



Trade Policy Review Body

TRADE POLICY REVIEW

REPORT BY THE SECRETARIAT

COLOMBIA

This report, prepared for the fifth Trade Policy Review of Colombia, has been drawn up by the WTO Secretariat on its own responsibility. The Secretariat has, as required by the Agreement establishing the Trade Policy Review Mechanism (Annex 3 of the Marrakesh Agreement Establishing the World Trade Organization), sought clarification from Colombia on its trade policies and practices.

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CONTENTS

SUMMARY	9
1 ECONOMIC ENVIRONMENT	15
1.1 Main features of the economy	15
1.2 Recent economic developments.....	17
1.2.1 Production and employment.....	17
1.2.2 Fiscal policy	19
1.2.3 Monetary and exchange-rate policy.....	22
1.2.4 Balance of payments.....	23
1.3 Trade and investment performance.....	25
1.3.1 Trends and patterns of trade in goods and services.....	25
1.3.1.1 Merchandise trade.....	25
1.3.1.1.1 Composition of merchandise trade.....	25
1.3.1.1.2 Direction of merchandise trade	27
1.3.1.2 Services trade	27
1.3.2 Trends and patterns in foreign direct investment	29
2 TRADE AND INVESTMENT REGIME	31
2.1 General framework	31
2.2 Trade policy formulation and objectives.....	34
2.3 Trade agreements and arrangements.....	35
2.3.1 WTO	35
2.3.2 Regional and preferential agreements	36
2.3.3 Other agreements and arrangements	39
2.4 Investment regime	39
3 TRADE POLICIES AND PRACTICES BY MEASURE.....	42
3.1 Measures directly affecting imports.....	42
3.1.1 Customs procedures, valuation and requirements	42
3.1.1.1 New customs regulations and trade facilitation measures.....	42
3.1.1.2 Customs procedures.....	43
3.1.1.3 Customs valuation	48
3.1.2 Rules of origin	49
3.1.3 Tariffs	50
3.1.3.1 Tariff structure and policy	50
3.1.3.2 MFN tariff features and levels	51
3.1.3.3 Tariff quotas.....	54
3.1.3.4 Preferential tariffs	54
3.1.3.5 Tariff concessions	55
3.1.4 Other charges on imports	56
3.1.4.1 Value added tax (VAT).....	56
3.1.4.2 Other taxes	57

3.1.5	Import prohibitions, restrictions and licensing	60
3.1.5.1	Import prohibitions	60
3.1.5.2	Licences, registration and other requirements	60
3.1.5.2.1	Automatic licensing	61
3.1.5.2.2	Non-automatic licensing.....	61
3.1.5.2.3	Other measures	63
3.1.6	Anti-dumping, countervailing and safeguard measures	64
3.1.6.1	General	64
3.1.6.2	Anti-dumping measures.....	64
3.1.6.3	Countervailing measures.....	67
3.1.6.4	Safeguard measures	67
3.2	Measures directly affecting exports.....	68
3.2.1	Customs procedures and requirements.....	68
3.2.2	Taxes, charges and levies.....	69
3.2.3	Export prohibitions, restrictions and licensing	70
3.2.4	Export support and promotion	71
3.2.4.1	Support for exports.....	71
3.2.4.1.1	Free Zones	71
3.2.4.1.1.1	Permanent free zones and special permanent free zones	72
3.2.4.1.1.2	Temporary free zones	75
3.2.4.1.2	Tax Reimbursement Certificate (CERT)	75
3.2.4.1.3	International Trading Companies (CI)	76
3.2.4.2	Export promotion.....	76
3.2.4.3	Export financing, insurance and guarantees	76
3.3	Measures affecting production and trade	77
3.3.1	Incentives.....	77
3.3.1.1	Credit programmes	77
3.3.1.2	Micro, small and medium enterprises (MSME).....	79
3.3.1.3	Support for research, development and improved competitiveness.....	82
3.3.1.4	Special Import-Export Systems or Plan Vallejo.....	82
3.3.2	Standards and technical regulations	84
3.3.2.1	Institutional and legal framework.....	84
3.3.2.2	Standardization	86
3.3.2.3	Technical regulations.....	86
3.3.2.4	Conformity assessment and certification	88
3.3.2.5	Accreditation	89
3.3.2.6	Metrology	90
3.3.3	Sanitary and phytosanitary requirements.....	90
3.3.3.1	Policy formulation and implementation, legal framework and responsible bodies.....	90
3.3.3.2	Notifications to the WTO	92

3.3.3.3	Animal health	92
3.3.3.4	Plant health.....	94
3.3.3.5	Food safety	96
3.3.4	Competition policy and price controls	97
3.3.4.1	Competition policy	97
3.3.4.2	Price controls.....	100
3.3.5	State trading, State-owned enterprises and privatization	102
3.3.5.1	State trading	102
3.3.5.2	State-owned enterprises and privatization.....	102
3.3.6	Government procurement.....	104
3.3.6.1	Overview	104
3.3.6.2	Regulatory framework	104
3.3.6.3	National preferences	107
3.3.6.3.1	Procurement control	108
3.3.7	Intellectual property rights.....	109
3.3.7.1	Overview	109
3.3.7.2	Copyright and related rights	112
3.3.7.3	Industrial property	113
3.3.7.3.1	Patents	113
3.3.7.3.2	Trademarks	115
3.3.7.3.3	Appellations of origin	115
3.3.7.3.4	Industrial designs.....	116
3.3.7.4	Protection of new plant varieties	116
3.3.7.5	Undisclosed information.....	117
3.3.7.6	Enforcement.....	117
4	TRADE POLICIES BY SECTOR.....	120
4.1	Agriculture, forestry and fisheries	120
4.1.1	General characteristics and policies of the sector	120
4.1.2	Border measures	122
4.1.3	Domestic support, subsidies and other support schemes.....	123
4.1.4	Financing and insurance	126
4.1.4.1	Special Line of Credit (LEC)	126
4.1.4.2	Rural Capitalization Incentive (ICR).....	127
4.1.4.3	Fund for Financing the Agricultural Sector (FINAGRO)	127
4.1.4.4	Agricultural Guarantee Fund (FAG).....	129
4.1.4.5	Other financing schemes.....	130
4.1.4.6	Agricultural insurance.....	130
4.2	Mining and energy	131
4.2.1	Mining	133
4.2.2	Hydrocarbons.....	134

4.2.3 Electricity	136
4.3 Manufacturing	138
4.4 Services	139
4.4.1 Financial services.....	139
4.4.1.1 Regulation and general characteristics.....	139
4.4.1.2 Banking	144
4.4.1.3 Insurance	145
4.4.1.4 Securities market.....	147
4.4.2 Telecommunications.....	149
4.4.3 Transport.....	153
4.4.3.1 Air transport and airports.....	153
4.4.3.1.1 Air transport.....	153
4.4.3.1.2 Airports.....	155
4.4.3.2 Maritime transport and ports	156
4.4.3.2.1 Maritime transport	156
4.4.3.2.2 Ports	157
4.4.4 Tourism.....	159
5 APPENDIX TABLES	161

CHARTS

Chart 1.1 Merchandise trade by main products, 2012 and 2017	26
Chart 1.2 Direction of merchandise trade, 2012 and 2017.....	28
Chart 2.1 Legislative process	33
Chart 2.2 Regional trade agreements in force in Colombia, 2017	37
Chart 3.1 Frequency distribution of tariff rates, 2017.....	52
Chart 3.2 Exports from free zones, January 2012-July 2017	75
Chart 4.1 Institutions in the energy sector	132
Chart 4.2 Functioning of Colombia's financial system.....	140
Chart 4.3 Fixed and mobile services market, 2017 Q3	153

TABLES

Table 1.1 Basic economic indicators, 2012-2017	16
Table 1.2 Central government finances, 2012-2017.....	19
Table 1.3 Balance of payments, 2011-2017.....	24
Table 1.4 Trade in services, 2012-2017	29
Table 1.5 Inward flows of foreign direct investment to Colombia by economic sector, 2012-2017 Q3.....	30
Table 1.6 Inward flows of foreign direct investment to Colombia by country of origin, 2012-2017Q3	30

Table 2.1 Dispute settlement cases involving Colombia, 1 January 2012-31 December 2017.....	36
Table 2.2 Features of the new regional trade agreements implemented by Colombia since 2012	37
Table 2.3 Restrictions on private investment	40
Table 3.1 Inspection percentages by selection channel, 2011-2016	44
Table 3.2 Benefits under special treatment categories	47
Table 3.3 Price thresholds established in Decree No. 2.218 of 27 December 2017	51
Table 3.4 MFN tariff structure, 2011 and 2017	52
Table 3.5 Summary analysis of the MFN tariff, excluding the Andean Price Band System (SAFP) and conditional tariffs, 2017	53
Table 3.6 Summary analysis of preferential tariffs, 2017	55
Table 3.7 VAT-exempt imports	57
Table 3.8 Excise tax on beer, aerated waters, shandies and mixtures	58
Table 3.9 Rates of excise tax on alcoholic beverages and tobacco, 2017	59
Table 3.10 National excise tax, 2017	59
Table 3.11 National tax on petrol (gasoline) and engine fuel oils (ACPM), 2017.....	60
Table 3.12 National carbon tax, 2017	60
Table 3.13 Non-automatic import licences, 2017.....	62
Table 3.14 Legal provisions on trade protection measures, 2017.....	64
Table 3.15 Anti-dumping measures in force at 31 December 2017	66
Table 3.16 Goods subject to export controls through the VUCE	70
Table 3.17 Requirements applicable to industrial and commercial users of permanent free zones	73
Table 3.18 Benefits for free zone users	74
Table 3.19 ProColombia: export promotion performance, 2012-2017.....	76
Table 3.20 Bancoldex: Disbursements to exporters 2012-2016.....	77
Table 3.21 Loans granted by Bancoldex, by user and sector, 2012-2016.....	78
Table 3.22 Bancoldex Loan Portfolio 2012 – 2016	79
Table 3.23 Classification of enterprises in Colombia, 2017.....	80
Table 3.24 Bancoldex: Credit operations for MSMEs, 2012-2016	80
Table 3.25 Cumulative disbursements by the National Guarantee Fund, 2012-2017	81
Table 3.26 Programmes classified under the Plan Vallejo (SEIEX) in 2017	83
Table 3.27 Legal framework for technical regulations, 2017.....	85
Table 3.28 SPS Notifications to the WTO, 2012-2017.....	92
Table 3.29 Business integration operations notified to the SIC, January 2012-June 2017	99
Table 3.30 Activities of the SIC, January 2012-June 2017	100
Table 3.31 Bodies empowered to apply price controls	100
Table 3.32 State-owned enterprises by sector and State holding, 2016.....	103
Table 3.33 Value of contracts awarded, by procurement method, 2012-2017	106
Table 3.34 Control mechanisms for procurement procedures	108
Table 3.35 Participation in treaties administered by WIPO, 2017	109

Table 3.36 Overview of intellectual property rights, 2017	111
Table 3.37 Applications for legal proceedings before the SIC and outcomes, 2012-2016	118
Table 3.38 Applications for legal proceedings before the DNDA and outcomes, 2013-2017	118
Table 4.1 Main agricultural sector indicators, 2012-2017.....	120
Table 4.2 Special Line of Credit, conditions for different users	126
Table 4.3 FINAGRO lines of credit, conditions by category of user	128
Table 4.4 Guarantees granted by the FAG, 2012-2016.....	130
Table 4.5 Agricultural insurance	131
Table 4.6 Percentage rate of the Agricultural Insurance Incentives granted to producers, by category of producer, 2017	131
Table 4.7 Methods of awarding E&P contracts	134
Table 4.8 Price control in the hydrocarbons sector.....	136
Table 4.9 Concession contracts in the electricity sector	137
Table 4.10 Regulatory texts governing financial services.....	139
Table 4.11 Structure of Colombia's financial system, December 2012 and 2017.....	140
Table 4.12 Minimum capital requirement by type of institution, 2012-2017	141
Table 4.13 Deposit insurance, 2017.....	143
Table 4.14 Colombian financial system indicators, December 2012 to 2017.....	143
Table 4.15 Loan portfolio and default rate trends, 2012-2017	144
Table 4.16 Some prudential indicators for the banking sector, December 2012-December 2017.....	145
Table 4.17 Insurance sector indicators, December 2012 to November 2017	147
Table 4.18 Tariff regulation in 2017	151
Table 4.19 Air transport statistics, 2012-2017	156
Table 4.20 Traffic indicators in maritime ports, 2012-2016.....	159
Table 4.21 Tourism sector indicators, 2012-2017.....	160

BOXES

Box 1.1 The 2017 structural tax reform	21
Box 3.1 Main changes introduced by Decree No. 1.750 of 2015	65
Box 4.1 Objectives of energy policy.....	132
Box 4.2 Telecommunication sector policy	150
Box 4.3 Air transport sector policy	154

APPENDIX TABLES

Table A1. 1 Total merchandise exports by HS section, 2012-2017.....	161
Table A1. 2 Total merchandise imports by HS section, 2012-2017.....	162
Table A1. 3 Total merchandise exports by trading partner, 2012-2017	164
Table A1. 4 Total merchandise imports by trading partner, 2012-2017	165

Table A2. 1 Notifications under the WTO Agreements, 1 January 2012 to 31 December 2017	166
Table A2. 2 International investment agreements and agreements to avoid double taxation.....	168
Table A4. 1 Tariff lines subject to preferential quotas, 2017	169

SUMMARY

1. This is the fifth review of the trade policies and practices of Colombia. During the review period, between the beginning of 2012 and the end of 2017, Colombia's GDP grew at an average annual rate of 3.3%, driven chiefly by domestic demand. Having reached annual rates exceeding 4% in 2012-2014, this growth subsided somewhat starting in 2015. In 2017, GDP is estimated to have grown by 1.8%. This slowdown was the result of a decrease in exports, particularly oil and other raw materials, and a slower growth in domestic demand. Growth is expected to pick up in 2018. In order to stimulate the economy, the authorities have launched an economic reform programme, which includes tax incentives, reductions in tariffs and other taxes, changes in the investment regime, and increased investment in infrastructure. Although the prospects for economic growth and inflation are favourable, a number of structural problems still pose a significant challenge, including the need to continue promoting diversification of the economy and reducing poverty.

2. Although Colombia applies a fiscal rule that seeks to reduce the public sector deficit to below 1% of GDP by 2022, the fiscal deficit hovered between 2% and 4% of GDP during most of the review period and it has proven impossible to initiate a downward trend. In late 2016, Colombia introduced a tax reform law that contained the series of measures to improve revenue collection, and also provided for the gradual lowering of the profits tax to 33% by 2019.

3. Colombia has introduced an inflation-targeting system, which aims to maintain a low and stable rate of inflation and achieve GDP growth close to its long-term potential. During the review period, inflation did remain relatively low and stable, within the range established by the Central Bank (Banco del la República). Colombia has a flexible exchange-rate regime. Partly owing to the fall in oil prices, the Colombian peso depreciated in real terms by almost 30% between 2012 and 2015. This sharp downward trend was followed by a real appreciation of the peso, and then by a spell of stability.

4. Colombia's foreign trade shrank considerably between 2012 and 2016, reacting to a sharp fall in the value of exports of oil and other minerals and the marked contraction in imports. Although Colombia exports over 4,800 different products, it remains heavily dependent on exports of petroleum and petroleum products, which accounted for approximately 40% of total exports in 2017, followed by coal, chemical products, coffee and flowers. Colombia is currently implementing a strategy to diversify its export base in order to reduce its dependency on raw materials. Accordingly, it is trying to promote exports of services and non-traditional manufactured products. Colombia's main trading partners are the United States, the European Union, China, Mexico and Brazil.

5. Colombia's current account balance has traditionally been in deficit, mainly owing to net outflows on the service and income accounts. The income deficit is partly due to remittances abroad in respect of royalties and other payments related to the mining-energy sector. The current account deficit stood at 4.3% of GDP in 2016 and 3.3% in 2017, an improvement due partly to a decrease in goods imports.

6. During the review period, Colombia undertook to simplify and harmonize its regulatory framework by issuing single regulatory decrees containing a compilation of all regulatory decrees in force for each sector. Twenty-four single regulatory decrees have been issued to date, including a compilation of most of the country's trade regulations. But in spite of these efforts, implementation of the legal and regulatory system continues to be complicated by the frequent amendments that are introduced, and owing to certain peculiarities of the Colombian system, the process of implementing such amendments can be lengthy.

7. Colombia's trade policy objectives are set out in the National Development Plan (PND). Since 2012, Colombia has continued to implement a policy of greater integration in the world economy, seeking better market access conditions for its exports and the best suppliers for its imports while endeavouring to reduce its production costs. A number of bodies are involved in monitoring trade policy. In 2017 a new law was promulgated laying down the obligation to monitor implementation of regional trade agreements and their impact on the different sectors of the economy.

8. Colombia is a founding Member of the WTO and has signed the protocols on telecommunications and financial services annexed to the General Agreement on Trade in Services. It has also acceded to the Protocol amending the Agreement on Trade-Related Aspects of Intellectual Property Rights, and participates in the Information Technology Agreement. On the other hand, it is not a party to any of the WTO plurilateral agreements. As of March 2018, Colombia was in the process of ratifying the Trade Facilitation Agreement, which was then before the Constitutional Court. Since its last Review in 2012, Colombia has notified the WTO of the trade measures it has adopted: for example, it notified its "Category A" commitments which it will implement immediately following the entry into force of the Trade Facilitation Agreement. At March 2018, a number of notifications remained outstanding in areas such as agriculture, services, and import licensing. During the review period, Colombia's trade practices were the subject of two complaints under the dispute settlement system. While Colombia itself did not file any complaints, it participated as a third party in a number of dispute settlement cases.

