countries.

## International Sanctions

None applicable

<b>Index</b>	<b>Rating (100-Good / 0-Bad)</b>
Transparency International Corruption Index	37
World Governance Indicator – Control of Corruption	49

### **US State Department**

Corruption is a significant challenge in Colombia. According to the World Economic Forum's Global Competitiveness Index (2013-2014), corruption is the biggest problem for doing business in Colombia. The Colombian Attorney General estimates that corrupt activity drains \$2.1 billion per year from the country's economy. According to the "AmericasBarometer 2013" published by the Latin American Public Opinion Project, the perception of corruption in Colombia reached 81.7 percent, its highest level since the study was first carried out in 2004. Similarly, the latest Survey of Colombian Companies' Anti-Bribery Practices, carried out in 2012, found that 94 percent of businesspeople believed their peers offered bribes and that 58 percent of companies lacked mechanisms for reporting cases of bribery. Responders said that corruption increases the cost of projects almost 15 percent, particularly for government contracts.

President Santos has demonstrated his commitment to prosecute corrupt officials and tackle fraud and bribery in the use of public funds. In 2011, he signed the Anti-Corruption Statute, a comprehensive policy giving the government new tools to crackdown on corruption, including stiffer penalties. Santos has also uncovered multiple high-profile scandals involving the public sector since taking office, and numerous officials have been dismissed, taken to court, or put in jail. In 2013, the Customs and Tax Office (DIAN) was involved in a high-profile corruption case that is still pending in which a number of employees nationwide stole approximately \$90 million.

Colombia has adopted the OECD Convention on Combating Bribery of Foreign Public Officials and is a member of the OECD Anti-Bribery Committee. It has signed and ratified the UN Anticorruption Convention. Additionally, it has adopted the OAS Convention against Corruption.

The CTPA protects the integrity of procurement practices and criminalizes both offering and soliciting bribes to/from public officials. It requires both countries to make all laws, regulations, and procedures regarding any matter under the CTPA publicly available. Both countries must also establish procedures for reviews and appeals by any entities affected by actions, rulings, measures, or procedures under the CTPA.

### **Corruption and Government Transparency - Report by Global Security**

## Political Climate

The Republic of Colombia is the fourth largest country in South America. Despite offering very attractive investment opportunities, Colombia has until recently been unable to unfold its full market potential due to decades of political instability. The country has been witness to the continent's longest running armed conflict between the government, left-wing guerrilla insurgencies, and right-wing paramilitary forces, which, coupled with corrupt politics and the emergence of violent drug cartels, have greatly jeopardised the country's security situation. Over the last decade, however, during the two-term presidency of Álvaro Uribe (2002-2010), Colombia was applauded at home and abroad for making major improvements in enhancing security, boosting investor confidence, and increasing the level of trust in its legal system, according to Kroll Tendencias. Since the election of President Juan Emanuel Santos in 2010, Colombia's inflow of foreign investment and growth rates have continued to surge, leading some analysts to dub the country "the new Brazil" and rank it among the most attractive investment destinations in the region, according to a 2012 article by Financial Times. Nonetheless, many observers evaluate that Colombia still has a long way to go in fighting corruption, promoting transparency, enhancing the credibility of the judiciary, and in resolving conflicts by institutional means rather than resorting to the forms of violence that have marred the country throughout its history. While Alvaro Uribe's government made important strides in the areas of security and investment confidence, it was also criticised for a lack of social reform and a genuine will to curb corruption, as several corruption scandals took place during his presidential terms, according to the Bertelsmann Foundation 2012.

In 2010, the Santos administration presented the Anti-Corruption Statute, which was approved by Congress in May 2011. The Statute presents a comprehensive policy that gives the government new tools to crack down on corruption through reforming the anti-corruption agency, regulating lobbying activities by firms in Congress, regulating public procurement, and stricter penalties for those found guilty, as reported by the US Department of State 2013. The Statute also provides for the creation of a Citizen's Committee for the Fight Against Corruption, composed of representatives from business associations, NGOs and the media. The President signed a decree in December 2010, creating a Transparency Secretariat within the Office of the President. During Santos' presidency, several high-profile corruption scandals have been uncovered, resulting in dismissals, court cases and prison terms. Since 2010, four former ministers, three former security directors of the administrative department and other government officials have been removed from office and faced corruption charges. Among them, was the former mayor of Bogotá who was indicted for fraudulently awarding USD multi-million public works contracts to companies and local businessmen in exchange for kickbacks. According to Global Integrity 2011, Colombia has a very strong legal framework to counter corruption, and it has ratified the Inter-American, the United Nations and the OECD anti-corruption conventions.

In spite of the myriad of laws and other integrity mechanisms aimed at containing corruption, the measures adopted have not had a profound effect on corruption due to the absence of effective monitoring mechanisms, a non-transparent public procurement system, pressure by illegal paramilitary groups, and several other factors, according to the Bertelsmann Foundation 2012. Furthermore, corruption is a persistent attribute of Colombian politics and administrative agencies are still plagued by corrupt practices, mishandling of resources and nepotism, while many local politicians still employ illegal methods to win elections to public offices. Most observers agree that corruption represents a major problem in Colombia and

incurs high costs for the state and society in general. According to an October 2011 article by Colombia Reports, it is estimated that the country loses almost USD 5 billion to corruption every year. Evidence also suggests that citizens are frequent victims of corruption, with 38% of the surveyed households in Transparency International's Global Corruption Barometer 2010-2011 claiming that bribes are needed when obtaining a routine government service. The same survey also reveals a general distrust in the political system, as political parties, public officials and parliament are considered the most corrupt institutions in the country. According to the regional poll Latinobarómetro 2011 (in Spanish), 63% of households believe democracy is endangered by the failure to reduce corruption. On a positive note, compared to other Latin American countries, significantly fewer Colombians have reported to engage in petty corruption.

## **Business and Corruption**

Colombia has witnessed a rapid economic growth and a surge in foreign direct investment in recent years. Even with growth slowing during the global economic crisis, the country did not witness a recession. This is also supported by the Heritage Foundation 2013, which reports that Colombia is positioned to become South America's second-largest economy. Since the 1990's the government of Colombia started actively encouraging foreign direct investment in the country through economic liberalisation reforms, and with the election of President Santos in 2010, efforts to open up the economy have continued to progress. According to the Bertelsmann Foundation 2012, private enterprise has been supported by tax cuts, a stable macroeconomic environment and security improvements, rendering Colombia one of the most investor-friendly countries in South America. Nevertheless, there are huge regional disparities attributed to varying institutional frameworks and performances. Also, legal requirements are not uniformly adopted, resulting in cumbersome processes that drive some entrepreneurs towards bribery.

Despite the many positive market developments occurring in recent years, many recent surveys identify corruption to be a serious threat to business operations in the Colombian market. According to the World Economic Forum's Global Competitiveness Report 2012-2013, surveyed business executives identify corruption, inefficient government bureaucracy and inadequate supply of infrastructure as the most problematic factors for doing business in Colombia. This is supported by the Bertelsmann Foundation 2012, which reports that the system of infrastructure, particularly in remote areas, is a large impediment for business development, and that it is kept underdeveloped due to corruption, the persistence of armed conflict, and financial mismanagement. According to the World Bank & IFC Enterprise Surveys 2010, companies report that bribes or gifts are expected when interacting with tax inspectors, when bidding on public tenders and when applying for various licences and permits. However, while more than half of the surveyed companies identify corruption as a major constraint, less than 3% expect to make unofficial payments to 'get things done'. Nonetheless, other sources point to the use of bribery and 'grease money' to resolve administrative processes with public officials as a much larger problem. For example, a 2011 joint study (in Spanish) by the International Council of Swedish Industries, the National Association of Colombian Employers (ANDI) and the Ideas for Peace Foundation points to bribery and extortion as considerable problems for companies in the Colombian market, which can result in large operational and reputational costs. A 2010 business survey by Transparencia Por Colombia, carried out among Colombian businesses, also helps shed some light on the extent of corruption on the Colombian market. Of the surveyed

companies, 93% acknowledged that bribery took place during operations, and that the largest proportion of these bribes was used to facilitate administrative processes, as political contributions, as gifts, and smaller amounts as donations and representation expenses. If bribes were not paid, 61% of the surveyed businesses were afraid that they would lose business opportunities or contracts, and 37% said that they would face too cumbersome and costly administrative procedures. Finally, according to the Kroll Global Fraud Report 2010-2011, 94% of surveyed businesses in Colombia claimed to be affected by fraud, with the most prevalent area of fraud being in procurement (24%); and information theft, loss and attack (21%). Very interestingly, this survey also reveals that much of the experienced fraud was inflicted by internal sources; 42% of companies said that the biggest driver of increased fraud exposure was high staff turnover, and 97% were prepared to invest in new fraud prevention measures in the coming year. According to the Bertelsmann Foundation 2012, the large informal sector in Colombia is also an obstacle for legitimate business development. Colombia has the highest rate of informal employment in South America ranging from 40-60%. This situation negatively affects productivity as not only a large number of firms do not meet taxation requirements, but foreign businesses are also competing against informal and unregistered firms.