9. Since 2012, Colombia has implemented new regional trade agreements covering trade in goods and services with the Pacific Alliance, Costa Rica, the Republic of Korea, the United States and the European Union. By opening up trade in the Pacific Alliance framework, Colombia is seeking to deepen its already existing trade relations with Chile, Mexico and Peru. Similarly, it implemented a new LAIA Partial Scope Agreement with the Bolivarian Republic of Venezuela in 2012. The free trade agreement with the countries of the European Free Trade Association (EFTA) that had come into effect for Switzerland and Liechtenstein in 2011, became effective for Iceland and Norway in 2014. Colombia takes part in the negotiations on the Trade in Services Agreement (TISA).

10. Colombia has an open investment regime: foreign private investment is allowed in all sectors, except where prohibited on security grounds. Foreign investors may set up business through commercial companies and may have subsidiaries in the country. Generally speaking, no prior authorization is required to invest in Colombia except in the mining and hydrocarbons sector or in the financial sector. Registration of foreign investments is mandatory. The procedures for registering foreign direct investments made under contractual arrangements was simplified in 2017. While financial stability contracts were eliminated at the end of 2012 owing to their high cost, those that had been signed before then remain in force until their termination.

11. Colombia has essentially been seeking to open up its trade regime, and since its last Review in 2012, it has adopted a number of measures to modernize the legal framework and facilitate trade. For example, it has introduced a number of improvements to the customs system, including the strengthening of the Single Window for Foreign Trade (VUCE) and the introduction of the risk management system, which has meant fewer inspections and reduced clearance time. In 2016 Colombia also adopted a new Customs Statute with a view to modernizing and simplifying its regulations and harmonizing them with best international practices. The main changes include a new risk management system; new categories of foreign exchange operators; the elimination of the obligation to use a customs agent/broker after a transition period; the possibility of requesting early decisions; abbreviated customs clearance; electronic payment; and improvements in the system of guarantees. The new Customs Statute provides for phased implementation, and some measures will only be implemented when the development of the computer systems permits. Colombia continues to use reference prices as control tools in case a dispute arises between the customs authority and the declarant concerning the declared value.

12. During the period under review, Colombia continued to implement the Structural Tariff Reform (REA) initiated in 2011 with a view to reducing tariff dispersion and tackling negative effective protection. In 2017, the Colombian tariff contained 7,708 *ad-valorem* lines at the 2017 HS ten-digit level. The average MFN applied tariff rate in 2017 was 7.1% (7.9% if the average tariffs under the Andean Price Band System are included), and Colombia applied 13 different tariff rates ranging from 0% to 98%. Some 49.7% of lines were zero-rated, while only 6.2% were subject to a rate exceeding 15%. The average tariff for agricultural products (WTO definition) was 15.4% in 2017, whereas the average tariff on non-agricultural products was 5.8%. The highest average duties per WTO category continued to be for dairy products, clothing, and animals and animal products, with average tariffs of 55.1%, 40% and 20.3% respectively. Colombia offers two kinds of tariff concessions: the first type is based on the export or import regime, and the second is designed to promote specific sectors of the Colombian economy, to which end, between 2011 and 2017 concessions were granted to the automotive sector, industry in general, the agriculture and livestock sector, and government.

13. Colombia applies the Andean Price Band System (SAFP), which consists of variable duties calculated on the basis of a reference price that is fixed periodically. The SAFP is used for imports of palm oil, soya oil, white rice, white sugar, raw sugar, pig meat, barley, whole milk, yellow maize, white maize, yellow soya, wheat, and chicken cuts. Colombia temporarily applies the WTO bound tariff to imports of footwear and clothing entering at prices below or equal to certain thresholds established by decree for the corresponding tariff headings. Moreover, Colombia has also adopted measures to prevent and control customs fraud affecting imports of clothing, fibres, yarns and woven fabrics, and footwear, regardless of the country of origin and/or provenance, where the declared f.o.b. price was less than or equal to the threshold established by decree.

14. In addition to tariffs, imports are subject to payment of value added tax (VAT), which is levied at the same rate on domestic and imported goods. Imports of certain types of machinery and equipment not produced in Colombia are excluded from payment of VAT, as are products imported under special import-export programmes and, as from January 2017, goods delivered by express delivery or courier of a value not exceeding US\$200. Certain products, both domestic and imported, are subject to an excise tax. In December 2016 there was a change in the regime governing excise tax on spirits and wines, involving the elimination of the *de facto* discrimination that resulted from the application of a higher tax for beverages with an alcoholic strength of over 35° (mostly imported beverages) than for those with a lower alcoholic strength, such as locally produced aguardiente.

15. For most tariff lines, Colombia has import registration and licensing requirements. It applies an automatic licensing system (free importation) which requires prior import registration for goods subject to permits and authorizations imposed by control entities (more than 6,000 tariff lines). In addition, Colombia applies a non-automatic licensing system for 180 tariff lines under which a licence must be obtained prior to importation. Registration and import licensing takes place online through the VUCE.

16. Colombia's recourse to anti-dumping measures increased during the review period. Between 2012 and 2017, it initiated 45 anti-dumping investigations, as compared to 25 between 2006 and 2011. It applied 29 definitive duties and 13 provisional duties, and carried out 15 sunset reviews, 14 of which resulted in extension of the duties. At the end of December 2017, Colombia maintained 17 definitive anti-dumping duties on imports from five trading partners. The products covered included tableware and kitchenware, products from the steel and aluminium industries, and certain plastics and chemical products. At the same date, 12 proceedings were under way, including new investigations and five-year reviews. Between 2012 and 2017, Colombia opened four safeguard investigations which gave rise to two provisional measures and one definitive measure. No countervailing duties were applied, nor were any subsidy investigations initiated.

17. Generally speaking, there are no export restrictions, except in the case of certain products which, by law or under international agreements, are subject to authorizations, certificates or prior clearance. These requirements are processed by the VUCE. While exports do not give rise to VAT, parafiscal contributions are applied to exports of mild coffee, unset emeralds and coal to help promote the development of those sectors.

18. The export support programmes mentioned in the previous report remain in place, although some of them have not been used. In 2016, the free zone regime was modified in order to unify and simplify the rules and facilitate access to the regime. In order to operate in a free zone, candidates must meet minimum investment, equity and job creation requirements, in exchange for tax concessions and simplified customs formalities. Sale to the national customs territory of goods or services produced in the free zone is permitted subject to payment of the corresponding duties and taxes on the foreign component. At June 2017, the free zones had generated about 175,000 direct and indirect jobs. The regime for International Trading Companies (CI) allows the purchase of goods with exemption from VAT, provided they are exported within six months. There were 265 authorized CIs at the end of 2017. Colombia has no official export insurance programmes.

19. Colombia has a range of tax, credit, and promotion and support incentives used both to attract domestic and foreign investment and to promote the development of specific sectors. As regards credit incentives, Bancoldex, Colombia's business development and foreign trade bank, offers both financial and non-financial products and services to Colombian enterprises, meeting the

credit needs of both exporting and non-exporting countries. During the period under review, the Colombian authorities continued to promote micro, small and medium enterprises (MSMEs), which benefit from special tax regimes and financing by the Colombian Fund for Modernization and Technological Development of MSMEs. The National Support System for MSMEs organizes the mechanisms of financial and non-financial support for such enterprises. Colombia supports scientific and technological development through tax incentives to persons or enterprises that undertake innovation or technological development activities.

20. Colombia continues to use the Plan Vallejo, or Special Import-Export Systems (SEIEX), a mechanism under which goods may be imported temporarily with total or partial exemption from or suspension of customs duties and taxes or deferral or elimination of payment of VAT. The Plan covers inputs, raw materials, intermediate goods, capital goods and spare parts used in the production of goods for export or for the provision of services directly linked to the production or export of such goods or for the export of services. The benefit consists of the allocation of an import quota with export-linked tax benefits. The concessionary nature of the SEIEX has been considerably eroded by the recent decision to reduce permanently to 0% the duty applied to capital goods and raw materials not produced in Colombia.

21. The preparation of technical regulations in Colombia is not centralized, and is the responsibility of various institutions, primarily ministries, regulatory commissions and decentralized bodies. However, in practice similar procedures are adopted: with the introduction of the Integrated Management System (SIG) in 2017, a procedure was agreed for the preparation and issuance of technical regulations which compiles recommendations on good practices in technical regulation. Technical regulations are issued through decrees and resolutions, and exceptionally through laws. During the period from January 2012 to the end of 2017, Colombia submitted 62 substantive notifications to the WTO Information Centre (126 if the addenda and corrections are included). At December 2017, 105 technical regulations were in force in Colombia. The products covered include a range of food products, fuels, medicines, chemical products, containers and fertilizers, and products that have an environmental impact. Also at December 2017, there were 27 bodies accredited for product certification. Since 2015, technical regulations must be reviewed by the regulatory entity in order to determine whether they should be maintained, modified or repealed, at least once every five years, or earlier if there is a change in the circumstances that gave rise to them.

22. The formulation and implementation of sanitary and phytosanitary measures (SPS) in Colombia falls under the remit of various bodies or agencies that make up the sanitary and phytosanitary system, which operates on the principle of harmonizing policies in the various fields. Although SPS measures are adopted by the risk assessment agency in each specific area, the bodies responsible for issuing SPS measures follow certain common guidelines, including harmonization with international guidelines used by reference bodies in the field. Proposed SPS measures must include a technical rationale and be sent for public consultation. During the review period, 47 notifications were made, of which 12 related to animal health, 12 to plants and 23 to other areas, chiefly food, veterinary medicines and fertilizers. At 31 December 2017 there were 496 SPS measures in force in Colombia. Some of the adopted measures had been in force for several years, though in some cases only partially, since portions of them have been repealed.

23. The general competition protection regime in Colombia covers all sectors and economic activities. However, in certain sectors considered to be of fundamental interest such as agriculture, anti-competitive agreements are exceptionally allowed in order to ensure sectoral stability. No such agreements were authorized between 2012 and 2017. During the review period, Colombia issued new regulations on notification and pre-assessment of mergers, notably the setting of a maximum timeframe for assessment decisions and the whistle blowing programme. Between 2012 and 2017, the Supervisory Authority for Industry and Trade (SIC), the national authority designated to apply competition rules, carried out 92 investigations and imposed penalties in 72 cases. During the same period, measures were taken to improve implementation of the competition protection regime: work began on compiling SIC administrative acts, the regulations and jurisprudence, and SIC human resources were increased. Colombia applies price controls to medicines and medical devices, agrochemicals, milk, gasoline, natural gas, liquefied petroleum gas, drinking water, sanitation and electricity.

24. Colombia's territorial subdivisions, known as departments, enjoy autonomy for exercising a monopoly on spirits with discretion to allocate revenue. A law was enacted in 2016 that regulates import/distribution permits for spirits and production contracts through which the departments exercise the monopoly. The law requires that the monopoly be in accordance with the principals of non-discrimination, free competition and market access, and prohibits the establishment of minimum or maximum shares of the quantity of spirits that can be introduced or the setting of minimum sale prices. With regard to State-owned enterprises, Colombia has adopted a policy aimed at improving the relevant regulatory framework and corporate governance to enable them to create value.

25. Government procurement accounts for more than 15% of GDP. Colombia is not a party to the WTO Plurilateral Agreement on Government Procurement, but is an observer in the committee. During the period under review, Colombia pursued its efforts to modernize the government procurement system and make it more efficient and transparent. The principal changes include establishing the National Government Procurement Agency, *Colombia Compra Eficiente*; codifying procurement best practices; implementing framework agreements; computerizing the procurement process; and introducing amendments to the regulatory framework. At the same time, Colombia continues to use the government procurement regime as a tool for boosting domestic industry and employment, chiefly by applying preferences. Moreover, most of the contracts are still awarded by single tendering: the total value of contracts awarded by that method exceeds the total value of contracts awarded by all of the other procurement methods.

26. During the review period, Colombia adopted measures to strengthen its intellectual property regime and adapt it to technological developments and to its international commitments. The changes focused on: adjusting the rules; optimizing the administration of intellectual property rights (IPR); streamlining registration procedures; consolidating inter-institutional coordination; and strengthening enforcement. In this connection, the entities responsible for IPR administration were granted jurisdictional powers to handle first instance civil proceedings relating to IPR infringements. At the same time, enforcement measures relating to trademark rights were strengthened, a general enforcement strategy was developed, and the Customs Authority was empowered to suspend the importation, exportation or transit of goods on grounds of infringement of copyright or trademark rights. But in spite of the progress made, challenges remain, such as creating greater awareness and use of intellectual property rights in the country, beefing up the fight against counterfeiting and piracy (including in the digital sphere) and building institutional capacity and cooperation in order to improve enforcement.

27. In the agricultural sector, Colombia boasts a relatively high degree of food sufficiency, an estimated 85% of internal demand for food being met by domestic production. At the same time, its agricultural export markets continue to be characterized by concentration, given that 68.3% of agricultural exports in 2016 were made up of three products: coffee, flowers and bananas. The review period saw the implementation of the *Colombia Siembra* ("Colombia Sows") plan, whose objectives are to boost agricultural supply in order to guarantee food security in the country; expand production area and yields; improve incomes for producers; and strengthen technological development and services in the agricultural sector. In terms of boosting agricultural supply, *Colombia Siembra* sets annual targets for increasing the planted area, seeking to expand the area devoted to the production of, *inter alia*, modified maize and forestry products, rice, barley, rubber, soya, oil palm and cocoa. Colombia promotes the use of Price Stabilization Funds (FEPs) in order to deal with fluctuations in world prices for certain agricultural products. The resources for these funds come from parafiscal charges, mainly charges levied on producers which remain outside the national budget and are reinvested by the private sector in programmes of benefit to the activity from which they are sourced. In 2017, there were FEPs for cotton, sugar, cocoa, meat, milk and products thereof; and palm oil.

28. The private sector may engage in exploration and extraction activities through mining concession and hydrocarbon exploration and production (E&P) contracts, paying the corresponding royalties and other duties to the State. To stimulate private investment in the exploration and production of hydrocarbons, a new method of awarding E&P contracts was introduced in 2017, the "permanent competition" process, under which the State can offer new areas throughout the year without recourse to the periodic rounds. As of the beginning of 2018, the relevant regulations were not yet in place. Also to stimulate investment, in 2017 the authorities adopted and implemented the Tax Reimbursement Certificate, which may be used to pay taxes. As from 2015, with a view to diversifying the energy matrix, projects using non-conventional sources may receive tax or tariff

concessions. Subsidies continue to be granted for monthly subsistence consumption of gas and electricity, and since 2014, of LPG.

29. In the financial services area, foreign banks and insurance companies may establish branches in Colombia, and since 2013, they may set up subsidiaries. Cross-border trade in insurance has also been allowed since 2013. During the review period, Colombia strengthened the regulatory framework for its financial system. The Law on Financial Conglomerates and Mechanisms for the Resolution of Financial Institutions, promulgated in 2017, strengthens the supervision of financial groups by the Financial Supervisory Authority of Colombia. Further improvements were also made to the prudential rules to ensure that the institutions of the Colombian financial system adopt best international practices; this has led, for example, to the creation of a minimum solvency ratio. Financial inclusion was enhanced and a new type of financial institution created to promote the use of electronic deposits and payments.

30. During the period under review, Colombia strengthened the institutional framework for telecommunications, giving increased autonomy to the Communications Regulatory Commission in the decision making process. Efforts were made to promote greater competition and a better offering on the mobile services market: for example, the operating conditions for virtual mobile operators were streamlined, minimum duration clauses were prohibited and the provision of national roaming services became mandatory. Tariffs continued to be regulated in the sector, particularly in the mobile voice market where one operator still holds a dominant position. With the exception of broadcasting, there are no restrictions on private investment in the sector.

31. Cabotage services are restricted to Colombian vessels or aircraft. In practice, however, exceptions are made and maritime cabotage is provided by vessels under both Colombian and foreign flags. Colombia has continued to liberalize the provision of air transport services. Since 2012, it has signed 13 new agreements and revised 15 agreements to introduce a greater degree of operational flexibility. Airports and ports may be put out on concession to the private sector. Companies wishing to provide tourism services in Colombia have to be listed in the National Tourism Register. Companies in the sector are eligible for tax concessions and may request financing on preferential terms.

1 ECONOMIC ENVIRONMENT

1.1 Main features of the economy

1.1. The sectoral composition of Colombia's gross domestic product (GDP) changed in several ways during the period under review (Table 1.1), chiefly as the mining sector's share shrunk from 11% of GDP in 2012 to 5.3% in 2017. This partly reflects the fall in international hydrocarbons prices and hydrocarbons output, compounded by coal production, which flatlined until 2015. Manufacturing also saw its GDP share drop from 12.2% in 2012 to 11.2% in 2017, having grown more slowly than other more dynamic sectors of the economy. The agriculture sector expanded from 5.8% of GDP in 2012 to 6.5% in 2017, having grown by a slightly higher annual average (3.5%) than that of GDP as a whole (3.3%). The GDP share of financial and real-estate services also increased during the period. Per capita GDP was US\$6,273 in 2017, down from US\$7,936 in 2012, partly owing to the depreciation of the Colombian peso (Col\$) against the US dollar.