Bidding on public tenders is an area of special concern for companies, as more than 30% of the companies surveyed in the Enterprise Surveys 2010 report to give gifts to secure a government contract. As a result of the anti-corruption agenda of the government, several high-ranking officials have been exposed for being involved in corruption, especially in the area of abuse of office in connection with the awarding of governmental contracts to private companies. Some of the officials that have been charged with public procurement corruption include the former mayor of the capital of Bogota, the Minister of Transport and a former Colombian congressman. In order to effectively reduce the risk of corruption in the procurement process, companies are advised to use a specialised public procurement due diligence tool. Investors are also advised to be prepared to deal with demands for bribes and other forms of corruption by strengthening and developing internal policies, codes of conduct, procedures and instructions (see integrity system for practical tools). It is also recommended that companies conduct extensive due diligence when planning to invest or already doing business in Colombia. Companies can also consult with *Transparencia por Colombia's* private sector transparency programmes, *Rumbo Empresas* and *Rumbo Pymes* (for SMEs and sub-suppliers) – all in Spanish. Both programmes are self-managed and aim at strengthening managerial and ethical business practices as well as establishing a network through which ethical dilemmas can be discussed.

## **Regulatory Environment**

The regulatory and legal court system in Colombia are generally considered to be transparent and consistent with international norms, as reported by the US Department of State 2013. Additionally, the Heritage Foundation 2013 reports that the overall regulatory framework has become more efficient, and business procedures have become streamlined. The Santos administration has put emphasis on improving the regulatory efficiency and enhancing financial sector competitiveness. For instance, to start a business in Colombia a company must go through 8 procedures, taking an average of 13 days with no minimum capital required as reported by the World Bank & IFC Doing Business 2013. Nevertheless, the Heritage Foundation 2013 notes that institutional shortcomings undermine prospects of long-term economic development. These shortcomings have been further exacerbated by a

weak implementation and enforcement of anti-corruption legislation, as well as the vulnerability of the judicial system to political influence. This is also supported by the US Department of State 2013, which notes that the enforcement of these regulations is ineffective due to the lack of coordination and insufficient resources within the judiciary. As such, the settling of commercial disputes becomes complicated and time-consuming. The source also points to other weaknesses the country faces which include security issues, a weak protection of property rights, infrastructure deficiencies and complex tax and labour systems.

Market-based competition within Colombia is given great importance by the government and several institutions are charged with overseeing and regulating fair business practices, such as the Superintendence of Industry and Commerce (the SIC, in Spanish). Nevertheless these efforts are hampered by a lack of coordination between the national and local level and an uneven distribution across the country. Another hurdle to competitiveness in Colombia is the abuse of office for private gain. According to the Bertelsmann Foundation 2012, private interests are able to influence decision-making by redirecting it to fit particular goals. As such, private interest groups or individuals are able to block or substantially modify proposed laws or regulations that negatively impact their interests. Even though Colombia allows foreign companies to invest in the country under the same conditions as national companies, complicated and time-consuming government bureaucracy continues to pose an obstacle to doing business in the country. Furthermore, the same report notes that legal requirements are not adopted uniformly, resulting in cumbersome processes, which drive some entrepreneurs toward bribery. Corruption constitutes a major challenge to businesses in Colombia. In fact, according to the World Economic Forum Global Competitiveness Report 2012-2013, companies identify corruption as the most problematic factor for doing business in the country, followed by inefficient government bureaucracy. However, the OECD Investment Review: Colombia 2012 reports that one of the focus areas of the government is to simplify procedures and remove unnecessary administrative burdens to investors. For this purpose, the government has put in place an 'anti-burden-policy', aimed at simplifying procedures and barriers for a range of public services and to improve communication between government entities and citizens. The program also manages the Single Information System of Procedures and Services portal (In Spanish) which provides information on procedures of national and territorial entities and proposes initiatives to streamline procedures and tracks their impact.

In 2005, Colombia's Congress passed a comprehensive free trade zone modernisation law that opens investment to international companies, and as of 2011, there were 91 free trade zones in Colombia. These initiatives will allow companies a series of benefits, such as a preferential corporate income tax rate, exemptions from customs duties and value added taxes on imported materials. In December 2012, Colombia became adherent to the OECD Declaration on International Investment and Multinational Enterprises. As an adherent to the Declaration, Colombia pledges its support for an open environment for international investors and encourages responsible investment by multinational companies as a means to encourage growth and prosperity. Property rights in Colombia are shaped by two contradictory features. Property rights in cities and property rights in the rural areas. According to the Bertelsmann Foundation 2012, property rights in urban areas are generally well defined and properly enforced by the government; however, property rights in rural areas are not protected. This is due to the internal conflict, particularly in resource-rich zones, where land has been taken over for large-scale production of narcotics. Colombia has

ratified the New York Convention 1958 (UNCITRAL) as well as the Inter-American Convention on International Commercial Arbitration, and is a member of the International Center for the Resolution of Investment Disputes (ICSID). Access the Lexadin World Law Guide for a collection of legislation in Colombia.



## Section 3 - Economy

Colombia's consistently sound economic policies and aggressive promotion of free trade agreements in recent years have bolstered its ability to weather external shocks. Real GDP has grown more than 4% per year for the past three years, continuing almost a decade of strong economic performance. All three major ratings agencies have upgraded Colombia's government debt to investment grade. Nevertheless, Colombia depends heavily on energy and mining exports, making it vulnerable to a drop in commodity prices. Colombia is the world's fourth largest coal exporter and Latin America's fourth largest oil producer. Economic development is stymied by inadequate infrastructure and an uncertain security situation. Moreover, the unemployment rate of 9.7% in 2013 is still one of Latin America's highest. The SANTOS Administration's foreign policy has focused on bolstering Colombia's commercial ties and boosting investment at home. Colombia has signed or is negotiating Free Trade Agreements (FTA) with more than a dozen countries; the US-Colombia FTA went into force on May 2012. Colombia is also a founding member of the Pacific Alliance - a regional grouping formed in 2012 by Chile, Colombia, Mexico, and Peru to promote regional trade and economic integration. In 2013, Colombia began its ascension process to the OECD. The annual level of foreign direct investment - notably in the oil and gas sectors - reached a record high of \$16.8 billion in 2013, an increase of 7% over 2012. Inequality, poverty, and narco-trafficking remain significant challenges, and Colombia's infrastructure requires major improvements to sustain economic expansion.

### **Agriculture - products:**

coffee, cut flowers, bananas, rice, tobacco, corn, sugarcane, cocoa beans, oilseed, vegetables; shrimp; forest products

### **Industries:**

textiles, food processing, oil, clothing and footwear, beverages, chemicals, cement; gold, coal, emeralds

### **Exports - commodities:**

petroleum, coal, emeralds, coffee, nickel, cut flowers, bananas, apparel

### **Exports - partners:**

US 39.4%, Spain 5.1%, China 4.9%, Netherlands 4.3% (2012)

### **Imports - commodities:**

industrial equipment, transportation equipment, consumer goods, chemicals, paper products, fuels, **electricity**

### **Imports - partners:**

US 30.2%, China 11.5%, Mexico 10.3%, Brazil 5.2% (2012)

Colombia's financial system operates under the supervision of the Financial Superintendent, created in 2005 from the merger of the Banking Superintendent and the Stock Exchange Superintendent. The financial system is relatively large in comparison with the nation's gross domestic product. It has many highly sophisticated institutions with state-of-the-art technology. However, financial services are still very costly and intermediation remains the most important financial activity.

Following the 1998-1999 financial crises, almost half of banking and non-banking institutions were closed, taken over, or forced to merge. Many weaker financial institutions merged or are now affiliated with more experienced and financially sound owners. Still, experts consider that the sector has not reached its ideal size. The presence of foreign banks has intensified competition and investment in advanced technologies and government authorities have made significant efforts to improve the health of the financial sector. The largest foreign investment in the sector was Spanish-owned BBVA Bank's acquisition of Granahorrar, which had been taken over by the government during the 1998-1999 crises. In 2006, British-owned HSBC purchased 100 percent of Banistmo Bank. In 2008 U.S.-owned GE Money acquired a 40 percent stake in Banco Colpatría.

Commercial banks are allowed to complete all authorized credit operations, with the exception of leasing operations and real sector investments. Only commercial banks provide checking accounts. Within this group, some institutions specialize in housing and construction financing (mortgage banks). Commercial banks dominate the financial market, accounting for over 80 percent of the financial system's assets.

Colombia has not reached the banking coverage of developed countries. However, almost all financial entities are expanding the infrastructure and coverage of their banking services, and access to virtual banking has improved significantly.

In 2009 a new law reforming the financial sector was passed. The reforms increased protection for financial customers, including requirements that financial institutions properly disclose the costs associated with their operations. They also forbid

agreements in which consumers waive their rights and provisions shifting the burden of proof to consumers. The reforms create Advocate for Financial Consumers positions, which every financial institution must have and who are responsible for ensuring that financial institutions do not violate consumers' rights. The new law also introduces greater flexibility to the pension fund system by creating the multi-fund structure to allow for various risk investment profiles. It allows foreign banks and foreign insurance companies to operate locally without having to incorporate a Colombian entity, although they do have to set up a branch in Colombia, subject to all relevant legal requirements. Finally the law establishes mechanisms to promote microfinance, securitization and the development of capital markets.

In 2001, stock exchanges in Bogotá, Cali and Medellín were merged to create the Bolsa de Valores Colombia (BVC), located in Bogotá. The BVC is regulated by the Financial Superintendent, which oversees market intermediaries, brokers' fees, and financial disclosures of listed companies.

The Capital markets legislation enacted in 2005 has helped to deepen the capital markets through improved corporate governance, protection of the rights of minority shareholders, and more transparent information standards. Market capitalization has risen from USD 14.1 billion in 2003, to USD 138 billion, as of November 2009. New financial regulations passed in Law 1328 of 2009 are likely to increase activity in the capital markets, as pension funds will now be able to use a multi-fund scheme, which will allow individuals to choose their pension funds in accordance with their risk profile.

### Executive Summary

With increased security, a market of 47 million people, an abundance of natural resources, and an educated and growing middle-class, the Colombian government has opened the country up to global trade and investment. Colombia in 2013 had the fourth largest GDP in Latin America after Brazil, Mexico, and Argentina, and has sustained an average growth rate over four percent for the past decade. The World Bank's 2014 "Doing Business Report" ranked Colombia 43 out of 189 for ease of doing business and recognized Colombia for best practices in protecting investors, paying taxes, and improving trade across borders. However, the survey also noted Colombia's high transportation costs and deficiencies in enforcing contracts.

Colombia's legal and regulatory systems are generally transparent and consistent with international norms. Colombia has a comprehensive legal framework for business and foreign direct investment (FDI), and the U.S.-Colombia Trade Promotion Agreement (CTPA) that took effect on May 15, 2012, has strengthened trade and investment between our countries. Through the CTPA and several international conventions and treaties, Colombia's dispute settlement mechanisms and intellectual property rights protection are stronger than ever. Nevertheless, pirated and falsified products continue to be a major problem, which dictates that Colombia remains on the U.S. Trade Representative's Special 301 "Watch List."

The Colombian government has demonstrated great political will to develop efficient capital markets, attract investment, and create jobs. Sound fiscal and macroeconomic management has allowed Colombia to claim the triple crown of seeing its credit ratings increased to 'Investment Grade' level by Standard and Poor's, Moody's, and Fitch Ratings. Market capitalization as of December 2013 was \$215 billion. Although restrictions to foreign ownership in specific sectors still exist, Colombia received a record \$16.8 billion in FDI in 2013. Colombia has aggressively pursued foreign investment in key sectors, such as infrastructure. For the first time in many years, Colombia's average annual unemployment rate was under ten percent in 2013. Forty-nine percent of the workforce still works in the informal economy, but Colombia has abundant unskilled and semi-skilled labor throughout the country as well as managerial-level employees who are often bilingual.

Security in Colombia has improved significantly in the past 15 years, with the number of kidnappings down by 86 percent since 2003, and the number of homicides falling by 35 percent in the same period. Since November 2012, the Colombian government and the Revolutionary Armed Forces of Colombia (FARC) have been conducting peace negotiations in Havana, Cuba. Even so, an active domestic insurgency is still ongoing, posing a threat to commercial activity and investment, especially in rural zones where government control is weaker. Corruption is also a significant challenge in Colombia. According to the World Economic Forum's Global Competitiveness Index (2013-2014), corruption is the biggest problem for doing business in Colombia. The Colombian government continues to work on improving its business climate. The three largest majority state-owned enterprises, Ecopetrol, ISA, and ISAGEN, are considered models of professional management, competition, and excellent corporate governance. Through its numerous investment treaties, free trade agreements, and progress towards accession into the Organization for Economic

Cooperation and Development, Colombia has shown it is eager to increase international trade and investment.

## 1. Openness To, and Restrictions Upon, Foreign Investment

### **Attitude Toward FDI**

The Colombian government actively encourages foreign direct investment (FDI). In the early 1990s, the country began economic liberalization reforms, which provided for national treatment of foreign investors, lifted controls on remittance of profits and capital, and allowed foreign investment in most sectors. Generally, foreign investors may participate in privatization of state-owned enterprises without restrictions. Colombia imposes the same investment restrictions on foreign investors that it does on national investors. All FDI involving the establishment of a commercial presence in Colombia requires registration with the Superintendency of Corporations ('Super Sociedades') and the local chamber of commerce. All conditions being equal during tender processes, national offers are preferred over foreign ones. Assuming equal conditions among foreign bidders, those with major Colombian national workforce resources, significant national capital, and /or better conditions to facilitate technology transfers are preferred.

### **Other Investment Policy Reviews**

The Organization for Economic Cooperation and Development (OECD) reviewed Colombia's investment policy in April 2012 (<http://www.oecd.org/countries/colombia/colombia-investmentpolicyreview-oecd.htm>) in anticipation of making Colombia an offer to start the OECD accession process. The OECD found that Colombia made significant progress in promoting investment liberalization and improving its investment climate through important policy reforms. The World Trade Organization (WTO) conducted a fourth trade policy review of Colombia in June 2012 ([http://www.wto.org/english/tratop\\_e/tpr\\_e/tp365\\_e.htm](http://www.wto.org/english/tratop_e/tpr_e/tp365_e.htm)), its first in six years. It found that Colombia continued its trade policy of increased openness and emphasized greater integration with Latin America, the Caribbean, and the rest of the world by negotiating preferential agreements to increase external trade and foreign investment flows. Colombia scored 75 percent out of a hundred, or a "C," for investor protection according to the World Bank's 2014 Doing Business Report.

**TABLE 1:**

Measure	Year	Rank or value	Website Address
Transparency International Corruption Perceptions Index	2013	94 of 177	<a href="http://cpi.transparency.org/cpi2013/results/">http://cpi.transparency.org/cpi2013/results/</a>
Heritage Foundation's	2013	34 of 178	<a href="http://www.heritage.org/index/ranking">http://www.heritage.org/index/ranking</a>

Economic Freedom Index			
World Bank's Doing Business Report "Ease of Doing Business"	2013	43 of 189	<a href="http://doingbusiness.org/rankings">http://doingbusiness.org/rankings</a>
Global Innovation Index	2013	60 of 142	<a href="http://www.globalinnovationindex.org/content.aspx?page=gii-full-report-2013#pdfopener">http://www.globalinnovationindex.org/content.aspx?page=gii-full-report-2013#pdfopener</a>
World Bank GNI per capita	2012	\$7,020	<a href="http://data.worldbank.org/indicator/NY.GNP.PCAP.CD">http://data.worldbank.org/indicator/NY.GNP.PCAP.CD</a>

### ***Laws/Regulations of FDI***

Colombia has a comprehensive legal framework for business and FDI. Colombia's judicial system defines the legal rights of commercial entities, reviews regulatory enforcement procedures, and adjudicates contract disputes in the business community. The judicial framework includes the Superintendency of Industry and Commerce, the Council of State, the Constitutional Court, the Supreme Court of Justice, and the various departmental and district courts, which are also overseen for administrative matters by the Superior Judicial Council. The 1991 Constitution provided the judiciary with greater administrative and financial independence from the executive branch. However, except for the Superintendency of Industry and Commerce's efficient exercise of judicial functions, the judicial system in general remains hampered by time-consuming bureaucratic requirements and corruption. Colombia's foreign direct investment legal framework also incorporates binding norms resulting from its membership in the Andean Community of Nations as well as other free trade agreements and bilateral investment treaties.

The U.S.-Colombia Trade Promotion Agreement (CTPA) entered into force on May 15, 2012. The CTPA improves legal security and the investment environment while eliminating tariffs and other barriers in goods and services traded between the United States and Colombia. The agreement grants investors the right to establish, acquire, and operate investments on an equal footing with local investors as well as investors of other countries with bilateral investment treaties or investment chapters in free trade agreements with Colombia. It also provides U.S. investors in Colombia protections that foreign investors have under the U.S. legal system, including due process and the right to receive fair market value for property in the event of an expropriation.

### ***Limits on Foreign Control***

Foreign investment in the financial, hydrocarbon, and mining sectors is subject to special regimes, such as investment registration and concession agreements with the Colombian government, but are not restricted in the amount of foreign capital permitted. The following sectors require that foreign investors have a legal local representative and/or commercial presence in Colombia: travel and tourism agency services; money order operator; customs brokerage; postal and courier services; merchandise warehousing; merchandise transportation under customs control; international cargo agents; public service companies including sewage and water works, waste disposal, electricity, gas and fuel distribution, and

public telephone service; insurance firms; legal services; and special air services including aerial fire-fighting, sightseeing, and surveying.

Foreign investors face specific exceptions and restrictions in the following sectors:

*Media:* Only Colombian nationals or legally constituted entities may provide radio or subscription-based television services. For National Open Television and Nationwide Private Television Operators, only Colombian nationals or legal entities may be granted concessions to provide television services. Colombia's national, regional, and municipal open-television channels must be provided at no extra cost to subscribers. Foreign investment in national television is limited to a maximum of 40 percent ownership of the relevant operator. Satellite television service providers are only obliged to include within their basic programming the broadcast of government-designated public interest channels. Newspapers published in Colombia covering domestic politics must be directed and managed by Colombian nationals.