1.2. Colombia's foreign trade, particularly on the export side, was seriously affected from 2014 onwards by the drop in international oil prices. This has resulted in weaker GDP growth, a larger current-account deficit on the balance of payments and lower national income and tax revenues. Nonetheless, by adopting suitable macroeconomic policies, Colombia has managed to overcome the damage caused by this external shock. This has been facilitated by the adoption of a Fiscal Rule (see below), which makes it possible to isolate the cyclical component of the structural fiscal deficit and thus provide greater room for manoeuvre when responding to external shocks. A flexible exchange-rate policy also facilitates adjustment.

1.3. Despite significant achievements in the last decade, poverty levels remain high, with the World Bank reporting a poverty headcount ratio of 28% in 2016, albeit down from the 34% recorded in 2011.¹ The Colombian authorities use "monetary poverty" and "extreme monetary poverty" as indicators²; and both have decreased substantially in recent years. The rates of monetary poverty and extreme monetary poverty were 28.0% and 8.5%, respectively, in 2016. Monetary poverty affected 24.9% of the urban population in that year, compared to 38.6% among people living in rural areas. The authorities consider that the poverty reduction achieved since 2010, with close to 3.2 million people having been lifted out of monetary poverty and 1.4 million from extreme monetary poverty, is the result of progress made in creating jobs and reducing informality, supported by social initiatives.³

1.4. The slump in oil prices that began in 2014 represented a structural shock for the Colombian economy. In response to this, and to steer the economy on to a path of higher and more sustained economic growth, the authorities found it necessary to develop a macroeconomic policy strategy aimed at strengthening the production base.⁴ In this connection, the medium-term macroeconomic programme known as "*Colombia Repunta*" (Colombia bounces back), which was introduced in February 2017, contains a number of economic competitiveness-enhancing measures. The programme's aims are to: revive investment, reduce exchange-rate volatility by maintaining a flexible exchange-rate regime, press ahead with infrastructure works and boost tax revenue. The incentives considered to promote private investment include: full deduction of value added tax (VAT) on capital goods; a uniform tax of 20% for free zones; new tax benefits for hotels and tourism; tax incentives for power generation from renewable sources and also for firms in the areas most affected by the armed conflict; greater investment to support housing growth and education; simplification of the foreign-investment regime; tax rebates for new investments in hydrocarbons and mining; and the permanent elimination of duties on more than 3,400 tariff lines

¹ Online information from the World Bank, viewed at: <https://datos.bancomundial.org/pais/colombia>.

² The National Administrative Department of Statistics of Colombia (DANE) defines the poverty line as the monetary value of a basket of goods and services that meets the basic needs of a person or household. A household with four people is considered poor in monetary terms when its monthly income is below Col\$956,820 (about US\$330) in urban zones or Col\$573,024 (US\$198) in rural areas; and it is considered to be in extreme monetary poverty when its income is lower than Col\$391,160 (US\$135) on average.

³ Ministry of Finance (2017), *Marco Fiscal de Mediano Plazo 2017*. Viewed at: http://www.minhacienda.gov.co/HomeMinhacienda/ShowProperty?nodeId=%2FOCS%2FP_MHCP_WCC-078748%2F%2FidcPrimaryFile&revision=latestreleased.

⁴ Idem.

corresponding to raw materials and capital goods that are not produced in Colombia (Section 3.1.3).⁵

1.5. In June 2016, the International Monetary Fund (IMF) approved a new two-year Flexible Credit Line (FCL) arrangement for Colombia in an amount equivalent to SDR 8,180 million (about US\$11.5 billion).⁶ This replaced the previous SDR 3,870 million (around US\$5.4 billion) arrangement. The Colombian authorities have stated their intention to treat the new arrangement as precautionary and to refrain from drawing on it. When justifying the credit, the IMF noted that Colombia's macroeconomic policies provide it with the flexibility needed to cope with the fall in oil prices. In June 2017, the IMF Executive Board reaffirmed Colombia's continued qualification to access FCL resources.⁷

Table 1.1 Basic economic indicators, 2012-2017

	2012	2013	2014	2015	2016 ^a	2017 ^a
Gross domestic product, seasonally adjusted series (GDP)						
Current GDP (Col\$ billion)	664,240	710,497	757,065	799,312	855,432	912,525
Current GDP (US\$ billion)	369.7	380.2	378.2	291.5	280.1	309.2
Real GDP, growth rate (%)	4.0	4.9	4.4	3.1	2.0	1.8
GDP per capita (US\$ at current prices)	7,936	8,068	7,935	6,048	5,746	6,273
By branch of economic activity (% of GDP at current prices)						
Agriculture, livestock, hunting, forestry and fishing	5.8	5.6	5.7	6.0	6.7	6.5
Mining and quarrying	11.0	10.2	8.4	6.4	4.9	5.3
Manufacturing	12.2	11.8	11.5	11.4	11.6	11.2
Electricity, gas and water supply	3.4	3.3	3.3	3.4	3.6	3.6
Construction	8.0	8.8	9.5	9.3	9.6	9.0
Commerce, repairs, restaurants and hotels	11.3	11.5	11.7	12.3	12.7	12.5
Transport, storage and communications	5.7	6.0	6.2	6.6	6.4	6.2
Financial institutions, insurance, real-estate and business services	18.7	18.6	18.9	19.2	19.5	19.8
Social, community and personal services	15.5	16.1	16.4	16.7	16.7	17.2
Subtotal value added	91.5	92.0	91.6	91.3	91.7	91.4
Non-deductible VAT	5.7	5.0	5.3	5.3	5.0	5.4
Import duties and taxes	0.7	0.6	0.7	0.7	0.6	0.5
Taxes, excluding VAT	2.3	2.6	2.7	2.8	2.8	2.8
Subsidies	0.2	0.3	0.2	0.2	0.1	0.1
Taxes and subsidies	8.5	8.0	8.4	8.7	8.3	8.6
Real growth rate by branch of economic activity (% based on GDP at current prices)						
Agriculture, livestock, hunting, forestry and fishing	2.5	6.5	2.7	2.5	1.6	4.9
Mining and quarrying	5.3	5.0	-1.2	0.2	-7.0	-3.6
Manufacturing	0.1	0.9	1.0	1.7	3.4	-1.0
Electricity, gas and water supply	2.3	3.0	3.4	3.0	-0.8	1.1
Construction	5.9	11.5	10.3	3.7	4.5	-0.7
Commerce, repairs, restaurants and hotels	3.9	4.5	5.0	4.6	2.6	1.2
Transport, storage and communications	3.9	3.3	4.6	2.6	0.6	-0.1
Financial institutions, insurance, real-estate and business services	5.1	4.6	5.8	5.1	4.4	3.8
Social, community and personal services	4.6	5.9	5.2	3.1	2.0	3.4
Subtotal value added	3.9	5.0	4.3	3.3	2.2	1.5
Non-deductible VAT	4.8	3.1	5.7	1.2	0.7	6.3

⁵ Ministry of Finance (2016), *Colombia Repunta*. Viewed at: http://www.minhacienda.gov.co/HomeMinhacienda/ShowProperty?nodeId=%2FOCS%2FP_MHCP_WCC-063099%2F%2FidcPrimaryFile&revision=latestreleased.

⁶ IMF, Press Release No. 16/279 of 13 June 2016. *IMF Executive Board Approves New Two-Year US\$11.5 Billion Flexible Credit Line Arrangement for Colombia*. Viewed at: <http://www.imf.org/en/News/Articles/2015/09/14/01/49/pr16279>.

⁷ IMF, Press Release No. 17/211 of 6 June 2017. *IMF Executive Board Completes Review of Colombia's Performance under the Flexible Credit Line Arrangement*. Viewed at: <http://www.imf.org/en/News/Articles/2017/06/06/pr17211-imf-executive-board-completes-review-of-colombia-performance-under-the-fcl-arrangement>.

	2012	2013	2014	2015	2016 ^a	2017 ^a
Import duties and taxes	10.3	6.3	9.3	0.7	-2.9	-4.6
Taxes, excluding VAT	5.0	5.8	5.4	2.0	1.4	2.4
Subsidies	3.5	5.9	9.1	29.1	-0.5	1.5
Taxes and subsidies	5.4	4.0	5.7	0.7	0.6	3.9
Gross domestic product	4.0	4.9	4.4	3.1	2.0	1.8
Real growth rate by expenditure category (% , based on GDP at current prices)						
Total consumption	4.8	4.6	4.4	3.6	1.7	2.2
Household consumption	4.4	3.4	4.3	3.2	1.5	1.7
Government final consumption ^b	6.3	9.2	4.7	5.0	2.4	4.0
Gross capital formation ^c	4.3	6.3	11.6	1.2	-3.3	0.1
Gross fixed capital formation	4.7	6.8	9.8	1.8	-2.7	0.1
Variation in inventories	0.9	-53.1	392.9	-29.4	-55.3	-2.4
Final domestic demand	4.7	5.0	6.1	3.0	0.5	1.7
Total exports	6.0	5.2	-1.5	1.2	-1.2	-0.6
Total imports	9.1	6.0	7.9	1.4	-7.3	0.2
Monetary indicators						
Monetary base (Col\$ billion, end of period)	56,463	61,041	70,461	82,519	84,598	88,811
M1 (12-month rate of change, %)	6.5	14.4	11.7	10.4	-1.3	6.4
M3 (12-month rate of change, %)	15.6	13.2	9.4	11.7	7.1	7.3
Central bank intervention rate (%) ^d	5.3	4.3	5.5	6.8	8.5	5.8
Term deposit certificates (CDTs), (%)90 days	5.3	4.2	4.0	4.4	6.5	5.8
Consumer price index (annual average, Dec. 2008 = 100)	111.2	113.5	116.8	122.6	131.8	137.5
Consumer price index (end of period, Dec. 2008 = 100)	111.8	114.0	118.2	126.1	133.4	138.9
Producer price index (end of period, Dec. 2014 = 100)	94.4	94.3	100.0	105.5	107.8	111.3
Representative market exchange rate (annual average, Col\$/US\$)	1,797.8	1,869.1	2,000.3	2,742.4	3,051.0	2,951.3
Real exchange rate index (total trade, December) (an increase corresponds to a depreciation) (1994 = 100) ^e	96.1	102.1	117.4	143.8	125.9	127.8
Employment						
Total national employment (thousand)	20,397	20,785	21,250	21,795	21,958	22,355
Unemployment rate (% of EAP, end of period) ^f	9.6	8.4	8.7	8.6	8.7	9.4
Memorandum item						
Population (thousand)	46,582	47,121	47,662	48,203	48,748	49,292

a Preliminary figures.

b Government final consumption includes the final consumption expenditure of non-profit institutions serving households, (NPISH).

c Fixed capital formation plus variation in inventories.

d Central bank intervention rates for open market operations (OMO). Expansion window.

e The real exchange rate index (ITCRIPC (T)) uses the consumer price index (CPI) as a deflator and total weightings. Total weightings correspond to the share, applying a twelfth-order moving average time series, of each country in Colombia's foreign trade (imports and exports) with its 20 main partners.

f The data available for 2017 refer to the third quarter (Q3).

Source: National Administrative Department of Statistics (DANE); Banco de la República de Colombia (BRC); and Ministry of Social Welfare.

1.2 Recent economic developments

1.2.1 Production and employment

1.6. The 2012-2017 period was one of moderate economic growth, with GDP expanding by an average of 3.3% per year. The authorities view the slowdown in the Colombian economy in terms of an adjustment to deteriorating terms of trade and a lower level of national disposable income.⁸

⁸ Banco de la República (BRC) (2017), *Reporte de Estabilidad Financiera*, September 2017. Viewed at: <http://www.banrep.gov.co/sites/default/files/publicaciones/archivos/reportes-estabilidad-financiera-septiembre-2017.pdf>.

1.7. As in the past, domestic demand was the main driver of economic growth during the review period, growing at an average annual rate of 3.8% between 2012 and 2017. Nonetheless, in 2015 and 2016 it faltered abruptly, expanding by just 0.3% in the latter year, well below overall GDP growth of 2.0%. Domestic demand itself was driven mainly by investment in 2012-2014, when it expanded at an average annual rate of 7.4%. Since then, however, gross capital formation has slowed sharply, and it actually contracted by 4.5% in 2016 before rebounding only slightly in 2017. This reflects a reduction in investment in the mining and hydrocarbons sector in the wake of lower international prices. The GDP share of investment expanded from 27.4% in 2012 to 29.7% in 2014, before slipping back in 2015 and 2016, to a share of 25.3%. The drop in the investment rate is chiefly explained by weaker private investment, which represented 18.8% of GDP in 2016, 0.7 percentage points less than in the previous year, owing to lower investment in the petroleum sector.

1.8. The authorities consider that the lacklustre performance of domestic demand in 2016, particularly in the investment category, helped to narrow the external imbalance (savings-investment gap) from 6.4% of GDP in 2015 to 4.4% a year later.⁹ For 2017, the Colombian economy's savings-investment gap is estimated at 3.6% of GDP, reflecting the recovery of exports and stronger business investment.

1.9. Private consumption was another major driver of growth between 2012 and 2014, when it expanded at an average annual rate of 4.6%. Since 2015, however, rates have slowed to around 2% in 2016 and 2017. Under the Fiscal Rule (see below), public consumption has continued to be used as a countercyclical tool to spur economic growth, expanding faster than GDP in both 2014 and 2015. Public investment represented 6.7% of GDP in 2016, higher than the average rate of the last ten years due partly to a continuation of the National Government's housing programmes and new road building.

1.10. Net exports contributed negatively to GDP in 2012-2015, mainly owing to burgeoning imports. In 2016, the contribution was positive, primarily as imports slackened, while exports of goods and services contracted but by relatively less. In 2017, there was a slight upturn in exports and, to a lesser extent, in imports.

1.11. Preliminary data indicate that real GDP grew by 1.8% in 2017, in line with the IMF estimate.¹⁰ This result was also consistent with the Central Bank's growth forecast of between 1.6% and 1.8% for the year. It is estimated that a gradual process of economic recovery began in the second quarter of 2017, sustained by domestic demand, in particular public expenditure, and to a lesser extent by private spending, which was dampened by the hike in VAT.¹¹ Domestic demand grew by 1.7% in 2017, slightly less than GDP as a whole, mainly hindered by the weaker dynamic of gross capital formation. Total consumption performed more strongly than in the previous year, expanding by 2.2% year-on-year, while net exports again detracted from GDP growth.

1.12. The authorities see potential GDP growth growing by between 3.6% and 3.9% over the next decade. In view of this, they expect production to expand at a rate below potential in 2017 and 2018, and then gather pace. For example, the Ministry of Finance anticipates GDP growth of 2.7% in 2018, but it expects the rate to pick up as from 2019.¹²

1.13. Unemployment dropped sharply during the review period, particularly between 2012 (9.6%) and 2016 (8.7%). In the following year, the rate climbed back to 9.4% as the Colombian economy slowed. This increase in unemployment, which was less than expected, was accompanied by reductions in overall labour-market participation, which edged down from 64.7% in 2015 to 64.5%

⁹ Ministry of Finance (2017), *Marco Fiscal de Mediano Plazo 2017*. Viewed at: http://www.minhacienda.gov.co/HomeMinhacienda/ShowProperty?nodeId=%2FOCS%2FP_MHCP_WCC-078748%2F%2FidcPrimaryFile&revision=latestreleased.

¹⁰ Online information from the IMF, viewed at: <http://www.imf.org/en/Countries/COL>.

¹¹ BRC (2017), *Informe sobre Inflación*, September 2017. Viewed at: http://www.banrep.gov.co/sites/default/files/publicaciones/archivos/informe_sobre_inflacion_septiembre_2017.pdf.

¹² Ministry of Finance (2017), *Marco Fiscal de Mediano Plazo 2017*. Viewed at: http://www.minhacienda.gov.co/HomeMinhacienda/ShowProperty?nodeId=%2FOCS%2FP_MHCP_WCC-078748%2F%2FidcPrimaryFile&revision=latestreleased.

in 2016, and in the employment rate, which slipped from 59.0% in 2015 to 58.5% a year later – although it remains at historically high levels, posting its second highest value since 2001.¹³

1.2.2 Fiscal policy

1.14. Fiscal policy in Colombia is formulated and implemented by the Ministry of Finance and Public Credit, pursuant to the provisions of Decree No. 246 of 2004. During the first few years of the review period, fiscal policy was targeted on achieving a primary surplus; but since 2014 it has been steered towards maintaining a balanced budget, endeavouring to boost revenue by reducing inefficiencies and by waging a sustained battle against tax evasion. To that end, measures were introduced to technologically modernize tax administration and strengthen the National Tax and Customs Directorate (DIAN), to enable it to exercise more effective control. In addition, tax evasion, in respect of both income tax and VAT, has been made a criminal offence punishable by up to nine years in prison.