*Accounting, Auditing, and Data Processing:* In order to practice in Colombia, providers of accounting services must register with the Central Accountants Board; have uninterrupted domicile in Colombia for at least three years prior to registry; and provide proof of accounting experience in Colombia of at least one year. No restrictions apply to services offered by consulting firms or individuals. A legal commercial presence is required to provide data processing and information services in Colombia.

*Banking:* Foreign investors may own 100 percent of financial institutions in Colombia, but are required to obtain approval from the Financial Superintendent before making a direct investment of ten percent or more in any one entity. Portfolio investments used to acquire more than five percent of an entity also require authorization. Foreign banks must establish a local commercial presence and comply with the same capital and other requirements as local financial institutions. Foreign banks may establish a subsidiary or office in Colombia, but not a branch. Every investment of foreign capital in portfolios must be through a Colombian administrator company, including brokerage firms, trust companies, and investment management companies. All foreign investments must be registered with the Central Bank.

*Fishing:* A foreign vessel may engage in fishing and related activities in Colombian territorial waters only through association with a Colombian company holding a valid fishing permit. If a ship's flag corresponds to a country with which Colombia has a complementary bilateral agreement, this agreement shall determine whether the association requirement applies. The costs of fishing permits are greater for foreign flag vessels.

*Private Security and Surveillance Companies:* Companies constituted with foreign capital prior to February 11, 1994, cannot increase the share of foreign capital. Those constituted after that date can only have Colombian nationals as shareholders.

*Telecommunications:* Barriers to entry in telecommunications services include high license fees (\$150 million for a long distance license), commercial presence requirements, and economic needs tests. While Colombia allows 100 percent foreign ownership of telecommunication providers, in WTO negotiations it specifically prohibited "callback" services.

*Transportation:* Foreign companies can only provide multimodal freight services within or from Colombian territory if they have a domiciled agent or representative legally responsible

for its activities in Colombia. International cabotage companies can provide cabotage services (i.e. between two points within Colombia) “only when there is no national capacity to provide the service” according to Colombian law. Colombia prohibits foreign ownership of commercial ships licensed in Colombia and restricts foreign ownership in national airlines or shipping companies to 40 percent. FDI in maritime is limited to 30 percent. The owners of a concession providing port services must be legally constituted in Colombia and only Colombian ships may provide port services within Colombian maritime jurisdiction; however, vessels with foreign flags may provide those services if there are no Colombian-flag vessels capable of doing so.

### ***Privatization Program***

Colombia has privatized state-owned enterprises under article 60 of the Constitution and Law No. 226 of 1995. This Law stipulates that the sale of government holdings in an enterprise should be offered to two groups: first to cooperatives and workers associations of the enterprise, then to the general public. During the first phase, special terms and credits have to be granted, and in the second phase, foreign investors may participate along with the general public. Colombia’s main privatizations have been in the electricity, mining, hydrocarbons, and financial sectors. The government has attached a high priority to stimulating private sector investment in roads, ports, electricity, and gas infrastructure concessions. The government is increasingly utilizing public-private partnerships (PPPs) as the favored option for infrastructure development.

The Colombian government is engaged in its fourth generation infrastructure program focused on highway construction with PPP opportunities valued at more than \$24 billion. In order to attract investment and promote PPPs, on November 22, 2013, the Colombian government signed a new infrastructure law clarifying provisions for frequently cited obstacles to participate in PPPs including environmental licensing, land acquisition, and the displacement of public utilities. The new law puts in place a civil procedure that facilitates land expropriation during court cases, allows for expedited environmental licensing, and clarifies that the cost to move or replace public utilities affected by infrastructure projects falls to private companies.

Municipal enterprises operate many public utilities and infrastructure services. These municipal enterprises have engaged private sector investment through concessions. There are several successful concessions involving roads. During 2014, the Colombian government expects to sell one of its majority state-owned power generation companies, ISAGEN, for approximately \$2.5 billion. The proceeds from this sale will be used to fund part of the fourth generation infrastructure program. These kinds of partnerships have helped promote reforms and create an attractive environment for private national and foreign investment.

### ***Investment Trends***

Since 2010, the Santos administration has continued efforts to open up the economy. Liberalization has progressed furthest in telecommunications, accounting/auditing, energy, mining, and tourism, and to a lesser extent in legal services, insurance, distribution services, advertising, and data processing. Colombia received a record \$16.8 billion in FDI in 2013, an increase of seven percent compared to 2012. It ranked as the fourth FDI destination in Latin America after Brazil, Mexico, and Chile.



Colombia's exports promotion agency, Proexport, has an official website to promote investment in Colombia (<http://www.investincolombia.com.co/>). It gathers investment climate information by sector and region and offers free services to new and established investors such as tailored information requests, public and private sector contacts, and suggestions for in-country visits/agendas. Proexport's investment booklet provides detailed information about the business environment, including the labor market, legal considerations, exchange rate regime, free trade zones, environmental licensing, and private equity fund opportunities (<http://www.investincolombia.com.co/publications.html>).

## **2. Conversion and Transfer Policies**

### ***Foreign Exchange and Remittance Policies***

No restrictions apply to transferring funds associated with FDI. However, foreign investment into Colombia must be registered with the Central Bank to secure the right to repatriate capital and profits. Except for special exceptions, direct and portfolio investments are considered registered when the exchange declaration for operations channeled through the official exchange market is presented. Colombia does not manipulate its currency to gain competitive advantages.

If investments are registered, repatriation is permitted without any limits. The government permits full remittance of all net profits regardless of the type or amount of investment. Foreign investments must be channeled through the foreign exchange market and registered within one year with the Central Bank's foreign exchange office to be able to repatriate or reinvest the proceeds. There are no restrictions on the repatriation of revenues generated from the sale or closure of a business, reduction of investment, or transfer of a portfolio. Colombian law authorizes the government to restrict remittances in the event that international reserves fall below three months' worth of imports, and reserves have been well above that level for decades.

## **3. Expropriation and Compensation**

Article 58 of the Constitution governs indemnifications and expropriations and guarantees owners' rights for legally-acquired property. For assets taken by eminent domain, Colombian law provides a right of appeal both on the basis of the decision itself and on the level of compensation. The Constitution does not specify how to proceed in compensation cases, which remains a concern for foreign investors. The Colombian government has sought to resolve such concerns through the negotiation of bilateral investment treaties and strong investment chapters in free trade agreements, such as the CTPA.

## **4. Dispute Settlement**

### ***Legal System, Specialized Courts, Judicial Independence, Judgments of Foreign Courts***

The judicial system generally operates without government interference. It is procedurally and substantively fair and reliable, though competency can vary depending on the basic substantive knowledge of judges. In 2012, Law 1564 gave the Superintendency of Industry and Commerce, National Copyrights Directorate, and Colombian Agriculture Institute authority to judge civil commercial cases about intellectual property rights (IPR).

### ***Bankruptcy***

Colombia's 1991 Constitution grants the Colombian government the authority to intervene directly in financial or economic affairs, and this authority provided solutions similar to U.S. Chapter 11 filings for companies facing liquidation or bankruptcy. Colombia's bankruptcy regulations have two major objectives: to regulate proceedings to ensure creditors' protection and monitor the efficient recovery and preservation of still-viable companies. This was revised in 2006 to allow creditors to request judicial liquidation, which replaces the previous forced auctioning option. Now, inventories are valued, creditors' rights are taken into account, and either a direct sale takes place within two months or all assets are assigned to creditors based on their share of the company's liabilities. The insolvency regime for companies was again revised in 2010 to make proceedings more agile and flexible and allow debtors to enter into a long-term payment agreement with creditors, giving the company a chance to recover and continue operating. Bankruptcy is not criminalized in Colombia.

Restructuring proceedings aim to protect the debtors from bankruptcy. Once reorganization has begun, creditors cannot use collection proceedings to collect on debts owed prior to the beginning of the reorganization proceedings. All existing creditors at the moment of the reorganization are recognized during the proceedings if they present their credit. Foreign creditors, equity shareholders including foreign equity shareholders, and holders of other financial contracts, including foreign contract holders, are recognized during the proceeding. Established creditors are guaranteed a vote in the final decision.

### ***Investment Disputes***

There is one pending investment dispute currently in litigation since 1999 involving a U.S. fast food company. The company purchased land to build a restaurant, and after the restaurant was in operation the Colombian courts seized the land. The government seized the property during an investigation of the prior landholder for drug trafficking and money laundering under the assumption that it was acquired using drug money.

### ***International Arbitration, ICSID Convention, and New York Convention***

Foreign judgments are recognized and enforced in Colombia through an application submitted to the Civil Chamber of the Supreme Court. The arbitration process in Colombia was improved in 2012 when new legislation based on the UNCITRAL Model Law was adopted. The new statute stipulates that awards be governed by not only the new law but also international conventions (New York Convention, Panama Convention, etc.), which has made the process easier for the parties involved. Arbitration in Colombia is completely independent from judiciary proceedings, and once arbitration has begun, the only competent authority is the arbitration tribunal itself. The CTPA protects U.S. investments by requiring a transparent and binding international arbitration mechanism and allowing investor-state arbitration for breaches of investment agreements if certain parameters are met.

The law permits contracting parties to agree to submit disputes to international arbitration, provided that the parties are domiciled in different countries, the place of arbitration agreed to by the parties is a country other than the one where they are domiciled, the subject matter of the arbitration involves the interests of more than one country, and the dispute has a direct impact on international trade. The law lets parties set their own arbitration terms including location, procedures, and the nationality of rules and arbiters. International arbitration is not allowed for the settlement of investor-state disputes arising from legal

stability contracts, even for foreign investors. Foreign investors have found the arbitration process in Colombia complex and dilatory, especially with regard to enforcing awards. In October 2012, the new National and International Arbitration Statute, modeled after the United Nations Commission on International Trade Law, took effect. Colombia is a member of the New York Convention on Investment Disputes, the International Center for the Settlement of Investment Disputes, and the Multilateral Investment Guarantee Agency.

### ***Duration of Dispute Resolution***

Domestic commercial litigation takes on average 885 days from the pretrial stage until the final hearing and judgment. Traditionally, most court proceedings are carried out in writing and only the evidence-gathering stage is carried out through hearings, including witness depositions, site inspections, and cross-examinations. The Colombian government has accelerated proceedings and reduced the backlog of court cases by allowing more verbal public hearings and creating alternative court mechanisms. The new Code of General Procedure that will enter in force in June 2014 also establishes an oral proceeding which is carried out in two hearings, and there are now penalties for not ruling in the time limit set by the law. Enforcement of an arbitral award can take up to two years.

## **5. Performance Requirements and Investment Incentives**

According to the Constitution and foreign investment regulations, foreign investment in Colombia receives the same treatment as an investment made by Colombian nationals. Any investment made by a person that does not qualify as a resident of Colombia for foreign exchange purposes will qualify as foreign investment. Foreign investment is permitted in all sectors, except in activities related to defense, national security, and toxic waste handling and disposal. There are no performance requirements explicitly applicable to the entry and establishment of foreign investment in Colombia. However, there are export incentives relating to the operation of free trade zones.

### ***WTO/TRIMS***

There are no active measures inconsistent with WTO's Trade Related Investment Measures (TRIMs) requirements. The latest notification under Article 5.1 of the TRIMs agreement was resolved in 2004 through Decree 1473 which eliminated import control mechanisms for certain agricultural products.

### ***Investment Incentives***

The Colombian government offers investment incentives such as income tax exemptions and deductions in specific priority sectors. During the last decade it has committed to providing more incentives and stability for investors. Investment incentives through free trade agreements between Colombia and other nations include national treatment and most favored nation treatment of investors; establishment of liability standards assumed by countries regarding the other nation's investors including the minimum standard of treatment and establishment of rules for investor compensation because of expropriation; establishment of rules for transfer of capital relating to investment; and specific tax treatment.

The government offers tax incentives to all investors, such as preferential import tariffs, tax exemptions, and credit or risk capital. Some fiscal incentives are available for investments that generate new employment or production in areas impacted by natural disasters, and

companies can apply for these directly with participating agencies. Tax and fiscal incentives are often based on regional considerations. Border areas have special protections due to currency fluctuations in neighboring countries, which can harm local economies. National and local governments also offer special incentives, like tax holidays, to attract specific industries.

One of Colombia's most important tax incentives for any investor is the 30 percent deduction of the value of productive fixed-asset investment when paying income tax. This deduction is in addition to regular depreciation. It applies to any investment in tangible goods incorporated as part of a company's fixed assets that are depreciable and part of the company's income-producing activity.

Special tax exemptions have existed since 2003 and range between ten to thirty years. Income tax exemptions in tourism cover new hotels constructed between 2003 and December 31, 2017, and remodeled and/or expanded hotels until December 31, 2017, for a period of 30 years, and for ecotourism services through 2023. New forestry plantations and sawmills also benefit from income tax exemptions since 2003. Late yield crops planted through December 31, 2014, are tax exempt for ten years from the beginning of the harvesting. Electricity from wind power, biomass, and agricultural waste are tax exempt until January 1, 2018, as are river based transportation services provided with certain shallow draft vessels and barges. Certain printing and publishing companies can benefit from tax exemptions until December 31, 2033.

### ***Research and Development (R&D)***

Foreign investors can participate without discrimination in government-subsidized research programs. In fact, most Colombian government research has been conducted with foreign institutions. R&D incentives include Value-Added Tax exemptions for imported equipment or materials used in scientific, technology, or innovation projects, and qualified investments may receive tax credits up to 175 percent. A 2012 reform of Colombia's royalty system allocates ten percent of the government's revenue towards science, technology, and innovation proposals executed by subnational governments. Although only subnational governments can submit a project, anyone, including foreigners, can partner with them. Colombia's government R&D funding increased 40 percent to \$840 million from 2012 to 2014.

### ***Performance Requirements***

There are no performance requirements imposed on foreigners as a condition for establishing, maintaining or expanding investments. The Colombian government does not have performance requirements, impose local employment requirements, or require excessively difficult visa, residence, and work permit requirements for investors. Under the CTPA, Colombia grants substantial market access across its entire services sector.

## **6. Right to Private Ownership and Establishment**

The 1991 Constitution explicitly protects individual rights against state actions and upholds the right to private property.

## **7. Protection of Property Rights**

Colombia has effective means for enforcing property and contractual rights through judicial proceedings.

## ***Real Property***

Secured interests in real property, and to a lesser degree movable property, are recognized and generally enforced after the property is properly registered. In terms of protecting third party purchasers, such as in the case cited under investment disputes, existing law is inadequate. The concept of a mortgage, trust deed, and other types of liens exists, as well as a reliable system of recording such secured interests. Deeds, however, have some legal risk due to the prevalence of transactions that have never been registered with the Public Instruments Registry. About 48 percent of rural land in Colombia, or about 1.7 million plots, does not have a clear title. The Colombian government is working to title these plots and has started a pilot formalization program for land restitution. Colombia scored 83 percent out of a hundred, or a "B," for the ease of registering property according to the World Bank's 2014 Doing Business Report.

## ***Intellectual Property Rights***

In Colombia, the grant, registration, and administration of intellectual property rights are carried out by four different government entities. The Superintendency of Industry and Commerce acts as the Colombian patent and trademark office. The Colombian Agricultural Institute is in charge of issuing plant variety protections and data protections for agricultural products. The Ministry of Interior administers copyrights through the National Copyright Directorate. The Ministry of Health and Social Protection handles data protection for products registered through the National Food and Drug Institute. Each of these entities experiences significant financial and technical resource constraints. Colombia is subject to Andean Community Decision 486 on trade secret protection, which is fully implemented domestically by the Unfair Competition Law of 1996.

The patent regime in Colombia currently provides for a 20-year protection period for patents, a 10-year term for industrial designs, and 20 or 15-year protection for new plant varieties, depending on the species. However, U.S. companies have expressed concern that the Colombian government does not provide patent protection for new uses of previously known or patented products. The U.S. Patent and Trademark Office partnered with the Superintendency of Industry and Commerce to establish a Patent Prosecution Highway (PPH) pilot program. The PPH allows for the mutual recognition of patent examination procedures making the patent granting process faster. The pilot program originally ended in August 2013, but was extended indefinitely due to its success.

Colombia has been on the U.S. Trade Representative's Special 301 "Watch List" every year since 1991 and is also listed in the notorious markets report. Both reports can be found at <http://www.ustr.gov/about-us/press-office/reports-and-publications/2014>. The CTPA improved standards for the protection and enforcement of a broad range of intellectual property rights. Such improvements include state-of-the-art protections for digital products such as software, music, text, and videos; stronger protection for U.S. patents, trademarks and test data; and prevention of piracy and counterfeiting by criminalizing end-use piracy. Colombia is a member of the Inter-American Convention for Trademark and Commercial Protection. Various procedures associated with industrial property, patent, and trademark registration are available at <http://www.sic.gov.co/es/web/guest/propiedad-industrial>. In August 2012, Colombia joined the Madrid Agreement Concerning the International Registration of Marks (Madrid Protocol). The Colombian government joined the World Intellectual Property Organization (WIPO) Trademark Law Treaty on January 13, 2012, which entered into force on April 12, 2013. WIPO's 1996 Copyright Treaty has been in force since

March 6, 2002, and the Performances and Phonograms Treaty since May 20, 2002. Colombia is not a member of the Patent Law Treaty.

On January 23, 2013, the Constitutional Court declared that Law 1520 of 2012, which was to implement several CTPA-related commitments including copyrights, TV programming quotas, and IPR enforcement measures, was unconstitutional on procedural grounds. In response, the Santos administration presented separate bills to Congress. Although the copyrights law was reintroduced, it was struck down because it was not debated by Congress before the end of the legislative period and will need to be reintroduced in 2014. A draft copyrights bill is circulating now, including with the U.S. Trade Representative, for comment prior to resubmission to Congress. The TV programming quotas bill was approved in three of four required debates and must be voted on in a final debate scheduled this year. The IPR enforcement bill was approved in July 2013; however, it does not yet include criminal penalties and a specified list of damages for copyright infringement and trademark counterfeiting – crucial parts of the commitment. The CTPA deadlines for these two portions of the IPR enforcement bills were May 15 and November 15, 2013, respectively.