1.15. The primary balance has been deteriorating during the period under review, moving from positive in 2012 to zero in 2013 and then turning negative as from 2014. At the same time, the central government deficit increased from 2.3% of GDP in 2012 to 4% in 2016. This was the result of both an increase in spending relative to GDP and a fall in income, particularly tax revenue. Expenditure grew from 18% of GDP in 2012 to 19.2% in 2014, before measures were adopted to rein it in; in 2017, expenditure represented 19.4% of GDP. Total revenue fell from 16.1% of GDP in 2012 to 14.9% in 2016, before rebounding to 15.8% in the following year (Table 1.2). Colombian market analysts estimate a deficit of around 3.7% of GDP in 2017.¹⁴ The Ministry of Finance, meanwhile, is projecting a deficit of 3.6%, which it considers consistent with the level determined by the Fiscal Rule Law (see below), since it meets the stated goal of a structural deficit of 2.0% of GDP for 2017 (the permitted cyclical balance is -1.7% of GDP). The estimated deficit for that year is below the 2.2% of GDP recorded at end-2016. The Ministry of Finance estimates revenue equivalent to 15.3% of GDP and expenditure of 19.0%.¹⁵ A central government deficit of 3.1% of GDP is projected for 2018, along with the start of convergence towards the structural deficit specified by the Law.¹⁶

Table 1.2 Central government finances, 2012-2017

(% of current GDP)

	2012	2013	2014	2015	2016	2017
1. Total income	16.1	16.9	16.6	16.2	14.9	15.8
Current national revenue	14.5	14.3	14.4	14.6	13.7	14.0
Tax revenues	14.3	14.2	14.3	14.6	13.6	13.9
DIAN administered, internal	10.2	9.6	8.5	8.3	8.0	13.9
Revenue	6.6	6.3	5.0	4.8	4.7	5.8
Domestic VAT	3.7	3.3	3.5	3.5	3.3	3.9
DIAN administered, external	2.3	2.1	2.2	2.3	2.0	2.1
Foreign VAT	1.8	1.6	1.6	1.7	1.6	1.7
Tariff	0.5	0.5	0.5	0.6	0.5	0.4
Domestic tax on fuels	0.0	0.4	0.4	0.4	0.4	0.2
Consumption	0.0	0.2	0.2	0.2	0.2	0.2
Corporate surtax for equality (CREE)	0.0	0.4	1.6	1.7	1.6	0.5
Surtax on gasoline and ACPM (diesel)	0.3	0.0	0.0	0.0	0.0	0.0
Tax on financial movements	0.8	0.8	0.9	0.8	0.8	0.7
Contribution to democracy (heritage) / wealth tax	0.6	0.6	0.5	0.7	0.5	0.4
Non-tax revenues	0.2	0.1	0.1	0.1	0.1	0.6
Remainder	0.2	0.1	0.1	0.1	0.1	0.0
Special funds	0.2	0.2	0.2	0.2	0.2	0.2
Other capital resources	1.4	2.4	2.0	1.3	1.0	1.1
Total financial returns	0.2	0.1	0.1	0.2	0.4	0.4
Financial surpluses	1.2	2.0	1.6	0.7	0.2	0.2
Ecopetrol	1.1	1.9	1.4	0.5	0.1	0.1
Other firms	0.0	0.1	0.1	0.1	0.0	0.1

¹³ Idem.

¹⁴ BRC (2017), *Informe sobre Inflación*, September 2017. Viewed at: http://www.banrep.gov.co/sites/default/files/publicaciones/archivos/informe_sobre_inflacion_septiembre_2017.pdf.

¹⁵ Ministry of Finance (2017), *Marco Fiscal de Mediano Plazo 2017*, p. 122. Viewed at: http://www.minhacienda.gov.co/HomeMinhacienda/ShowProperty?nodeId=%2FOCS%2FP_MHCP_WCC-078748%2F%2FidcPrimaryFile&revision=latestreleased.

¹⁶ Idem.

	2012	2013	2014	2015	2016	2017
Other resources	0.0	0.3	0.3	0.4	0.4	0.5
Refunds and unallocated funds	0.1	0.1	0.1	0.0	0.4	0.2
Rest	0.0	0.2	0.1	0.3	0.0	0.2
2. Total payments	18.4	19.2	19.1	19.2	18.9	19.4
Total payments without interest	15.9	16.9	16.8	16.6	16.0	16.5
Current national payments	15.5	15.9	16.1	16.1	16.9	17.2
Interest	2.4	2.2	2.1	2.2	2.5	2.6
On external debt	0.5	0.5	0.5	0.7	0.7	0.7
On domestic debt	1.9	1.7	1.5	1.5	1.8	1.9
Operating expenses	12.9	13.6	13.9	13.5	14.0	14.6
Personal services	2.1	2.1	2.3	2.3	2.3	2.3
Transfers	10.0	10.6	10.8	10.5	10.9	11.6
Regional revenue sharing transfers (SGP since 2002)	3.9	4.0	3.8	3.7	3.7	3.9
Pensions	3.6	3.4	3.7	3.5	3.4	4.0
Other	2.5	3.2	3.3	3.3	3.8	3.7
Overheads and other expenditure	0.8	0.9	0.8	0.8	0.7	0.7
Investment	3.0	3.3	3.0	3.1	2.0	1.9
3. Cash deficit or surplus	-1.9	-2.1	-2.5	-2.9	-3.8	n.a.
Accrued income	0.0	0.0	0.0	0.0	0.0	0.0
Accrued expenditure	0.1	0.1	0.2	0.4	0.4	0.3
Floating debt	0.3	0.1	-0.3	-0.3	-0.2	n.a.
4. Total deficit or surplus	-2.3	-2.3	-2.4	-3.0	-4.0	-3.65
5. Costs of financial restructuring	0.0	0.0	0.0	0.0	0.0	0.0
6. Deficit to be financed	-2.3	-2.4	-2.4	-3.0	-4.0	3.65
Primary balance	0.2	0.0	-0.2	-0.5	-1.1	-0.7
Memorandum items						
Central government gross domestic debt ^a	25.7	27.6	28.7	29.1	30.8	31.8
Central government gross domestic and external financial debt	34.6	37.2	40.6	45.3	46.5	47.4
Gross domestic debt, non-financial public sector	30.2	32.0	32.9	33.3	34.7	34.9
Net domestic debt, non-financial public sector ^b	22.2	23.5	24.8	24.0	26.0	26.1
Gross external debt, non-financial public sector	10.6	11.2	13.7	18.2	17.7	17.9
Net external debt, non-financial public sector ^c	9.8	10.1	12.0	15.9	15.1	15.3

a Including promissory notes and other accounts payable on domestic debt.

b Gross domestic debt of the non-financial public sector (NFPS) less remaining NFPS debt owed to the Central Government; central government promissory notes; Fogafin capitalization bonds held by the NFPS; bonds held by the Social Security Institute (ISS); bonds held by Ecopetrol, by Cajanal, and by the rest of the NFPS; and Carbocol bonds held by the Central Government and Ecopetrol.

c Gross external debt of the NFPS less Treasury assets, assets of the Oil Savings and Stabilization Fund (FAEP), and those of decentralized entities.

n.a. Not available.

Source: Ministry of Finance and Public Credit; and information provided by the Colombian authorities.

1.16. Foreign trade taxes represented 2% of GDP in 2016, of which 1.6 percentage points were generated by VAT and just 0.5 of a point came from tariffs. These taxes represented 8.7% of the total value of merchandise imports in 2016, with VAT representing 6.9%, and tariffs equivalent to 1.8%.

1.17. The reduction in tax revenues caused by the fall in the oil price, compounded by insufficient revenue collection, has led the Government to introduce a tax reform largely aimed at improving the tax collection process and reducing inefficiencies. Correct management of public finances continues to be seen as crucial for macroeconomic stability.

1.18. Under Law No. 1473, Colombia has been applying a Fiscal Rule since 2011 that seeks to tighten fiscal discipline, so as to reduce the burden of public debt and thus make it easier to implement countercyclical fiscal policies when necessary. The Law requires adherence to a structural deficit target, which is set as the fiscal policy objective. The Fiscal Rule targets a deficit below 1% of GDP as from 2022; and it permits the application of a countercyclical policy when the expected GDP growth rate is at least two percentage points below the long-term rate. The Government is required to submit an annual report on the central government (GNC) structural deficit to the Economic Commissions of the Congress of the Republic.¹⁷ As noted above, the

¹⁷ The structural deficit is defined as the difference between structural income and structural expenditure observed at the fiscal year-end. Structural income is determined by deducting from total GNC income the portion that is explained by the tax and energy cycles, while structural expenditure is the same as total spending in the absence of any countercyclical spending programmes explicitly allowed by the

2016 Fiscal Rule Compliance Report, issued in June 2017, found the structural balance recorded in 2016 to be compliant with the Fiscal Rule.¹⁸

1.19. The principle of fiscal sustainability was also enshrined in the Constitution through the amendments introduced in 2011. In that year, Colombia embarked on a process of tariff reduction, in which the Structural Tariff Reform (REA) lowered the average tariff by 50%. The aim of the REA was to overcome negative rates of effective protection and the high level of tariff dispersion, which were eroding national competitiveness and undermining exports. The REA was the subject of a number of amendments in 2012, 2013 and 2015 (Section 3.1.3.1). As a result of the tariff cuts, nearly half of all tariff lines are now zero-rated; and duties on capital goods and inputs not produced in Colombia are also generally zero (Section 3.1.3.1).

1.20. To measure compliance with their fiscal policy objectives, the authorities prepare the Medium-Term Fiscal Framework (MFMP) each year, which highlights the results and aims of fiscal policy. The document provides a general description of the most salient features of Colombia's economic behaviour and fiscal activity in the previous year, along with estimates for the year under review and for the following ten. The MFMP assesses the consistency of the budget figures with the primary-surplus and public-debt targets and also with the macroeconomic forecasts generally.¹⁹

1.21. In 2016, Colombia embarked upon a wide-ranging structural tax reform under Law No. 1.819 of 29 December 2016. This legislation redefined corporate taxation, with the aim of gradually converging towards a lower rate (33%). It also sought to redefine the tax base to reduce possibilities for tax evasion and enhance revenue collection. The most common VAT rate was also raised (Box 1.1).

Box 1.1 The 2017 structural tax reform

In late 2016, Colombia introduced a tax reform law that contains a series of measures to improve revenue collection (Law No. 1.819 of 2016, Official Journal No. 50.101 of 29 December 2016, adopting a structural tax reform, stronger mechanisms to combat tax evasion and avoidance, and other provisions).

The Law clarified issues surrounding personal income-tax assessment and the concepts of non-taxable income; and it set limits on deductions. In addition, new tax rates were set for the net labour income and pensions received by natural persons, as follows: 0% on income up to 1,090 UVTs^a; 19% on income between 1,090 UVTs and 1,700 UVTs; 28% between 1,700 UVTs and 4,100 UVTs and 33% thereafter. Limits were also set for net non-labour and capital income, as follows: 0% up to 600 UVTs; 10% between 600 UVTs and 1,000 UVTs; 20% between 1,000 UVTs and 2,000 UVTs; 30% between 2,000 UVTs and 3,000 UVTs; 33% between 3,000 UVTs and 4,000 UVTs; and 35% thereafter. The Law also established a single rate of 35% on the taxable income obtained from national sources, by natural persons not resident in Colombia. The same rate is applicable to inheritances received by non-resident individuals.

The Law also provided for the gradual lowering of profits tax to 33% by 2019. In 2017, the rate was 34%, and a surtax of 6% was also levied on firms with profits above 800,000 UVTs. The surtax for 2018 is set at 4%. Income obtained by State-owned industrial and commercial enterprises and by semi-public firms at the departmental, municipal and district levels, in which the State's holding is greater than 90% and which hold the monopolies on games of chance and gambling and on spirits and alcoholic beverages, will be taxed at a rate of 9%.

As from 1 January 2017, the rate of income tax and additional taxes for legal entities that are free-zone users is 20%. Similarly, cooperatives, along with their associations, unions, central leagues, higher-level financial organizations, mutual associations, cooperative support institutions, and cooperative confederations, come under the Special Tax Regime and are taxed on their net profit or surplus at a special flat rate of 20%.

Fiscal Rule. The cyclical component of tax revenue is determined by using the output gap, which is the percentage difference between actual and potential GDP. The energy cycle is calculated by multiplying marginal energy revenue (additional income per dollar increase in the price of national crude oil relative to its long-term level) by the difference between the observed price and long-term price, and the average observed exchange rate. Ministry of Finance and Public Credit, Directorate-General of Macroeconomic Policy (2017), *Informe de Cumplimiento de la Regla Fiscal en 2016*, June 2017. Viewed at: http://www.minhacienda.gov.co/HomeMinhacienda/ShowProperty?nodeId=%2FOCS%2FP_MHCP_WCC-073994%2F%2FidcPrimaryFile&revision=latestreleased.

¹⁸ Idem.

¹⁹ Online information from the Ministry of Finance, viewed at: <http://www.minhacienda.gov.co>.

In addition to the change made to direct taxes, the tax reform also altered a number of indirect taxes. Law No. 1,819 raised the general VAT rate from 16% to 19% as from 1 February 2017.

Law No. 1.819 also introduced tax incentives for entities investing in projects classified as research, technological development or innovation by the National Council for Tax Benefits for Science, Technology and Innovation, in accordance with the criteria and conditions defined by the National Economic and Social Policy Council (CONPES) in updating CONPES Document 3834 of 2015. The benefit consists of the right to deduct 25% of the amount invested in such projects from the income tax assessed in the fiscal year in which the investment was made.

As a complement to the Structural Tax Reform Law, Law No. 1.816 of 19 December 2016 introduced a change in the regime governing excise tax on spirits, wines, aperitifs and the like. The new structure of excise tax has two elements: (a) a specific flat-rate component of Col\$220 per degree of alcohol; and (b) an *ad valorem* component of 25% on the retail price before excise tax. The tax base of the *ad valorem* component is calculated and established each year by the National Administrative Department of Statistics (DANE), taking into account the prices at which each alcoholic beverage is sold in the market.

Law No. 1.819 of 2016 raised the specific component of the tax on cigarettes and tobacco to Col\$1,400 per pack of 20 cigarettes and to Col\$90 per gram of rolling tobacco or snuff for 2017 (Col\$2,100 and Col\$167, respectively, for 2018). The *ad valorem* component is set at 10% of the retail price certified every six months by the DANE for cigarettes and 10% of the amount of excise tax per gram of rolling tobacco.

- a The tax unit (*Unidad de Valor Tributario* (UVT)) is used to calculate the taxes to be declared and paid by natural and legal persons. In 2017, it was set at Col\$31,859.

Source: WTO Secretariat.

1.22. The Ministry of Finance estimated that implementation of the structural tax reform would boost tax revenue by the equivalent of 0.6% of GDP in 2017.²⁰ The IMF estimates that the tax reform will boost GDP growth by around 0.3% per year if accompanied by an increase in public investment. The combination of a lower corporate tax rate and extra public investment is expected to have a positive effect on private investment.²¹

1.23. Non-financial public sector (NFPS) debt increased from 32.1% of GDP in 2012 to 41% in 2016.

1.2.3 Monetary and exchange-rate policy

1.24. Monetary and exchange-rate policies in Colombia are formulated and implemented by the Central Bank (Banco de la República de Colombia (BRC)). Colombia maintains an inflation-targeting system, which aims to maintain a low and stable rate of inflation and achieve GDP growth close to its long-term potential.

1.25. To fulfil its mandate, the BRC Board of Directors sets quantitative inflation targets for the annual variation in the consumer price index (CPI) published by the DANE. The Central Bank implements monetary policy by altering its intervention interest rates (monetary-policy and open-market operations (OMO) rates).²² The intervention rates are the key monetary-policy tool whereby the Central Bank influences market interest rates. Another important monetary instrument is the buying and selling of foreign currency on the foreign-exchange market.

²⁰ Ministry of Finance (2017), *Marco Fiscal de Mediano Plazo 2017*, p. 122. Viewed at: http://www.minhacienda.gov.co/HomeMinhacienda/ShowProperty?nodeId=%2FOCS%2FPP_MHCP_WCC-078748%2F%2FidcPrimaryFile&revision=latestreleased.

²¹ IMF (2017), IMF Country Report No. 17/138, Colombia 2017 Article IV Consultation-Press Release; Staff Report; and Statement by the Executive Director for Colombia. Viewed at: <http://www.imf.org/~media/Files/Publications/CR/2017/cr17138.ashx>.

²² The key monetary-policy mechanism used to influence the amount of money in circulation consists of altering the minimum interest rate (expansion rate) that the BCR charges when it lends to financial institutions, or the maximum interest rate it pays on surplus funds accepted from them. These "open-market operations" (OMO), are made at very short maturities (1, 7 and 14 days). The monetary-policy intervention rate is the minimum rate on one-day monetary expansion auctions. There is also a maximum expansion rate.

1.26. The Board sets the quantitative inflation target and takes policy actions aimed at achieving the target and keeping inflation around 3% in the long run.²³ A tolerance of +/- one percentage point is allowed, which implies a target band for inflation of between 2% and 4%. For 2017, the Board agreed that the inflation target would be the same as the long-term target.

1.27. During the first part of the period under review, the BRC maintained an expansionary monetary stance, which meant lowering the intervention interest rate by about 200 basis points to 3.25% between 2012 and late April 2014. Thereafter, the Central Bank hiked the intervention rate several times by a total of about 450 basis points, bringing the rate to a peak of 7.75% in August 2016. In recent months, however, the monetary policy stance has shifted; and an expansionary policy of periodic cuts in the intervention rate has been applied since December 2016, which had brought the rate down to 4.75% by late November 2017 – a 300 basis-point reduction in less than a year.²⁴

1.28. Inflation, measured by the variation in the CPI, stayed within the expansion range set in the period 2012 and 2014; but it gathered pace at the end of that year and exceeded the target by between 2% and 4% in 2015 and 2016. At the end of the latter year, inflation stood at 5.75%, lower than the previous year's figure but still above the target range set by the BRC. In 2017, inflation recorded its lowest recent level in July (3.4%), before rising to post an annual rate of 4.1% in December. For 2018, the Central Bank is forecasting inflation of between 3% and 4%.²⁵

1.29. Colombia has been operating a floating exchange-rate regime since September 1999. Exchange-rate flexibility is considered crucial for keeping inflation low and stable, and for preserving both financial and payment-system stability. This is because flexibility enables the exchange rate to operate as an adjustment variable in the face of economic shocks, by smoothing the volatility of economic activity; and it also allows the interest rate to be used as a tool for steering both inflation and output towards their desired levels. Nonetheless, as the country's foreign-exchange authority, the Central Bank can intervene on the foreign-exchange market to: (i) increase the level of international reserves to reduce external vulnerability and improve conditions of access to external credit; (ii) mitigate exchange-rate movements that do not clearly reflect economic fundamentals and could stoke inflation and impair economic activity; and (iii) moderate rapid and sustained deviations of the exchange rate from trend in order to avoid erratic movements on the financial markets. To keep foreign-exchange intervention compatible with the inflation-targeting strategy, foreign currency purchases and sales are sterilized as necessary to stabilize the short-term interest rate at the level considered by the BRC Board as consistent with achieving the inflation targets.²⁶

1.30. During the entire period under review, and partly owing to the fall in oil prices, the Colombian peso depreciated in real terms by almost 30%; and, between 2012 and 2015, there was a steep real depreciation of nearly 50%, which was then followed by a real appreciation and a spell of stability.

1.2.4 Balance of payments

1.31. Colombia's current-account balance has traditionally been in deficit, mainly owing to net outflows on the service and income accounts. The income deficit is partly due to remittances abroad in respect of royalties and other payments related to the mining-energy sector. The current-account deficit widened substantially between 2012 and 2015, from 3% to 6.4% of GDP, before retreating to 4.3% of GDP in 2016 and then to 3.3% in 2017 (Table 1.3).

²³ BRC (2017), *Informe sobre Inflación*, September 2017. Viewed at: http://www.banrep.gov.co/sites/default/files/publicaciones/archivos/informe_sobre_inflacion_septiembre_2017.pdf; and *Informe sobre Inflación*, December 2017. Viewed at: http://www.banrep.gov.co/sites/default/files/publicaciones/archivos/informe_sobre_inflacion_diciembre_2017.pdf.

²⁴ BRC, Monetary policy intervention rate. Dates on which the alteration takes effect. Daily historical series. Viewed at: <http://obieebr.banrep.gov.co/analytics>.

²⁵ BRC (2017), *Informe sobre Inflación*, December 2017. Viewed at: http://www.banrep.gov.co/sites/default/files/publicaciones/archivos/informe_sobre_inflacion_diciembre_2017.pdf.

²⁶ BCR, *Política de Intervención Cambiaria*. Viewed at: <http://www.banrep.gov.co/es/politica-intervencion-cambiaria>.

Table 1.3 Balance of payments, 2011-2017

(US\$ million at current prices)

	2011	2012	2013	2014	2015	2016	2017 ^a
Current account balance (% of GDP)	-2.7	-3.0	-3.3	-5.2	6.4	4.3	3.3
1 Current account	-9,802	-11,365	-12,504	-19,768	-18,586	-12,129	-10,359
Credit (exports)	72,758	77,853	76,936	73,824	56,725	53,448	60,833
Debit (imports)	82,561	89,219	89,440	93,592	75,311	65,577	71,192
1.A Goods and services	641	-1,186	-3,160	-11,862	-18,255	-12,767	-8,878
Credit (exports)	63,906	68,049	67,305	64,055	45,998	41,756	47,801
Debit (imports)	63,265	69,235	70,465	75,917	64,253	54,523	56,679
1.A.a Goods	6,137	4,956	3,179	-4,641	-13,479	-9,160	-4,766
Credit (exports, f.o.b.)	58,262	61,604	60,282	56,899	38,572	34,079	39,474
Debit (imports, f.o.b.)	52,126	56,648	57,103	61,539	52,051	43,239	44,241
1.A.b Services	-5,496	-6,141	-6,340	-7,222	-4,776	-3,608	-4,111
Credit (exports)	5,643	6,445	7,022	7,156	7,426	7,677	8,326
Debit (imports)	11,139	12,586	13,362	14,378	12,203	11,284	12,438
1.B Primary income (Factor income)	-15,494	-15,013	-14,230	-12,527	-5,761	-5,249	-8,167
Credit	2,778	3,851	3,624	3,997	4,483	4,996	5,475
Debit	18,272	18,863	17,855	16,525	10,244	10,245	13,641
1.C Secondary income (Current transfers)	5,051	4,833	4,887	4,622	5,430	5,887	6,685
Credit	6,075	5,954	6,007	5,771	6,243	6,696	7,558
Debit	1,024	1,121	1,120	1,150	814	808	873
3 Financial account	-8,707	-11,552	-11,739	-19,292	-18,263	-12,682	-9,694
3.1 Direct investment	-6,227	-15,646	-8,557	-12,268	-7,518	-9,332	-10,828
Net acquisition of financial assets	8,420	-606	7,652	3,899	4,218	4,517	3,690
3.1.1 Equity and investment fund shares	7,254	-557	7,468	2,935	5,283	4,975	3,386
3.1.2 Debt securities	1,165	-49	184	963	-1,065	-458	304
Net liabilities incurred	14,647	15,039	16,209	16,167	11,736	13,849	14,518
3.1.1 Equity and investment fund shares	12,775	13,800	13,841	13,674	9,730	9,174	12,270
3.1.2 Debt securities	1,872	1,239	2,368	2,493	2,006	4,675	2,248
3.2 Portfolio investment	-6,171	-4,769	-7,438	-11,565	-10,283	-3,718	-1,577
Net acquisition of financial assets	1,361	2,586	3,635	7,096	-475	5,190	6,217
3.2.1 Equity and investment fund shares							
3.2.2 Debt securities	1,361	2,586	3,635	7,096	-475	5,190	6,217
Net liabilities incurred	7,532	7,356	11,073	18,661	9,808	8,908	7,793
3.2.1 Equity and investment funds shares	2,272	3,455	1,921	1,823	1,757	-1,484	245
3.2.2 Debt securities	5,260	3,901	9,152	16,838	8,051	10,392	7,548
3.3 Financial derivatives (other than reserves) and employee stock options	36	-514	118	608	1,956	-621	203
Net acquisition of financial assets	-130	-581	-74	-323	-223	-794	-210
Net liabilities incurred	-166	-67	-192	-932	-2,179	-173	-413
3.4 Other investment	-88	3,971	-2,808	-504	-2,833	823	1,963
Net acquisition of financial assets	3,597	1,736	2,286	1,771	540	2,479	-241
Net liabilities incurred	3,685	-2,235	5,094	2,275	3,373	1,656	-2,204
3.5 Reserve assets	3,742	5,406	6,946	4,437	415	165	545
Errors and omissions, net	1,095	-187	765	476	323	-553	665
Memorandum item:							
Financial account, excluding reserve assets	-12,449	-16,958	-18,685	-23,729	-18,678	-12,848	-10,239

a Preliminary figures.

Source: BRC, Economic Studies Division, Technical and Economic Information Department, External Sector.

1.32. The merchandise trade balance was in surplus in 2012 and 2013, before slipping into deficit largely because of lower oil prices. The deficit peaked at US\$13,479 million in 2015 and then began to decline, as imports fell more steeply than exports in 2016, and export growth of 16% outweighed a 2.3% increase in imports in 2017.²⁷ The increase in export value partly reflected the higher prices of the main commodities, especially oil and coal. Colombia's services trade was in deficit throughout the period under review, reflecting large negative balances in the transport, business, construction, and financial services accounts.

1.33. Outflows abroad in respect of profits and dividends dwindled during the review period, dropping from more than US\$15 billion in 2012, to just over US\$5 billion in 2016, largely owing to the reduction in the profits of firms operating in the mining-energy sector. Outflows in this category totalled US\$8,167 million in 2017. Current transfers, which are mainly workers'

²⁷ BCR (2018), *Evolución de la Balanza de Pagos y Posición de Inversión Internacional Enero - Diciembre 2017*. Viewed at: http://www.banrep.gov.co/sites/default/files/ibp_ene_dic_2017.pdf.

remittances from abroad, remain one of the main sources of income on the current account, exceeding US\$5.8 billion in 2016 and growing to nearly US\$6.7 billion in 2017.

1.34. Net flows of direct investment dropped substantially during the period under review, although they fluctuated considerably from year to year. The variation in investment flows also largely reflects lower oil prices.

1.35. The foreign debt/GDP ratio increased during the period, partly because of the real depreciation of the peso. Nonetheless, the levels remain low: the net NFPS external debt represented 15.1% of GDP in 2016.

1.36. Colombia's gross international reserves totalled US\$46,682 million in 2016, equivalent to 10.3 months' imports of goods and services.

1.37. The 2016 results reflected an adjustment in the current-account deficit of about US\$6,239 million, equivalent to 2.0 percentage points of GDP. The authorities accordingly estimated a current-account deficit of about US\$11.5 billion for 2017, equivalent to 3.6% or 3.7% of GDP. The merchandise trade balance was expected to remain in deficit in 2017, albeit to a lesser degree than in 2016 thanks to an improvement in the terms of trade. Preliminary figures point to a gap of US\$10,359 million (3.3% of GDP) in 2017; and a current-account deficit of 3.6% of GDP is projected for 2018. Nonetheless, the merchandise trade gap is expected to widen, largely because of an increase in imports, with exports growing only moderately.²⁸

1.3 Trade and investment performance

1.3.1 Trends and patterns of trade in goods and services

1.3.1.1 Merchandise trade²⁹

1.38. Since 2012, foreign trade flows have dwindled in Colombia (Tables A1.1 and A1.2). Merchandise exports fell by 37% between 2012 and 2017, to total US\$38.8 billion in the latter year. While the decline has been gradual since 2012, it has gathered pace since 2014 and is explained by lower international commodity prices, especially in the case of mineral products (oil and coal), which are Colombia's main export products (Table A1.1 and Chart 1.1), compounded by weaker global demand. Although the real exchange rate rose sharply, as noted above, Colombia did not gain relative to other countries in the region which also devalued and export mainly to developed economies. Moreover, the real depreciation of the peso inflated production costs, since the import component of exports has been increasing, especially in the manufacturing sector.

1.3.1.1.1 Composition of merchandise trade

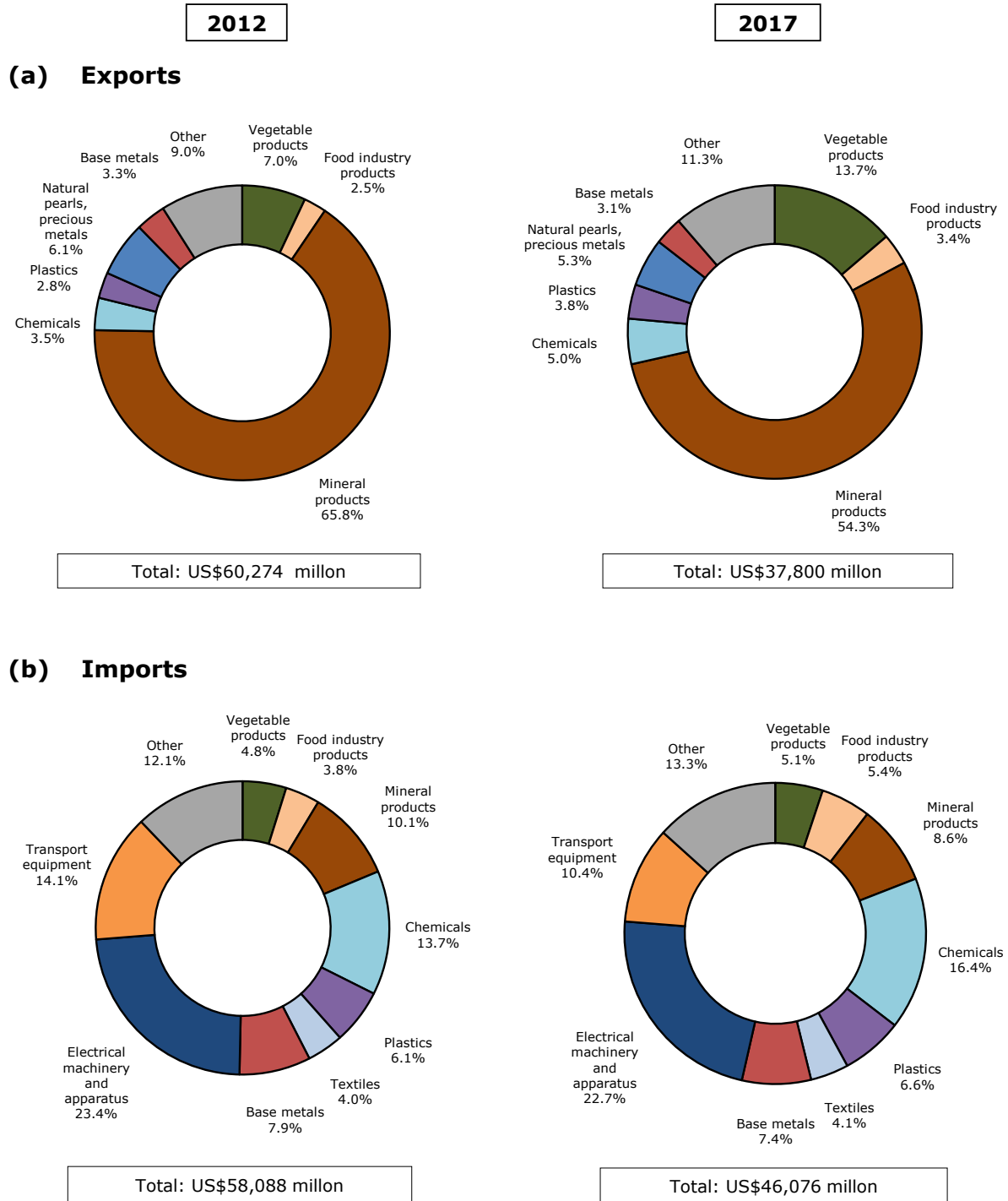
1.39. Products of the mining sector represented around 54% of Colombian exports in 2017, compared to nearly 66% in 2012 (Table A1.1 and Chart 1.1). Crude oil and coal account for the bulk of mining exports and the fall in their price explains their declining share of total exports.

1.40. Agriculture has increased its share of Colombian exports from 11% in 2012 to 20.7% in 2017, driven by coffee, flowers and bananas. Since 2012, coffee has consolidated its status as the leading agricultural export, representing 8% of total export value in 2016. Chemical products and plastics are Colombia's main manufactured exports (Chart 1.1).

²⁸ Ministry of Finance (2017), *Marco Fiscal de Mediano Plazo 2017*, p. 122. Viewed at: http://www.minhacienda.gov.co/HomeMinhacienda/ShowProperty?nodeId=%2FOCS%2FP_MHCP_WCC-078748%2F%2FidcPrimaryFile&revision=latestreleased.

²⁹ This section uses data from the United Nations Comtrade database, which may differ from the figures presented in the balance of payments.

Chart 1.1 Merchandise trade by main products, 2012 and 2017



Source: WTO Secretariat estimates based on data from the UNSD Comtrade database; and information provided by the authorities for 2017.

1.41. The manufacturing sector generated about a quarter of Colombia's exports in 2017, compared to 17.5% in 2012 (Table A1.1). Chemical products remain the leading manufactured export.

1.42. Colombia continues to import mainly manufactures, which accounted for over 80% of the total in 2017 (Table A1.2), led by machinery (22.7% of total imports in 2017), transport equipment (10.4%) and chemical products (16.4%). Agricultural products represented 13.1% of total imports in 2017 (Table A1.2). Between 2012 and 2017, the value of imports fell by 20.7%

(Table A1.2), which the authorities attributed to the slowdown in the Colombian economy resulting from the loss of national income, which undermined aggregate demand and, hence, the demand for imports. Moreover, the effect of the real depreciation of the peso increased the relative prices of imported goods.