While Colombia has taken steps to increase penalties to better protect intellectual property rights, pirated and falsified products are a major problem and are distributed through hundreds of stalls in flea markets. In 2006, amendments to the criminal code increased the maximum prison term for copyright infringement from five to eight years, with a corresponding rise in the minimum term from two to four years. The code also contains provisions on the violation of technological protection measures and rights management, both key obligations of the WIPO Treaties. Unfortunately, these violations are only punishable by fines. Although Colombia has one of the lowest software piracy rates in Latin America, piracy of both business and entertainment software continues to cause commercial harm to legitimate industry. Even with an improved penal code, law enforcement raids have not created a deterrent effect.

Embassy point of contact:

- U.S. Embassy Bogota
- Economic Section
- Carrera 45 #22B-45
- Bogota, Colombia
  
- (571) 275-2000
- [BogotaECONShared@state.gov](mailto:BogotaECONShared@state.gov)

Country/Economy resources:

American Chamber of Commerce in Colombia: <http://www.amchamcolombia.com.co/>

Council of American Companies in Colombia: <http://www.ceacolombia.com/es/>

Local attorneys list: <http://bogota.usembassy.gov/attorneys.html>

For additional information about treaty obligations and points of contact at local IP offices, please see WIPO's country profiles at <http://www.wipo.int/directory/en/>.

## **8. Transparency of the Regulatory System**

The Colombian legal and regulatory systems are generally transparent and consistent with international norms. The commercial code and other laws cover broad areas including banking and credit, bankruptcy/reorganization, business establishment/conduct, commercial contracts, credit, corporate organization, fiduciary obligations, insurance, industrial property, and real property law. The civil code contains provisions relating to contracts, mortgages, liens, notary functions, and registries. There are no identified private sector associations or nongovernmental organizations leading informal regulatory processes. The ministries generally consult with relevant actors, both foreign and national, when drafting regulations and proposed laws are typically published as drafts for public comment.

Enforcement mechanisms exist, but historically the judicial system has not taken an active role in adjudicating commercial cases. The 1991 Constitution provided the judiciary with greater administrative and financial independence from the executive branch. Colombia has completed its transition to an oral accusatory system to make criminal investigations and trials more efficient. The new system separates the investigative functions assigned to the Office of the Attorney General from trial functions. Lack of coordination among government entities as well as insufficient resources complicate timely resolution of cases.

## **9. Efficient Capital Markets and Portfolio Investment**

Market capitalization has risen from \$14 billion in 2003 to \$215 billion as of December 2013. Sound fiscal and macroeconomic management allowed Colombia to claim the triple crown of seeing its credit ratings increased to 'Investment Grade' level by Standard and Poor's, Moody's, and Fitch Ratings. Foreign investors are allowed to participate in capital markets by negotiating and acquiring shares, bonds, and other securities listed by the Foreign Investment Statute. These activities must be conducted via a local administrator, which can be a trust company or a stock brokerage firm that has been authorized to do so by the Financial Superintendent (Super Financiera). Foreign investment capital funds are not allowed to acquire more than ten percent of the total amount of a Colombian company's outstanding shares. Foreigners have no restrictions to establish a bank account as long as they have a valid visa and government ID (Cedula).

The market has sufficient liquidity for investors to enter and exit sizeable positions. Following the crisis of 1998-99, bailouts for failing banks were partially financed through a controversial tax on financial transactions. The tax was originally set at 0.2 percent but has since been increased to 0.4 percent. The tax on financial transactions is applied to all withdrawals from checking and savings accounts, including accounts with the Central Bank. Savings accounts for the purchase of low-income housing, transactions on the inter-bank market, and the sale or purchase of foreign currency are exempt from the tax. Electronic securities transactions, including stock market transactions, are also exempt from the tax. The Central Bank respects IMF Article VIII and does not restrict payments and transfers for current international transactions.

### ***Money and Banking System, Hostile Takeovers***

In 2005, Colombia consolidated supervision of all aspects of the banking, financial, securities, and insurance sectors under the Financial Superintendent. Colombia has an effective regulatory system that encourages portfolio investment. According to the Financial Superintendent, as of December 2013, the estimated assets of the country's main banks totaled approximately \$184 billion. Sixty percent of all disbursed credits were destined for commercial credits, 28 percent for consumption, nine percent for housing, and three percent for microcredit. Past-due loans accounted for three percent of the total portfolio.

Colombia's financial system is well developed by regional standards. The financial sector as a whole is investing in new risk assessment and portfolio management methodologies. Two private financial groups together own over half of all bank assets: the Sarmiento Group (Grupo Aval) controls about 27 percent and the Sindicato Antioqueño Group (Bancolombia) about 27 percent as of December 2013. Total foreign-owned bank assets account for approximately 24 percent of sector assets.

The principal source of long-term corporate and project finance in Colombia are commercial banks. Loans with a maturity in excess of five years are scarce. Unofficial private lenders play a considerable role in meeting the working capital needs of small and medium-sized companies. Only the largest of Colombia's companies participate in the local stock or bond markets with the majority meeting their financing needs through the banking system, by reinvesting their profits, and through suppliers' credit.

## **10. Competition from State-Owned Enterprises**

### ***OECD Guidelines on Corporate Governance of SOEs***

At Colombia's request, the OECD analyzed Colombia's corporate governance practices of State Owned Enterprises (SOEs) against OECD Guidelines and released a report in December 2013 ([http://www.oecd-ilibrary.org/governance/colombian-soes-a-review-against-the-oecd-guidelines-on-corporate-governance-of-state-owned-enterprises\\_5k3v1ts5s4f6-en](http://www.oecd-ilibrary.org/governance/colombian-soes-a-review-against-the-oecd-guidelines-on-corporate-governance-of-state-owned-enterprises_5k3v1ts5s4f6-en)). The OECD found that Colombia's legal framework is compatible with the OECD standards of corporate governance. Colombian SOEs fall into two broad categories: Industrial and Commercial State Companies that are statutory corporations wholly owned by the state and whose origin and norms are established by law and Mixed-Ownership in which the state has a stake and which can take any legal form and are generally governed by the norms applicable to the private sector. The central government owns 70 SOEs and partial SOEs. SOEs exist in the following sectors: defense article production, regional utility companies, postal service, electricity generation and distribution, hospitals, airports, banking, television, education, regional lotteries, alcohol and spirit distillers, and oil and gas.

In principle Colombia's SOEs do not receive preferential treatment, though in practice some issues arise such as political authorities running SOEs and conflicts of interest. In general, Colombian SOEs are subject to the general legal framework and receive special treatment in very few areas. One of these areas is bankruptcy law; SOEs are largely protected from insolvency due to the necessity of providing essential public services. Colombian SOEs are, in general, subject to private law and structured as commercial companies. However, depending on the sector, SOEs may also be subject to specific sector norms, such as the Utilities Law.

Private enterprises generally are allowed to compete with public enterprises under the same terms and conditions, although at the sub-national level private liquor companies face



licensing restrictions and other administrative barriers that prevent free competition with local SOEs. Private enterprises are allowed to compete with SOEs under the same terms and conditions with respect to access to markets, credit, and other business operations, such as licenses and supplies. State-owned banks are expected to treat SOEs without any preference. Colombian SOEs generally use the financial markets for financing and do not receive additional support from the government except in very rare cases.

Colombia's corporate governance code is comprised of 41 best practices for shareholders' meetings, boards of directors, disclosure of financial and non-financial information, and dispute resolution. Adoption of the code is voluntary and based on the principle of self-regulation, but Colombia requires that all companies submit an annual report on their implementation with a "comply or explain" approach. In March 2014, Santos signed a new law requiring all SOEs to make their operations publicly available. Colombia protects the rights of minority shareholders and allows any group of shareholders with less than a ten percent stake to request the intervention of the regulator if they believe the company is taking measures detrimental to their interests. According to the OECD, the three largest SOEs, Ecopetrol, ISA, and ISAGEN, are considered to be good examples of professional management, competition, and excellent corporate governance.

### ***Sovereign Wealth Funds***

Colombia started operating a sovereign wealth fund in 2012 using royalties from the extractive industry. The fund's main objective is to promote saving and economic stabilization in the country, but it also aims to boost productivity in Colombia through new technologies and innovation. The fund is administrated by the Central Bank.

## **11. Corporate Social Responsibility**

Colombia adheres to the corporate social responsibility (CSR) principles outlined in the OECD Guidelines for Multinational Enterprises. It has a long tradition of CSR across many industries and encourages public and private enterprises to follow OECD guidelines. Beneficiaries of CSR programs include students, children, populations vulnerable to Colombia's armed conflict, victims of violence, and the environment. Larger companies, in particular, structure their CSR programs in line with generally accepted international CSR principles. On several occasions, companies in Colombia have been recognized on an international level, including by the State Department, for their CSR commitments.