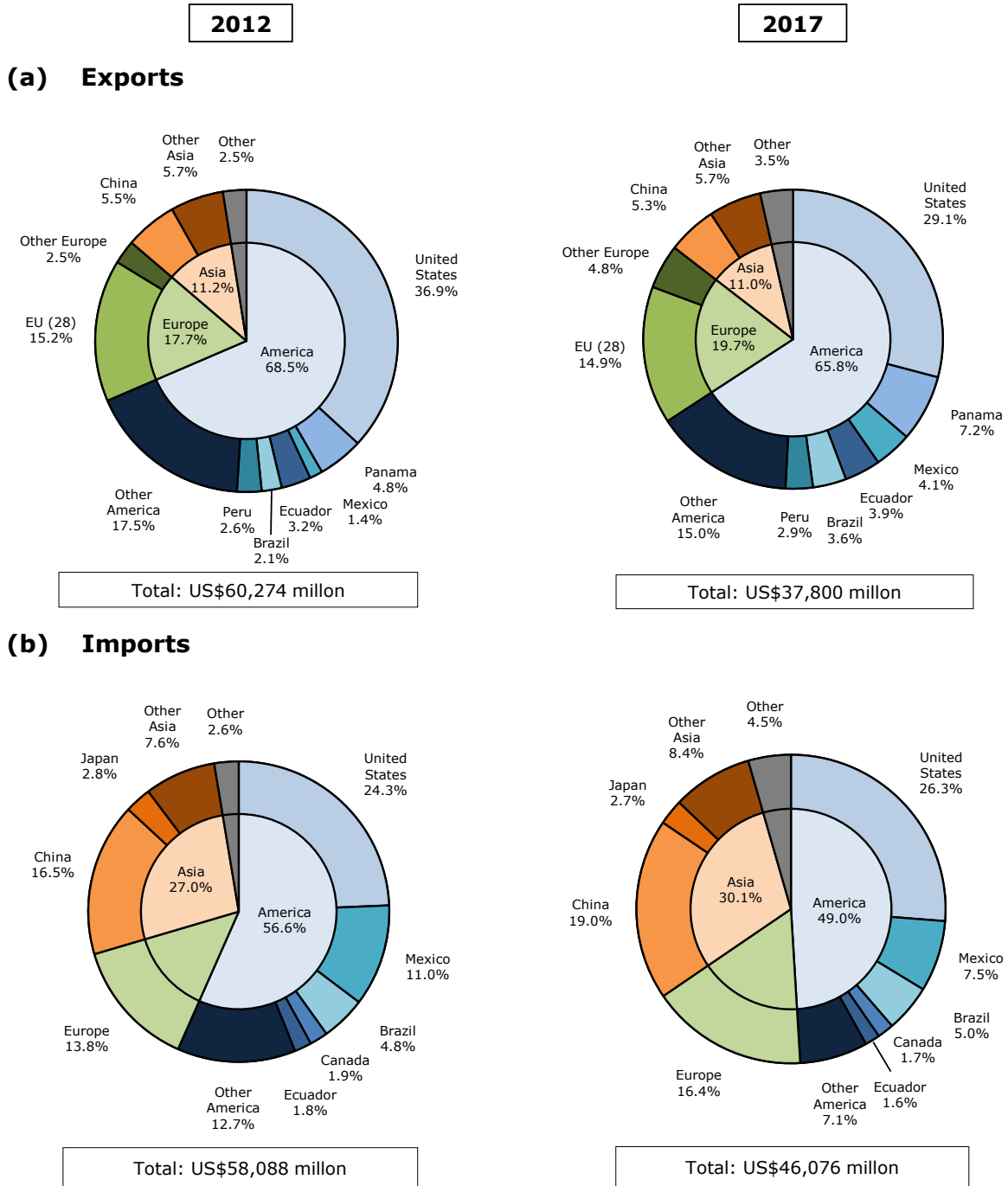
1.3.1.1.2 Direction of merchandise trade

1.43. Colombia's foreign trade remains quite concentrated geographically and still depends heavily on the United States market (Tables A1.3 and A1.4). The latter is still the leading destination for Colombian exports, absorbing 29.1% of the total in 2017; and it is also the source of a large proportion of Colombia's imports (26.3% of the total, Chart 1.2). The next most important markets are China (with a significantly larger share since the last review), the European Union and Mexico. Colombia's trade with the other countries of the Andean Community represented 7.5% of the total in the case of exports, and 3.8% in the case of imports.

1.3.1.2 Services trade

1.44. During the period under review, Colombia continued to run a deficit in its services trade, owing to a large shortfall in transport, business, insurance and pension, and financial services (Table 1.4). Nonetheless, having widened until 2014, the deficit narrowed from 2015 onwards, and the trend consolidated in the ensuing years. This was partly because the transport services deficit decreased during the period, in the wake of weaker growth in merchandise trade, particularly hydrocarbon exports. The balance of the travel item also remained negative until 2015 but posted surpluses in 2016 and 2017. Trade in information and communications technology services continued negative for Colombia. In general, income from services trended upwards during the review period, while expenditures contracted until 2016.

Chart 1.2 Direction of merchandise trade, 2012 and 2017



Source: WTO Secretariat estimates based on data from the UNSD Comtrade database; and information provided by the authorities for 2017.

Table 1.4 Trade in services, 2012-2017

(US\$ million)

	2012	2013	2014	2015 ^a	2016 ^a	2017 ^a
Balance						
Services	-6,141	-6,340	-7,222	-4,776	-3,608	-4,111
Manufacturing services on physical inputs owned by others	-5	-1	-3	-2	-1	-3
Maintenance and repairs n.i.e.	19	37	4	12	-2	-11
Transport	-2,096	-1,442	-1,572	-1,256	-1,094	-1,117
Travel	-166	-330	-858	-76	306	417
Building	-4	-2	-2	-1	0	-1
Insurance and pension services	-1,142	-1,143	-1,164	-863	-927	-981
Financial services	-642	-686	-810	-692	-464	-1,047
Charges for the use of intellectual property n.i.e.	-437	-494	-470	-419	-392	-394
Telecommunications, computer and information services	-116	-372	-391	-373	-383	-383
Other business services	-1,502	-1,907	-1,897	-1,056	-668	-642
Personal, cultural and recreational services	-14	33	-21	-20	24	35
Government goods and services, n.i.e.	-37	-32	-38	-32	-6	14
Exports						
Services	6,445	7,022	7,156	7,426	7,677	8,326
Maintenance and repairs n.i.e.	40	51	23	24	10	1
Transport	1,491	1,714	1,766	1,601	1,509	1,632
Travel	3,460	3,611	3,825	4,245	4,559	4,900
Building	N/A	N/A	N/A	N/A	N/A	N/A
Insurance and pension services	16	16	14	19	23	17
Financial services	74	77	70	57	48	82
Charges for the use of intellectual property n.i.e.	90	66	56	52	46	63
Telecommunications, computer and information services	352	323	275	346	325	343
Other business services	743	896	954	886	890	1,014
Personal, cultural and recreational services	85	181	83	103	130	119
Government goods and services, n.i.e.	95	87	88	92	136	156
Imports						
Services	12,586	13,362	14,378	12,203	11,284	12,438
Manufacturing services on physical inputs owned by others	5	1	3	2	1	3
Maintenance and repairs n.i.e.	22	14	19	12	12	11
Transport	3,587	3,155	3,339	2,857	2,604	2,749
Travel	3,626	3,941	4,683	4,321	4,254	4,483
Building	4	2	2	1	0	1
Insurance and pension services	1,158	1,159	1,178	882	950	998
Financial services	716	764	881	748	512	1,129
Charges for the use of intellectual property n.i.e.	527	561	526	471	439	457
Telecommunications, computer and information services	468	695	666	719	707	726
Other business services	2,244	2,803	2,851	1,942	1,558	1,656
Personal, cultural and recreational services	99	149	104	123	106	83
Government goods and services, n.i.e.	132	119	126	124	142	142

a Preliminary figures.

N/A Not applicable.

Source: BRC.

1.3.2 Trends and patterns in foreign direct investment

1.45. Annual flows of foreign direct investment (FDI) to Colombia fluctuated during the review period, trending upwards in 2012-2014 before falling sharply in 2015 in the wake of lower oil prices. Although inward FDI flows recovered to US\$13,726 million in 2016, they were still smaller than in 2012.

1.46. For most of the period under review, the petroleum and mining sectors continued to be the main recipients of foreign investment, although flows have dwindled since 2015 (Table 1.5). Other sectors that receive foreign investment include manufacturing, commerce, restaurants and hotels, the financial sector and transport, storage and communications.

Table 1.5 Inward flows of foreign direct investment to Colombia by economic sector, 2012-2017 Q3

(US\$ million)

	2012	2013	2014	2015	2016	2017 Q3 ^a
Total	15,039	16,210	16,165	11,632	13,743	10,202
Agriculture, hunting, forestry and fishing	26	296	202	211	251	136
Mining and quarrying (including coal)	2,474	2,977	1,582	533	-97	441
Manufacturing	1,985	2,481	2,967	2,661	1,764	1,762
Electricity, gas and water	672	314	463	274	3,599	427
Construction	401	354	648	693	655	505
Commerce, restaurants and hotels	1,339	1,361	804	1,668	1,044	751
Transport, storage and communications	1,245	1,386	2,112	745	1,241	2,923
Financial institutions	1,077	1,606	2,478	2,103	2,533	847
Community services	349	324	177	229	368	298
Petroleum sector	5,471	5,112	4,732	2,514	2,385	2,113

a Preliminary figures.

Source: BRC.

1.47. European Union countries jointly remain the leading source of foreign investment in Colombia (Table 1.6). Other important investors are the United States, Panama and Switzerland.

Table 1.6 Inward flows of foreign direct investment to Colombia by country of origin, 2012-2017Q3

(US\$ million)

	2012	2013	2014	2015	2016 ^a	2017Q3 ^a
Canada	291	258	437	319	2,195	125
United States	2,476	2,838	2,237	2,078	2,108	1,408
Bermuda	367	848	1,017	1,284	1,611	11
Spain	628	884	2,214	1,327	1,486	2,215
Panama	2,395	2,040	2,436	1,648	1,414	1,008
Netherlands	-1,792	632	450	902	1,027	357
United Kingdom	1,357	1,400	1,088	700	854	900
Switzerland	698	2,096	2,804	947	740	496
Mexico	849	556	663	-131	672	1,345
Cayman Islands	507	603	318	224	299	486
Barbados	345	418	527	238	247	255
Germany	266	98	81	220	218	115
France	303	532	224	174	197	157
British Virgin Islands	487	459	349	192	163	153
Ireland	25	4	-4	24	99	20
Costa Rica	23	14	65	39	91	18
Peru	159	74	265	73	85	67
Ecuador	50	61	35	30	58	32
China	35	9	35	3	57	16
Venezuela (Bolivarian Rep. of)	111	88	115	85	56	31
Other countries	5,457	2,296	807	1,258	66	987
Total	15,039	16,209	16,164	11,632	13,743	10,202

a Preliminary figures.

Note: A negative flow means that capital repayments outweigh new investment.

Source: BRC, Economic Studies Division.

2 TRADE AND INVESTMENT REGIME

2.1 General framework

2.1. Colombia's Political Constitution was promulgated in 1991 and has undergone a series of amendments, introduced through legislative acts of the National Congress.¹ During the period under review, one of the main amendments was that prohibiting the re-election of the President of the Republic, which had been permitted since 2004.² The duration of the presidential term of office (four years) remains unchanged. Another amendment concerned the composition of the two houses of the Congress of the Republic, and it allows the candidates who in the vote count came immediately behind the persons declared President and Vice-President of the Republic to occupy a seat in the Senate and the House of Representatives respectively.³ These changes will be implemented as of 2018 when the next elections will take place.

2.2. There are three branches of government in Colombia: the executive, the legislative and the judicial branches, all with separate functions. The national executive branch comprises the President of the Republic, 16 ministers⁴ and the heads of eight administrative departments⁵, who make up the National Government. The President of the Republic is the Head of State and of the National Government. The national executive branch also includes ten supervisory authorities, 35 public institutions, 37 special administrative units, 29 enterprises, eight State-owned industrial and commercial enterprises and seven special State agencies.⁶ The territorial executive branch comprises the governorships and mayoralties.

2.3. The legislative branch comprises the Congress of the Republic, which is made up of two chambers, the Senate and the House of Representatives, whose members are elected simultaneously for four-year, renewable terms. The Congress of the Republic comprises 102 senators and 166 representatives.

2.4. The judicial branch comprises the Constitutional Court, the Supreme Court of Justice, the Council of State, the Judicial Discipline Commission, the Office of the Public Prosecutor, courts and judges.⁷ The authorities of indigenous territories may discharge jurisdictional functions, provided that they are not contrary to the Constitution and the laws of the Republic.

2.5. The Political Constitution is the supreme law of Colombia's legal system and is followed, in order of importance, by international treaties, laws (including laws approving international treaties), decrees (including single regulatory decrees), resolutions, circulars, departmental ordinances and municipal agreements.⁸

2.6. A draft law may be prepared by either of the two chambers of the Congress of the Republic, by the National Government, 5% of the electorate and 30% of the departmental deputies or municipal councillors. Some bodies of the Judiciary, the National Electoral Council, the Attorney General of the Nation and the Comptroller-General of the Republic may also prepare draft laws, but their powers are limited to fields within their remit. Draft laws are approved after being debated twice in each chamber of the Congress of the Republic (Chart 2.1). The legislative process ends when the President approves and enacts the law; he may voice objections if he deems the

¹ The Legislative Acts amending the Constitution between January 2012 and December 2017 are: Nos. 01 and 02 of 2012, No. 01 of 2013, Nos. 01 and 02 of 2015, No. 01 of 2016 and Nos. 01, 2, 3 and 4 of 2017.

² Article 197 of the Political Constitution, as amended by Legislative Act No. 02 of 2015.

³ Article 112 of the Political Constitution, as amended by Legislative Act No. 02 of 2015.

⁴ The ministries are: Interior; Foreign Affairs; Finance and Public Credit; Justice and Law; National Defence; Agriculture and Rural Development; Health and Social Welfare; Labour; Mining and Energy; Trade, Industry and Tourism; National Education; Environment and Sustainable Development; Housing, Urban and Territorial Affairs; Information and Communication Technologies; Culture; and Transport.

⁵ Administrative Department of the Office of the President of the Republic, National Planning Department, Department of Public Administration, National Administrative Department of Statistics, Administrative Department of the National Intelligence Directorate, Administrative Department of Science, Technology and Innovation, Administrative Department for Social Prosperity and Administrative Department of Sports, Recreation, Physical Activity and the Use of Leisure Time.

⁶ Articles 113, 115 and 189 of the Political Constitution and information provided by the authorities.

⁷ Known as the Higher Council of the Judiciary until 2015 (Legislative Act No. 02 of 2015).

⁸ International treaties on human rights have constitutional rank (Article 93 of the Political Constitution).

draft law to be unconstitutional or if he disagrees with its content. Likewise, the President may request the Congress of the Republic to deal with the law as a matter of urgency, giving it priority on the agenda. Draft laws may be subject to an approval referendum, while laws (with some exceptions) may be put to a repeal referendum.⁹ A law will be repealed by referendum if 25% of the electorate cast their ballots and an absolute majority is obtained.¹⁰

2.7. The Constitution further invests the President of the Republic with exceptional and temporary legislative powers allowing him to issue decree-laws and legislative decrees with the force of law. Decree-laws are those issued by the President of the Republic when the Congress invests him with extraordinary powers.¹¹ Legislative decrees are issued to declare states of emergency¹²; such decrees are subject to the control of the Constitutional Court. The Congress of the Republic may at any time and on its own initiative amend and repeal decree-laws and legislative decrees.¹³

2.8. During the review period, the National Government, assisted by an Intersectoral Commission for Regulatory Harmonization, undertook an overhaul of the legal system, which entailed identifying regulatory decrees in force that had become obsolete or fallen into disuse and had been (expressly or tacitly) repealed. This process was intended to simplify the system and thereby ensure greater legal certainty. It led to the creation of a new type of decree, the Single Regulatory Decree (DUR), which contains a compilation of all regulatory decrees in force for each sector and becomes the sole source for legal consultation.¹⁴ Legislation may be consulted on line, through the Single System of Regulatory Information (SUIN JURISCOL).¹⁵

⁹ Laws approving international agreements, laws on fiscal and tax matters and the Budget Law are excluded.

¹⁰ Articles 163 and 170 of the Constitution and Article 5 of Law No. 134 of 31 May 1994.

¹¹ The President of the Republic is invested with extraordinary powers by an absolute majority of the two houses of the Congress of the Republic and may exercise them for a maximum of six months and only with respect to certain matters. They may not be used to issue codes, statutes and basic laws, or to levy taxes.

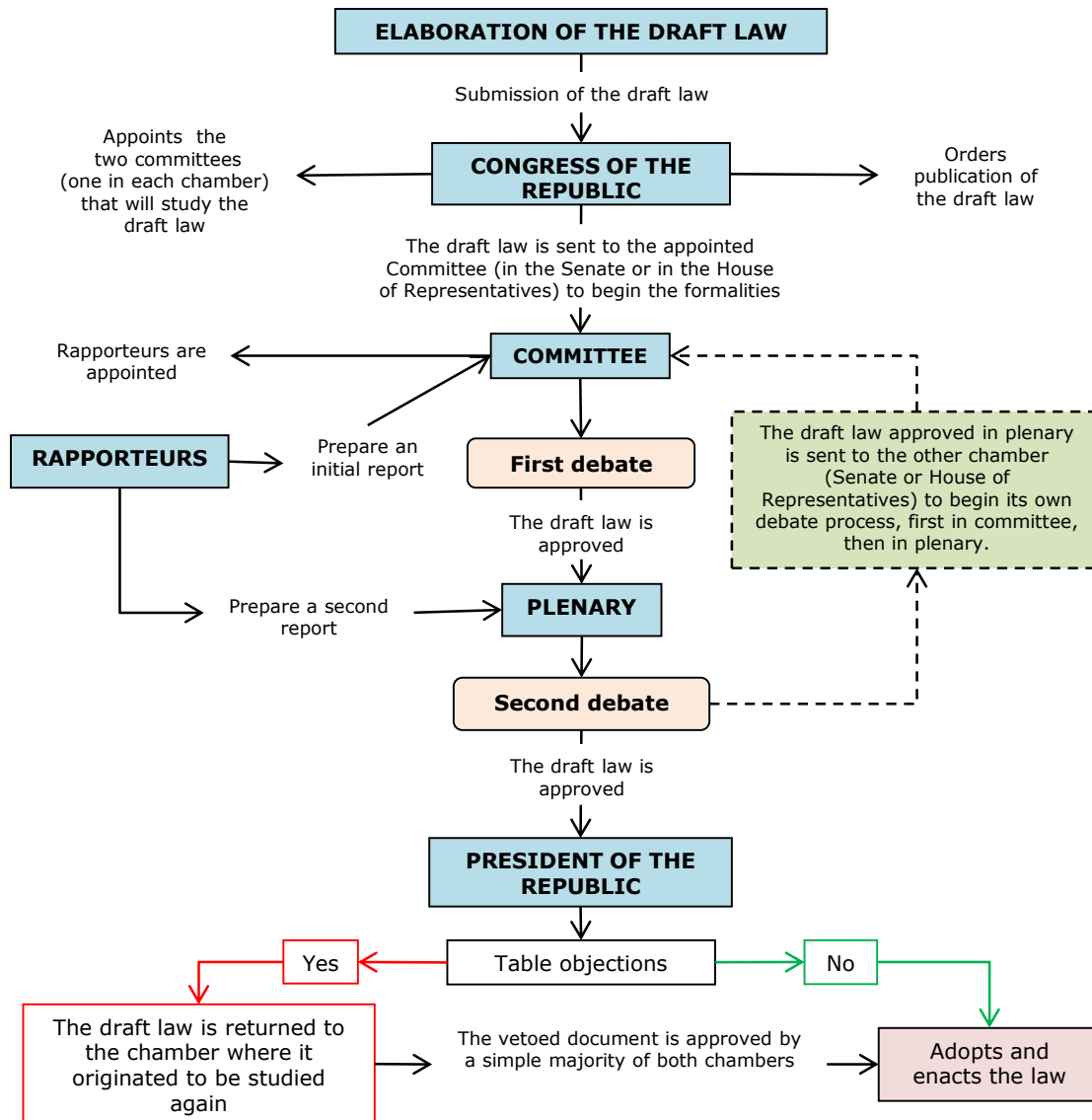
¹² State of war abroad, state of internal unrest and state of emergency.