Overall, Colombia has strong environmental laws on the books, is proactive at the federal level in enacting environmental protections, and does not waive labor or environmental regulations to attract investors. However, the Colombian government struggles with enforcement, particularly in more remote areas. Geography, lack of infrastructure, and lack of state presence all play a role, as does a general shortage of resources in its national and regional level institutions. The Environmental Chapter of the CTPA requires Colombia to maintain and enforce environmental laws, protect biodiversity, and promote opportunities for public participation.

## **12. Political Violence**

Violence, including political violence, has diminished significantly in recent years. Colombian government figures show that the number of terrorist acts decreased by seven percent from 2012 to 2013 to 830 incidents. Homicides nationally continued a downward trend, with 15,234

in 2013, compared with 16,440 in 2012. The number of kidnappings in 2013 was 299, a two percent decrease from 305 in 2012, and a 91 percent decrease since 1999 when there were 3,204 kidnappings.

Security in Colombia has improved significantly in the past 15 years. However, there continues to be an active domestic insurgency that threatens commercial activity and investment, especially in rural zones where government control is weaker. The government estimates the Revolutionary Armed Forces of Colombia (FARC) insurgent group has around 8,000 armed members, and the National Liberation Army (ELN) has around 1,500. Both groups attack oil pipelines, mines, roads, and electricity towers to disrupt economic activity and put pressure on the government. Both groups also extort businesses in their area of operation, sometimes kidnapping personnel and destroying the property of operations that refuse to pay.

The extractive sector has been especially hard hit by insurgent attacks. According to press reports, there were 259 attacks on oil pipelines in 2013, a 72 percent increase compared to 2012. These attacks sometimes temporarily forced oil companies to stop production while pipelines were repaired or to transport oil by more expensive alternate methods. In October 2013, the FARC twice used explosive devices to derail a train moving coal from Cerrejon, Colombia's largest coal mine, to a port in the northern department of La Guajira, and another attack the following month killed one soldier and wounded two others. In 2013, the FARC and ELN also kidnapped, detained, or threatened employees of some oil and gas companies with operations in proximity to Venezuela and Ecuador.

The Colombian government and FARC have been in peace negotiations in Havana, Cuba since November 2012. They have agreed in principle on two of the five negotiating topics – agriculture and rural development and political participation – and discussion on a third topic, drugs, is ongoing. The last two agenda items, victims and end of conflict, have yet to be addressed.

### **13. Corruption**

#### ***UN Anticorruption Convention, OECD Convention on Combatting Bribery Corruption***

Corruption is a significant challenge in Colombia. According to the World Economic Forum's Global Competitiveness Index (2013-2014), corruption is the biggest problem for doing business in Colombia. The Colombian Attorney General estimates that corrupt activity drains \$2.1 billion per year from the country's economy. According to the "AmericasBarometer 2013" published by the Latin American Public Opinion Project, the perception of corruption in Colombia reached 81.7 percent, its highest level since the study was first carried out in 2004. Similarly, the latest Survey of Colombian Companies' Anti-Bribery Practices, carried out in 2012, found that 94 percent of businesspeople believed their peers offered bribes and that 58 percent of companies lacked mechanisms for reporting cases of bribery. Responders said that corruption increases the cost of projects almost 15 percent, particularly for government contracts.

President Santos has demonstrated his commitment to prosecute corrupt officials and tackle fraud and bribery in the use of public funds. In 2011, he signed the Anti-Corruption Statute, a comprehensive policy giving the government new tools to crackdown on corruption, including stiffer penalties. Santos has also uncovered multiple high-profile scandals involving the public sector since taking office, and numerous officials have been dismissed, taken to

court, or put in jail. In 2013, the Customs and Tax Office (DIAN) was involved in a high-profile corruption case that is still pending in which a number of employees nationwide stole approximately \$90 million.

Colombia has adopted the OECD Convention on Combating Bribery of Foreign Public Officials and is a member of the OECD Anti-Bribery Committee. It has signed and ratified the UN Anticorruption Convention. Additionally, it has adopted the OAS Convention against Corruption.

The CTPA protects the integrity of procurement practices and criminalizes both offering and soliciting bribes to/from public officials. It requires both countries to make all laws, regulations, and procedures regarding any matter under the CTPA publicly available. Both countries must also establish procedures for reviews and appeals by any entities affected by actions, rulings, measures, or procedures under the CTPA.

#### **14. Bilateral Investment Agreements**

Colombia has nine free trade agreements that include investment chapters: the U.S., European Union, Canada, Chile, Mexico, Cuba, Andean Community of Nations (Bolivia, Ecuador, and Peru), European Free Trade Area (only Switzerland and Liechtenstein have ratified), Mercosur (Brazil, Argentina, Paraguay, Uruguay, and Venezuela), and North Triangle (El Salvador, Honduras, and Guatemala). Colombia has signed agreements with Israel, Panama, Costa Rica, and South Korea that are expected to be ratified and enter into force within the next two years. Free trade agreement negotiations with Turkey and Japan are ongoing and Colombia's goal is to have sixteen trade agreements with over fifty countries (including the 27 EU members) by the end of 2014.

Additionally, Colombia has stand-alone bilateral investment treaties in force with China, India, Peru, Spain, and Switzerland and treaties signed but not in force with the UK and Japan. Colombia together with Chile, Mexico, and Peru form the Pacific Alliance, which signed a trade agreement in February 2014 that is expected to take effect sometime in 2015.

#### ***Bilateral Taxation Treaties***

Colombia has double taxation agreements in force with Spain, Chile, Switzerland, and now Canada. It has signed agreements with India, Mexico, South Korea, and Portugal. Talks for such accords have concluded successfully with Belgium, the Czech Republic, and France. Colombia is currently negotiating double taxation agreements with Germany, the Netherlands, Japan, and the United States.

#### **15. OPIC and Other Investment Insurance Programs**

OPIC made its first investment in Colombia in 1985 and has since made investments totaling over \$2 billion in a variety of sectors. Additional information can be found at [www.opic.gov](http://www.opic.gov).

#### **16. Labor**

The labor market reflected positive results in Colombia's healthy economy. The average annual unemployment rate in 2013 was 9.6 percent, the first time in many years under ten percent. That said, Colombia has one of the highest unemployment rates in the region. About 64.5 percent of the population actively participates in the labor force. Forty-nine percent of the workforce was working in the informal economy at the end of 2013. Colombia

has abundant unskilled and semi-skilled labor throughout the country, as well as managerial-level employees who are often bilingual.

Pursuant to Colombia's Labor Law, any group of 25 or more workers, regardless of whether they are employees of the same company or not, may form a labor union. Employees of companies with fewer than 25 employees may affiliate themselves with other labor unions. About four percent of the country's labor force is unionized. The largest and most influential unions are composed mostly of public employees, particularly of the majority state-owned oil company and the state-run education sector. The Constitution protects the right to constitute labor unions. Strikes, when held in accordance with the law, are recognized as legal instruments to obtain better working conditions. Strikes in sectors considered essential for some public sector unions are illegal. In 2013 there were a number of nationwide strikes, particularly in the agriculture sector, resulting in a few deaths and thousands of dollars in property damage.

Labor rights in Colombia are set forth in its Constitution, the Labor Code, the Procedural Code of Labor and Social Security, sector-specific legislation, and ratified international conventions, which are incorporated into national legislation. Colombia's Constitution guarantees freedom of association and provides for collective bargaining and the right to strike (with some exceptions). It also addresses forced labor, child labor, trafficking, discrimination, protections for women and children in the workplace, minimum wages, working hours, skills training, and social security.

Colombia has ratified all eight of the International Labor Organizations' fundamental labor conventions and all are in force, including those related to freedom of association, equal remuneration, right to organize and collectively bargain, discrimination, minimum working age, forced labor, and prohibition of the worst forms of child labor. Colombia has also ratified conventions related to hours of work, occupational health and safety, and minimum wage. In 2013, Law 1636 was passed to increase protections and opportunities for Colombia's unemployed population. The Ministry of Labor passed a number of resolutions and regulations, covering topics such as social security, occupational safety and health standards, formalization, and labor mediation.

Foreign companies operating in Colombia must follow the same hiring rules as national companies, regardless of the origin of the employer and the place of execution of the contract.

In 2010, Law 1429 eliminated the mandatory proportion requirement for foreign and national personnel; 100 percent of the workforce, including the board of directors, can be foreign nationals. Labor permits are not required in Colombia, except for under-aged workers. Foreign employees have the same rights as Colombian employees.

## **17. Foreign Trade Zones/Free Ports**

To attract foreign investment and promote the importation of capital goods, the Colombian government uses a number of drawback and duty deferral programs. One example is free trade zones (FTZ), which the government has used to attract more investment and create more jobs. In 2005, Colombia's Congress passed comprehensive FTZ modernization legislation that opened investment to international companies, allowed one-company/standalone FTZs, and permitted the designation of pre-existing plants as FTZs. This law was updated in 2007 to outline the requirements to be declared a FTZ. As of December 2013 there were 97 FTZs, an

almost tenfold increase since 2005. FTZs account for \$7.8 billion in investment and provide 47,076 direct jobs and 96,291 indirect ones. While the customs authority, DIAN, oversees requests to establish FTZs, the Colombian government is not involved in their operation.