¹³ Articles 150, 212-215 and 341 of the Political Constitution, online information from the Office of the President of the Republic, viewed at: <http://wsp.presidencia.gov.co/dapre/atencion/Paginas/preguntas-frecuentes.aspx>.

¹⁴ The DUR is structured as follows: (a) Book 1, which describes the sector's administrative structure and is therefore not regulatory in nature; (b) Book 2, which compiles all regulatory decrees in force governing the sector; (c) Book 3, stipulating that the DUR governs the matters compiled therein. Any provision on these matters not appearing in the DUR is repealed, subject to possible exceptions. Decree No. 1.052 of 2014, and online information from the Department of Public Administration, viewed at: <http://www.funcionpublica.gov.co/-/decretos-unicos-reglamentarios-toda-la-informacion-en-un-solo-lugar>.

¹⁵ Online information viewed at: <http://www.suin-juriscol.gov.co/legislacion/decretosUnicos.html>.

Chart 2.1 Legislative process



Source: WTO Secretariat, on the basis of Articles 150-170 of the Political Constitution of Colombia and online information from the House of Representatives, viewed at: <http://www.camara.gov.co/portal2011/proceso-y-tramite-legislativo/como-se-tramita-una-ley>.

2.9. Twenty-four DURs were issued in 2017. Most of the decrees regulating trade are contained in Single Regulatory Decree No. 1.074 of 26 May 2015, except for decrees on customs regulations (Decree No. 390 of 2016) and the free zone regime (Decree No. 2147 of 2016). At the sectoral level, Single Decree No. 2.555 of 2010 collating the regulations on financial services remains in force.

2.10. The President of the Republic holds exclusive power to sign international agreements, which must be approved by the Congress of the Republic. When the Congress approves an agreement it issues the corresponding law approving it. The Constitutional Court verifies that neither the agreement nor the approving law is contrary to the provisions of the Constitution. Once it rules that there are no grounds for unconstitutionality, the President of the Republic may ratify the agreement. However, an economic or trade agreement reached in international organizations may be implemented provisionally, provided that the ratification process has begun.¹⁶

¹⁶ Articles 150, 189, 224 and 241 of the Constitution.

2.11. On the trade front, the Constitution (Article 336) authorizes monopolies only if they are established with discretion to allocate revenue, in other words if the revenue they produce serves to fund public and social interest services. There are currently two such revenue-generating monopolies: gambling and betting, and the manufacture and sale of spirits (Section 3.3.4).

2.12. During the review period, Colombia further developed the Online Government Strategy (GEL Strategy) which digitizes a range of formalities, for example, sanitary registration. In 2017, the sanitary registration of (only synthetic) medicines could be done online, while this procedure was still being implemented for other medicines, foods and beverages, cosmetics, pesticides and cleaning products. Other formalities that will become possible online will be the creation of enterprises, the registration of electronic invoices and the payment of local taxes.¹⁷

2.2 Trade policy formulation and objectives

2.13. The Ministry of Trade, Industry and Tourism (MinCIT) is the body that formulates and implements Colombia's trade policy, which it coordinates with the Higher Council for Foreign Trade. The latter makes recommendations on all matters related to foreign trade, such as tariff measures, customs regimes and procedures, customs valuation, export promotion or the adoption of special trade measures, among others.

2.14. The MinCIT has a technical committee, the Committee on Customs, Tariff and Foreign Trade Matters (Triple A Committee), which advises both the MinCIT and the Higher Council for Foreign Trade on matters relating to the customs and tariff regime. For example, the Committee on Customs, Tariff and Foreign Trade Matters may recommend customs tariff changes after studying requests from sectors of the economy, for example, requests to introduce tariff quotas or raise or reduce tariff rates.¹⁸

2.15. The MinCIT represents Colombia in international trade negotiations. The Higher Council for Foreign Trade is the body that recommends Colombia's participation in such negotiations. Part and parcel of the process of formulating trade negotiation strategy are mechanisms for consulting with the private sector and enabling it to put forward its position on the negotiations. The private sector is also represented on the Joint Committee on Foreign Trade, in which the Higher Council for Foreign Trade also participates. This Committee prepares foreign trade strategy proposals, with an emphasis on boosting productivity and competitiveness in order to develop export potential. It also interacts with civil society, which may express its views on the progress of trade negotiations and the implementation of agreements. The MinCIT is responsible for implementing trade agreements.¹⁹

2.16. Since 2012, Colombia has continued to implement a policy of greater integration in the world economy, with a view to securing better market access conditions so as to boost exports and find the best suppliers for its imports. Under the current National Development Plan (PND) 2014-2018 government action focuses on enhancing productivity as the main driver of export growth. Emphasis is also placed on export diversification, in other words exporting more non-mining energy products.²⁰

2.17. To stimulate exports, the PND 2014-2018 calls for consolidating the position of Colombia's exportable supply on international markets, be they markets to which Colombia already exports, or new markets. It is believed that this aim can be achieved by taking advantage of the opportunities offered by trade agreements, namely preferential market access and integration in regional value chains. It is also considered important to improve the quality system so that exports can fulfil international technical requirements. Other actions include supporting companies in developing innovative processes for the production of technologically more sophisticated goods.

¹⁷ Online information viewed at: <http://strategy.gobiernoenlinea.gov.co/623/w3-channel.html>; and *Ruta de la Excelencia* strategy, viewed at: <http://rutadelaeexcelencia.gov.co/634/w3-channel.html>.

¹⁸ Online information from the MinCIT, viewed at: http://www.MinCIT.gov.co/mincomercioexterior/publicaciones/132/politica_de_comercio_exterior.

¹⁹ Single Regulatory Decree No. 1.074 of 26 May 2015; Decree No. 0566 of 21 March 2013; and online information from the MinCIT, viewed at:

http://www.mincit.gov.co/publicaciones/16555/espacios_de_participacion_para_la_sociedad_civil.

²⁰ The PND 2014-2018 may be viewed at: <https://www.dnp.gov.co/Paginas/inicio.aspx>.

Further aims are to simplify and streamline customs formalities and develop tools to assist enterprises with their outsourcing process.

2.18. The authorities state that trade policy has also been directed towards cutting production costs. For example, the formalities for granting companies access to the Special Import-Export Systems ("Plan Vallejo") (Section 3.3.1.5) have been streamlined; efforts have been made to bring down export costs; and tariffs have been eliminated definitively for more than 3,400 tariff subheadings (including raw materials and capital goods).²¹

2.19. Several bodies are involved in the monitoring of trade policy implementation. These include the MinCIT (through its Office of Economic Studies) or the National Planning Department (through the National System of Management and Results Evaluation (SINERGIA) and the CONPES document follow-up system (SISCONPES)). The Office of Economic Studies monitors trade flows so as to identify companies or sectors in need of greater support in taking advantage of trade agreements, while the National Planning Department undertakes the overall monitoring of the public policies contained in the PND and in documents of the National Economic and Social Policy Council (CONPES). Furthermore, the authorities underline that Law No. 1.868 of 1 September 2017 lays down the obligation to assess the impact of regional trade agreements ratified by Colombia. The evaluation, which will be submitted to the trade unions, will be presented to the Congress of the Republic. As at end 2017, no evaluation had taken place. The authorities nonetheless stress that the trade defence mechanisms under regional trade agreements were evaluated in 2016.²²

2.3 Trade agreements and arrangements

2.3.1 WTO

2.20. Colombia is a founding Member of the WTO. This is the fifth review of the country's trade policies by the Trade Policy Review Body. Colombia has signed the protocols on telecommunications and financial services annexed to the General Agreement on Trade in Services, has acceded to the Protocol amending the Agreement on Trade-Related Aspects of Intellectual Property Rights, and participates in the Information Technology Agreement (ITA). Colombia is not a party to the plurilateral agreements, but participates with observer status in the Committee administering the Agreement on Government Procurement. The authorities have stated that, as at February 2018, Colombia was in the process of ratifying the Trade Facilitation Agreement (TFA), which was then before the Constitutional Court.²³ Colombia accords at least MFN treatment to all its trading partners.

2.21. Colombia has notified the WTO of the trade measures it has adopted since its previous review in 2012 (Table A2.1). More specifically, notifications were submitted regarding the trade facilitation clauses that Colombia would implement immediately following the entry into force of the TFA (known as "Category A" commitments).²⁴ Colombia excludes the immediate implementation of some provisions, which will be applied after a transition period; in March 2018, Colombia notified the time-frames for the implementation of these provisions.²⁵

2.22. Between 2012 and 2017, Colombia's trade policies were challenged on two occasions before the WTO Dispute Settlement Body (DSB) (Table 2.1). The complaint submitted by Panama in 2013 related to Colombia's imposition of a "compound tariff" on certain imports of textiles, apparel and footwear of Chapters 61 to 64 of the HS.²⁶ In 2017 a "compliance panel" was established, comprising the members of the Panel that had initially examined the matter. In December 2017

²¹ According to the authorities, companies have saved some US\$ 400 million annually as a result of the elimination of tariffs.

²² The results of the evaluation may be viewed at: https://colaboracion.dnp.gov.co/CDT/Sinergia/Documentos/MDC_Informe_de_Resultados_VP.pdf.

²³ The Congress of the Republic approved the Protocol Amending the Marrakesh Agreement through Law No. 1.879 of 9 January 2018. The law has been submitted to the Constitutional Court and has been placed on its agenda.

²⁴ The provisions concerned are all those that expedite the movement, release and customs clearance of goods (Articles 1-12 of the Agreement), with the following two exceptions: (a) the initiation of procedures for a second test (Article 5.3) and (b) measures regarding the release of perishable goods (Article 7.9).

²⁵ WTO document G/TFA/N/COL/1 of 5 March 2018.

²⁶ WTO document WT/DS461/AB/R of 7 June 2016.

two compliance procedures were in progress.²⁷ In the other dispute settlement case, *Colombia - Measures Concerning Imported Spirits*, the Panel had still not been constituted at the end of 2017. During the review period Colombia did not file any complaints but participated as a third party in 17 dispute settlement cases.

Table 2.1 Dispute settlement cases involving Colombia, 1 January 2012-31 December 2017

Respondent/complainant	Description (receipt of the request for consultations)	Status at end December 2017	Document series
Colombia/Panama	Measures Relating to the Importation of Textiles, Apparel and Footwear (2013)	Compliance proceedings in progress (6 March 2017)	WT/DS461
Colombia/EU	Measures Concerning Imported Spirits (2016)	Panel established, but not yet constituted (26 September 2016)	WT/DS502

Source: WTO Secretariat.

2.23. The Colombian authorities are of the view that the WTO is doing important work in the area of monitoring and aid for trade. They deem it important to support actions that strengthen the multilateral trading system so as to provide certainty to economic operators, and they consider that trade liberalization and the elimination of distortions will contribute to economic growth, job creation, greater fairness, and increased participation in value chains. Although Colombia recognizes and underscores the achievements of the negotiation process, it stresses that there is still room for improvement in key areas such as agriculture. Likewise, Colombia favours the negotiation of new topics (for example, electronic commerce, investment facilitation and greater participation by micro, medium and small enterprises in international trade) as well as building awareness of and seeking solutions to the growing problem of illicit trade.²⁸

2.3.2 Regional and preferential agreements

2.24. Colombia is a member of the Latin American Integration Association (LAIA), in which framework it has signed partial scope agreements with member and non-member partners. Colombia is a founding member of the Andean Community of Nations (CAN) and of the Pacific Alliance and participates in several bilateral and plurilateral trade agreements (Chart 2.2). Colombia signed preferential trade agreements with Israel and Panama²⁹ in 2013, and in early 2018 was engaged in negotiations with Japan and Turkey. In the framework of the Pacific Alliance, negotiations began in 2017 on a free trade agreement with Australia, Canada, New Zealand and Singapore, which are candidates for associate membership of the Pacific Alliance. The authorities point out that these negotiations are aimed at enhancing the integration of the Pacific Alliance in global value chains, promoting export diversification and greater value added, deepening trade and cooperation in the Asia-Pacific region, securing better access to new technologies, and promoting foreign investment.

2.25. During the period under review, Colombia began implementing new tariff elimination programmes based on the entry into force of regional trade agreements with the Pacific Alliance, Costa Rica³⁰, the Republic of Korea, the United States and the EU (Table 2.2).³¹ These agreements also include non-tariff measures to facilitate trade and other measures to encourage investment flows. The agreements likewise provide improved market access for service providers.

²⁷ For further information on this case, see online information from the WTO, viewed at: https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds461_e.htm.

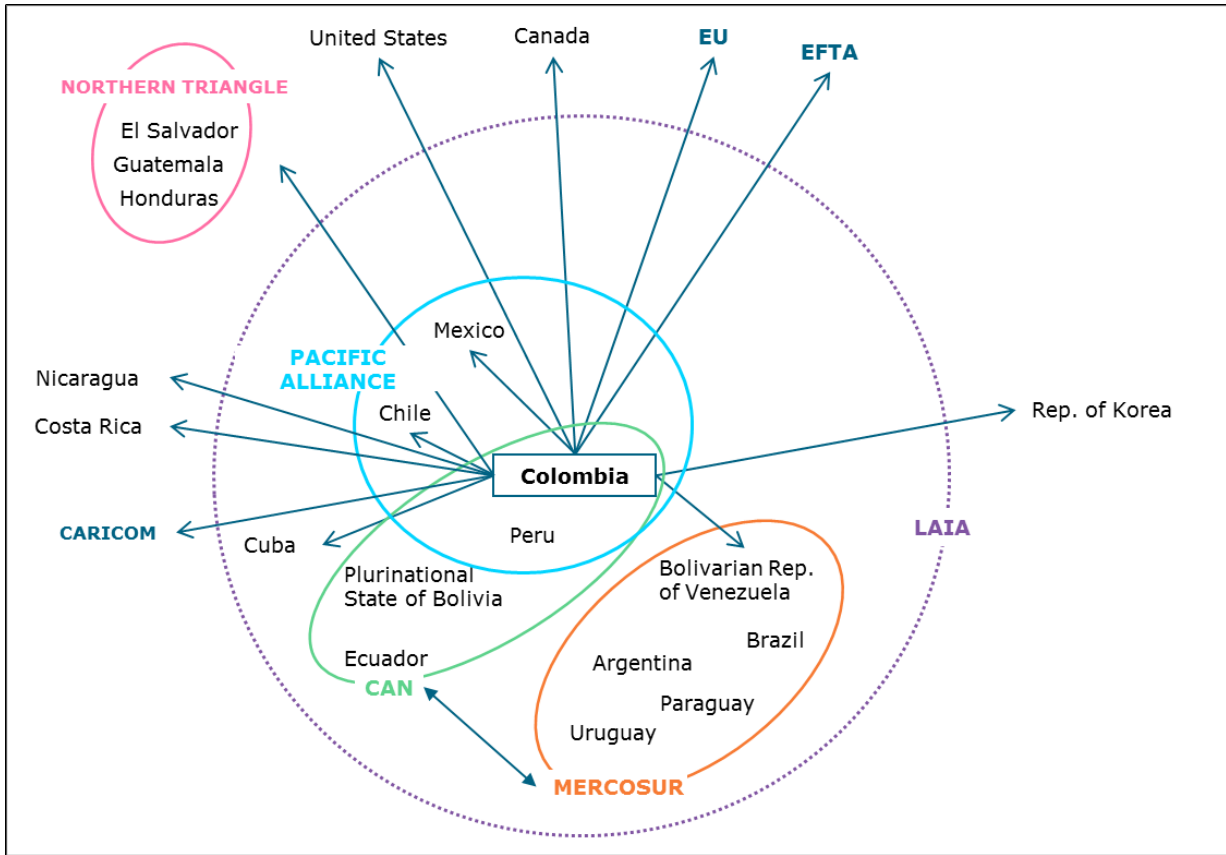
²⁸ WTO document WT/MIN(15)/ST/37 of 18 December 2015, and information provided by the authorities.

²⁹ Colombia also has an agreement with Panama in the LAIA framework (AAP.A25TM No. 29).