In 2002, Colombia accepted the WTO Committee on Subsidies and Countervailing Measures' decision to phase out all export subsidies in FTZs by December 31, 2006. However, FTZs maintain their special customs and foreign exchange regimes, per Law 1004 passed in 2005, which also grants a preferential 15 percent corporate income tax and exemption from customs duties and value-added taxes on imported materials. In January 2013, the new tax reform took effect, grandfathering benefits to existing FTZs while requiring new ones to pay an additional income tax of nine percent until 2015 and eight percent beginning in 2016. In return for these and other incentives, every FTZ project must meet specific investment and job creation commitments. Requirements range from a minimum of \$17 million in new investments and 500 jobs for agro-industrial projects, to \$34 million in new investment and 150 jobs created for manufacturing projects. Job creation requirements may be lowered by 15 positions for every additional \$3 million invested with a minimum requirement of 50 jobs created.

## 18. Foreign Direct Investment and Foreign Portfolio Investment Statistics

**TABLE 2: Key Macroeconomic Data, FDI in Colombia, 2012**

The difference between the Colombian and U.S. sources for FDI in the table below is mainly due to calculation methodologies. The U.S. Bureau of Economic Analysis (BEA) uses balance of payments and direct investment position data without current-cost adjustment while the Colombian Central Bank uses the total FDI calculated by the total registered on FDI declarations submitted to the Bank.

	Host Country Statistical source		USG or international statistical source		
Economic Data	Year	Amount	Year	Amount	Link to Source of data
Host Country GDP (Billion U.S. Dollars)	2012	365.4	2012	369.6	<a href="http://www.worldbank.org/en/country">http://www.worldbank.org/en/country</a> <a href="http://www.banrep.gov.co/">http://www.banrep.gov.co/</a>
<b>Foreign Direct Investment</b>					
U.S. FDI in partner country (Millions U.S. Dollars, stock positions)	2012	2,515	2012	8,434	<a href="http://www.bea.gov/">http://www.bea.gov/</a> <a href="http://www.banrep.gov.co/">http://www.banrep.gov.co/</a>
Host country's FDI in the United States	2012	176.4	2012	779	<a href="http://www.bea.gov/">http://www.bea.gov/</a> <a href="http://www.banrep.gov.co/">http://www.banrep.gov.co/</a>

(Millions U.S. Dollars, stock positions)					
Total inbound stock of FDI as % host GDP	2012	4.3%			<a href="http://www.banrep.gov.co/">http://www.banrep.gov.co/</a>

**TABLE 3: Sources and Destinations of FDI, Colombia, 2012**

The Colombian government's statistics show that FDI into Colombia was \$15.8 billion in 2012.

Direct Investment from/in Counterpart Economy Data					
From Top Five Sources/To Top Five Destinations (U.S. Dollars, Millions)					
Inward Direct Investment			Outward Direct Investment		
TOTAL INWARD	37,011	100%	TOTAL OUTWARD	14,005	100%
U.S.	8,434	22.8%	SPAIN	3,251	23.2%
SPAIN	7,573	20.5%	CHILE	2,820	20.1%
NETHERLANDS	5,860	15.8%	PANAMA	2,702	19.3%
MEXICO	3,156	8.5%	BRAZIL	1,869	13.3%
UNITED KINGDOM	2,372	6.4%	NETHERLANDS	1,260	9%

Source: <http://cds.imf.org/>

**TABLE 4: Sources of Portfolio Investment, Colombia, 2012**

Portfolio Investment Assets								
Top Five Partners (U.S. Dollar, Millions)								
Total			Equity Securities			Total Debt Securities		
World	16,594	100%	World	7,358	100%	World	9,237	100%
United States	11,249	68%	United States	4,963	67%	United States	6,286	68%
Canada	913	6%	Canada	848	12%	Brazil	452	5%
Luxembourg	843	5%	Luxembourg	731	10%	Germany	305	3%

Brazil	475	3%	El Salvador	273	4%	Mexico	152	2%
Germany	305	2%	Ireland	127	2%	Peru	135	1%

Source: <http://cpis.imf.org/>

## Section 5 - Government

### Chiefs of State and Cabinet Members:

For the current list of Chiefs of State and Cabinet Members, please access the following - [Central Intelligence Agency online directory of Chiefs of State and Cabinet Members of Foreign Governments](#)

### Legal system:

civil law system influenced by the Spanish and French civil codes

### International organization participation:

BCIE, BIS, CAN, Caricom (observer), CD, CDB, CELAC, FAO, G-3, G-24, G-77, IADB, IAEA, IBRD, ICAO, ICC (national committees), ICRM, IDA, IFAD, IFC, IFRC, IHO, ILO, IMF, IMO, IMSO, Interpol, IOC, IOM, IPU, ISO, ITSO, ITU, ITUC (NGOs), LAES, LAIA, Mercosur (associate), MIGA, NAM, OAS, OPANAL, OPCW, PCA, UN, UNASUR, UNCTAD, UNESCO, UNHCR, UNIDO, Union Latina, UNSC (temporary), UNWTO, UPU, WCO, WFTU (NGOs), WHO, WIPO, WMO, WTO



## Section 6 - Tax















### Exchange control

Certain foreign currency transactions must be channelled through intermediaries authorised for the purposes including:

- import of property
- export of property
- external indebtedness
- foreign investment in Colombia
- Colombian investment in foreign countries
- financial investments and fixed assets based in foreign countries
- endorsements and guarantees
- derivative transactions.

### Treaty and non-treaty withholding tax rates

Colombia has signed **14 agreements** (12 DTC and 2 TIEA agreements) providing for the exchange of information.

Jurisdiction	Type of EOI Arrangement	Date Signed	Date entered into Force	Meets standard	Contains paras 4 and 5	
Bolivia	DTC	4 May 2004	1 Jan 2005	Unreviewed	No	
Canada	DTC	21 Nov 2008	12 Jun 2012	Unreviewed	Yes	
Chile	DTC	19 Apr 2007	22 Dec 2009	Unreviewed	No	
Curaçao	TIEA	4 Feb 2013	not yet in force	Unreviewed	Yes	
Czech Republic	DTC	22 Mar 2012	not yet in force	Unreviewed	Yes	
Ecuador	DTC	4 May 2004	1 Jan 2005	Unreviewed	No	
India	DTC	13 May 2011	not yet in force	Unreviewed	Yes	
Korea, Republic of	DTC	27 Jul 2010	not yet in force	Unreviewed	Yes	
Mexico	DTC	13 Aug 2009	11 Jul 2013	Unreviewed	Yes	
Peru	DTC	4 May 2004	1 Jan 2005	Unreviewed	No	
Portugal	DTC	30 Aug 2010	not yet in force	Unreviewed	Yes	
Spain	DTC	31 Mar 2005	23 Oct 2008	Unreviewed	Yes	
Switzerland	DTC	26 Oct 2007	11 Sep 2011	No	No	
United States	TIEA	30 Mar 2001	not yet in force	Unreviewed	No	

## Methodology and Sources

### Section 1 - General Background Report and Map

(Source: [CIA World Factbook](#))

### Section 2 - Anti – Money Laundering / Terrorist Financing

	Lower Risk	Medium Risk	Higher Risk
<a href="#">FATF List of Countries identified with strategic AML deficiencies</a>	Not Listed	AML Deficient but Committed	High Risk
<a href="#">Compliance with FATF 40 + 9 recommendations</a>	>69% Compliant or Fully Compliant	35 – 69% Compliant or Fully Compliant	<35% Compliant or Fully Compliant
<a href="#">US Dept of State Money Laundering assessment (INCSR)</a>	Monitored	Concern	Primary Concern
<a href="#">INCSR - Weakness in Government Legislation</a>	<2	2-4	5-20
<a href="#">US Sec of State supporter of / Safe Haven for International Terrorism</a>	No	Safe Haven for Terrorism	State Supporter of Terrorism
<a href="#">EU White list equivalent jurisdictions</a>	Yes		No
<a href="#">International Sanctions UN Sanctions / US Sanctions / EU Sanctions</a>	None	Arab League / Other	UN , EU or US
<a href="#">Corruption Index (Transparency International) Control of corruption (WGI) Global Advice Network</a>	>69%	35 – 69%	<35%
<a href="#">World government Indicators (Average)</a>	>69%	35 – 69%	<35%
<a href="#">Failed States Index (Average)</a>	>69%	35 – 69%	<35%
<a href="#">Offshore Finance Centre</a>	No		Yes

### **Section 3 - Economy**

General Information on the current economic climate in the country and information on imports, exports, main industries and trading partners.

(Source: [CIA World Factbook](#))

### **Section 4 - Foreign Investment**

Information on the openness of foreign investment into the country and the foreign investment markets.

(Source: [US State Department](#))

### **Section 5 - Government**

Names of Government Ministers and general information on political matters.

(Source: [CIA World Factbook](#) / <https://www.cia.gov/library/publications/world-leaders-1/index.html>)

### **Section 6 - Tax**

Information on Tax Information Exchange Agreements entered into, Double Tax Agreements and Exchange Controls.

(Sources: [OECD Global Forum on Transparency and Exchange of Information for Tax Purposes](#) [PKF International](#))

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