³⁰ Colombia also has an agreement with Costa Rica in the LAIA framework (AAP.A25TM No. 7).

³¹ The WTO Committee on Regional Trade Agreements has circulated factual presentations on the trade agreements with the United States (WTO document WT/REG314/1 of 15 July 2015) and the European Union (WT/REG333/1/Rev.1 of 2 April 2015).

Chart 2.2 Regional trade agreements in force in Colombia, 2017



Source: Regional Trade Agreements Information System (RTA-IS). Viewed at: <http://rtais.wto.org>; and online information from the MinCIT, viewed at: <http://www.tlc.gov.co>.

Table 2.2 Features of the new regional trade agreements implemented by Colombia since 2012

	Pacific Alliance	Costa Rica	Rep. of Korea	USA	EU
Date of entry into force	2016	2016	2016	2012	2013
Coverage	Goods and services	Goods and services	Goods and services	Goods and services	Goods and services
Foreign trade in 2016	(% of total)				
Colombian exports (f.o.b.)	8.5	0.7	1.3	31.9	15.8
Colombian imports (c.i.f.)	11.0	0.2	1.9	26.4	14.1
Tariff elimination programme					
End of the tariff elimination period	2030	2030	2034	2030	2028
	(% of total tariff lines)				
Duty-free lines	99.6	94.6	99.3	100.0	96.1
Immediate access	95.6	68.9	59.6	75.5	61.1
Less than ten years	2.7	15.6	28.3	8.5	25.7
Ten years	0.3	9.8	8.8	15.2	9.1
More than ten years	0.8	0.2	2.7	0.8	0.2
Lines still subject to tariffs	0.4	5.4	0.7	0.0	3.9

Source: Information provided by the authorities.

2.26. In 2012, Colombia, Chile, Mexico and Peru signed a framework agreement establishing a common area for political and trade integration and cooperation, known as the Pacific Alliance. Colombia also has bilateral free trade agreements with Chile and Mexico and its trading relations with Peru are set in the framework of the Andean Community ("existing trade agreements"). On

the trade front, the Pacific Alliance strives for greater integration with respect to existing trade agreements. The Trade Protocol of the Pacific Alliance (protocol additional to the Framework Agreement) entered into force in 2016.³² The Colombian authorities stress that trade opening in the Pacific Alliance framework will make for deeper trade relations with partners that already receive a significant proportion of Colombia's exports, and this even though some 92% of the goods circulating between the Parties when the Trade Protocol took effect were already duty free.

2.27. In the Pacific Alliance framework, the authorities indicate that Colombia has undertaken to eliminate tariffs on the entire tariff universe, except for sugar, some food preparations and ethyl alcohol. Colombia uses longer tariff elimination periods (the longest being 17 years) for sensitive goods (rice, coffee, black beans, flour, maize (corn) and plantains, for example). There are no tariff lines subject to tariff quotas. The authorities have stated that, for Colombia, one of the major benefits of the Trade Protocol lies in the greater flexibility of preferential rules of origin as compared to existing trade agreements. In particular, cumulation of origin (including extended cumulation) is permitted, as is, for the textiles and clothing sector, the use of the short supply mechanism, which was not provided for in the existing trade agreements with Chile and Peru, and the use of which has been streamlined with respect to provisions under the existing trade agreement with Mexico.³³

2.28. As regards the free trade agreement with Costa Rica, at the end of the tariff elimination period Colombia will allow duty-free access to its market for 81% of the universe of agricultural goods and 98% of the universe of industrial goods. Colombia excludes 5.4% of the tariff universe from preferential treatment; this includes goods such as rice, coffee, beer, milk, flour and certain chemicals. Only two tariff lines are subject to tariff quotas (Table A4.1). Under the agreement, preferential treatment is also accorded to goods produced in the free zones of both parties, and for Colombia, also to those produced with inputs that have entered Colombia's territory free of duty under the Special Import-Export Systems.³⁴

2.29. The free trade agreement with the Republic of Korea is Colombia's first such agreement in Asia. By 2034, Colombia will grant duty-free access to 100% of the lines in the tariff universe of industrial goods and to 95.4% of the universe of agricultural goods. The Colombian authorities have stated that import tariffs on Korean industrial goods will be phased out, taking into account the "sensitiveness of domestic production", while duty-free entry will be accorded more quickly to raw materials. Only six tariff lines are subject to tariff quotas (Table A4.1).³⁵

2.30. Up to 2012, trade relations between Colombia and the United States were governed by the Andean Trade Promotion and Drug Eradication Act (ATPDEA), under which the United States accorded unilateral tariff preferences to certain imports from Colombia. These preferences were established in the Trade Promotion Agreement which came into effect in 2012 and which also extended preferential treatment to other goods. Hence, according to the authorities, 263 new products were exported to the United States between 2012 and mid-2017. The agreement contains protection mechanisms for sensitive agricultural products, for example, longer tariff reduction time-limits or tariff quotas. In the case of Colombia, tariff quotas are applied to 0.8% of the universe of agricultural goods (58 HS lines) (Table A4.1). Likewise, Colombia points out that the short supply mechanism can be used for the textiles and clothing sector.³⁶

³² The trade protocol was amended in 2015 and in 2016: technical barriers to trade in cosmetic products were eliminated and provisions on electronic commerce and the supply of telecommunication services were modified.

³³ Online information from the MinCIT, viewed at: http://www.tlc.gov.co/publicaciones/2578/alianza_del_pacifico; and online information from the Pacific Alliance, viewed at: <https://alianzapacifico.net/wp-content/uploads/2016/06/protocoloAP.pdf>.

³⁴ Online information from the MinCIT, viewed at: http://www.tlc.gov.co/publicaciones/3432/tratado_de_libre_comercio_entre_colombia_y_costa_rica.

³⁵ Online information from the MinCIT, viewed at: http://www.tlc.gov.co/publicaciones/733/acuerdo_de_libre_comercio_entre_la_republica_de_colombia_y_la_republica_de_corea.

³⁶ Online information from the MinCIT, viewed at: http://www.tlc.gov.co/publicaciones/14853/acuerdo_de_promocion_comercial_entre_la_republica_de_colombia_y_estados_unidos_de_america.

2.31. Until 2013, the trade relations between Colombia and the European Union were governed by the Generalized System of Preferences (GSP) Plus, under which the EU granted unilateral and temporary tariff preferences to certain Colombian imports. The trade agreement that took effect in 2013 bound the preferences granted under the GSP Plus and expanded preferential treatment to a greater number of goods. Under the trade agreement, Colombia will phase out tariffs on 93.6% of the universe of agricultural goods and 100% of the universe of industrial goods. Rice, pork and maize (corn) are some of the agricultural goods that Colombia excludes from preferential treatment. Colombia also applies tariff quotas representing 1.1% of the tariff universe (85 lines) (Table A4.1). The agreement permits the application of agricultural safeguard measures, which Colombia may activate for certain dairy products (cheese and milk).³⁷

2.32. Apart from these trade agreements, the partial scope trade agreement between Colombia and the Bolivarian Republic of Venezuela (AAP.C No. 28), framed in the LAIA trade integration process, also entered into force in 2012. Through this agreement, Colombia accords preferential treatment to 67% of all tariff lines. Although most of the goods enter free of duty (83.2% of the total in 2017), margins of preference have been negotiated for sensitive goods, among which Colombia includes agricultural goods. Similarly, special agricultural measures can also be taken, allowing for the (partial or total) suspension of preferential tariffs when imports exceed a specific volume. In the case of Colombia, the goods that may be subject to a special agricultural measure are: corn starch, some chocolates and food preparations containing cocoa, and tomato sauces (ketchup).³⁸

2.33. Meanwhile, the free trade agreement with the countries of the European Free Trade Association (EFTA) that had come into effect for Switzerland and Lichtenstein in 2011, became effective for Iceland and Norway in 2014.³⁹

2.3.3 Other agreements and arrangements

2.34. Colombia continues to benefit from the unilateral tariff preferences granted by Australia, the Russian Federation, Japan, Kazakhstan, New Zealand and Turkey.⁴⁰

2.35. Colombia takes part in the negotiations on the Trade in Services Agreement (TISA).⁴¹

2.4 Investment regime

2.36. The private investment (domestic and foreign) regime in Colombia is governed by Single Regulatory Decree No. 1.068 of 26 May 2015, which contains in its compilation Decree No. 2.080 of 18 October 2000. In 2017, the provisions governing the investment regime were amended, principally to simplify the procedures for the registration of foreign investments.⁴²

2.37. Colombia accords national treatment to investments made by foreigners. Colombia's regime is open to private investment, whether domestic or foreign. Foreign private investment is allowed in almost all sectors of the economy, but some exceptional prohibitions are maintained, chiefly on national security grounds (Table 2.3). Although foreign investment in the provision of private surveillance and security services has been prohibited since 1994, in practice there are foreign private companies operating in the market. They are enterprises that were set up before the prohibition was introduced and which have been allowed to continue operating. Foreigners are not allowed to purchase land in border, island or coastal areas of Colombia's territory.⁴³

³⁷ Online information from the MinCIT, viewed at:

http://www.tlc.gov.co/publicaciones/18028/acuerdo_comercial_entre_la_union_europea_colombia_y_peru.

³⁸ Summary of the Agreement viewed at:

http://www.tlc.gov.co/publicaciones/2573/acuerdo_de_alcance_parcial_de_naturaleza_comercial_aapc_n_28_entre_la_republica_de_colombia_y_la_republica_bolivariana_de_venezuela.

³⁹ To enter into force, the agreement had to be ratified by each country's parliament. For further information on the agreement with the EFTA, see WTO document WT/TPR/S/265/Rev.2 of 1 August 2012.

⁴⁰ Online information from the WTO, viewed at: <http://ptadb.wto.org/Country.aspx?code=170>.

⁴¹ Online information from the MinCIT, viewed at:

http://www.tlc.gov.co/publicaciones/31209/acuerdo_sobre_el_comercio_de_servicios_trade_in_services_agreement_tisa.

⁴² DUR No. 1.068 of 2015 as amended by Decree No. 119 of 26 January 2017.

⁴³ Decree No. 1415 of 18 July 1940.

Table 2.3 Restrictions on private investment

Activity	Type of restriction by origin of the investment		Legal framework
	Domestic	Foreign	
Defence and national security	N/A	Prohibition	Single Regulatory Decree No. 1.068 of 2015
Manufacture, sale, import and export of arms, ammunition, explosives and the raw materials, machinery and appliances needed for their manufacture	Exclusively State-run activities		Political Constitution and Decree No.2.335 of 1993
Gambling and betting	Revenue-generating monopoly		Political Constitution
Fisheries	N/A	Small-scale commercial fishing: prohibition Industrial fishing: requires a Colombian partner	Decree No. 2.256 of 1991 and Agreement No. 005 of 2003
Processing, disposal and elimination of toxic wastes (dangerous or radioactive) not produced in Colombia	N/A	Prohibition	Single Regulatory Decree No. 1.068 of 2015
Production, distribution, sale and import/export of spirits	Revenue-generating monopoly		Political Constitution
Free-to-air television services	N/A	≤ 40% of the company's capital + reciprocity	Law No. 680 of 2001
Surveillance and private security services	N/A	Prohibition, with exceptions	Decree No. 356 of 1994

N/A Not applicable.

Source: WTO Secretariat, and information provided by the authorities.

2.38. Depending on the type of foreign investment (direct or portfolio), investors must be represented in Colombia by an agent (direct investment) or a management company (portfolio investment).⁴⁴

2.39. Colombian law does not require prior authorization of investments unless they are intended for the sectors of mining and hydrocarbons, as well as financial services. In these cases, the institutions responsible for issuing the respective prior authorizations are the Ministry of Mining and Energy and the Financial Supervisory Authority of Colombia.⁴⁵

2.40. Registration of foreign investments with the Central Bank of Colombia is mandatory, as it is for additional contributions, reinvestments, remittances and capital reimbursements. When prior authorization is required, the registration takes place once the authorization is obtained. The registration procedures were modified in 2017. The change concerned mainly the registration of direct investments made under contractual arrangements such as licensing or technology transfer agreements. Since 2017, investors have been able to register their investments at any time (previously, there had been a 12-month time-limit) and are now exempt from mandatory submission of documents supporting the operation. Direct investments in foreign exchange are still registered automatically upon submission of the foreign exchange declaration. Likewise, specific procedures are still in place for the registration of direct foreign investments made in subsidiaries of foreign companies in the mining and hydrocarbons sector, as well as in the financial sector.⁴⁶

2.41. The registration of foreign investment enables Colombia's Central Bank to obtain statistics on investment flows. For the investor, registration is a precondition for gaining access to the foreign exchange market. There are no foreign exchange restrictions in Colombia: the foreign exchange market can be used to make payments abroad, at any time and in freely convertible currency, in respect of profits from an investment or the proceeds from its liquidation.

⁴⁴ The managing company must be a stockbroking firm, a trust company or an investment management company. Single Regulatory Decree No. 1.068 of 2015.

⁴⁵ Ibid.

⁴⁶ For further information on the registration of foreign investment, see External Regulatory Circular DCIN-83 from the Central Bank of Colombia (*Banco de la República*). Viewed at: <http://www.banrep.gov.co/es/compendio-dcin83>.

Under the law, however, Colombia may impose foreign exchange restrictions when the balance of its international reserves falls below three months' worth of imports.⁴⁷ The authorities stress that there is no remittance tax in Colombia.

2.42. Subsidiaries of foreign companies engaged in exploration and exploitation of petroleum, natural gas, coal, ferronickel or uranium, or in services linked exclusively to the hydrocarbons sector are not required to re-inject into the foreign exchange market the proceeds from their own foreign currency denominated sales. However, such subsidiaries may not purchase currencies on the foreign exchange market except to transfer capital abroad in the event of liquidation or to transfer abroad income obtained from the sale of hydrocarbons (or the provision of services associated with the hydrocarbons sector) on the Colombian market. For other operations, these companies must restore to the foreign exchange market the foreign currency they require to cover expenses in Colombian legal tender. Subsidiaries that do not wish to belong to the special foreign exchange regime may opt to adhere to the general foreign exchange regime. They must notify their decision to the Central Bank, which suspends the application of the special foreign exchange regime for a fixed period of ten years.⁴⁸

2.43. Financial stability contracts with the State were eliminated at the end of 2012. Those that had been signed before then remain in force until their termination.⁴⁹ The authorities point out that the reason for their elimination was the fiscal cost of the contracts.

2.44. ProColombia is the government agency that advises foreign investors, providing them with all types of information to facilitate their investments and offering them assistance in identifying business opportunities in Colombia. To promote investments, Colombia continues to negotiate agreements that protect foreign investment, and others that avoid double taxation (Table A2.2). Colombia is also a member of the International Centre for Settlement of Investment Disputes (ICSID) and recognizes the guarantees provided by the Multilateral Investment Guarantee Agency (MIGA) and by the Overseas Private Investment Corporation (OPIC) of the United States. There are also tax exemptions for companies set up in free zones and for those operating in certain industries (for example the hotel industry or the renewable energies industry).

2.45. Investors may set up businesses in Colombia through commercial companies (with their own legal personality) or subsidiaries of foreign companies (which have no legal personality separate from that of the parent company). There are three types of commercial companies in Colombia: simplified joint stock companies, private limited companies and public limited companies.

2.46. The Commercial Code (Article 58) stipulates that for a foreign company to engage in "permanent" business, it must set up a subsidiary domiciled in Colombia. Activities deemed "permanent" include: (i) opening commercial establishments or business offices (ii) performing works or service provision contracts (iii) engaging in financial activities (attracting private savings); (iv) operating in the mining industry, including the provision of relevant services; and (v) conducting activities contracted out by the State to the private sector.⁵⁰ The authorities emphasize that although the Commercial Code lays down the general rules, there may be rules specific to each sector; the Mining Code, for example, allows foreigners to set up branches and subsidiaries in the mining sector.

2.47. All enterprises operating in Colombia are subject to oversight by a supervisory authority, which monitors their financial, legal, technical and professional viability. This oversight is generally undertaken by the Companies Supervisory Authority, except in the sectors of transport (Ports and Transport Supervisory Authority) and financial services (Financial Supervisory Authority of Colombia).

⁴⁷ Single Regulatory Decree No. 1.068 of 2015; and online information from the Central Bank of Colombia, viewed at: <http://www.banrep.gov.co/es/terminos-regimen-cambiario>.

⁴⁸ Articles 48-52 of External Resolution No. 8 of 2000 of the Board of Directors of the Central Bank of Colombia and amendments thereto. Viewed at: <http://www.banrep.gov.co/es/reglamentacion-temas/5444>.

⁴⁹ Article 166 of Law No. 1.607 of 26 December 2012 repealing Law No. 963 of 8 July 2005.

⁵⁰ Concessions were awarded in 2017 for: (i) the provision of household public services (distribution of electricity, natural gas and LPG, water supply and sewerage services); (ii) the provision of broadcasting services; (iii) the provision of land transport services; and (iv) the construction, operation and maintenance of public transport infrastructure.

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.1 Measures directly affecting imports

3.1.1 Customs procedures, valuation and requirements

3.1.1.1 New customs regulations and trade facilitation measures

3.1. The National Tax and Customs Directorate (DIAN) is the institution responsible for customs administration in Colombia. During the period under review, Colombia made sweeping changes in its customs legislation. With regard to the WTO Trade Facilitation Agreement, Colombia notified the designation of all the provisions of Section I of the Agreement, except for Article 5.3 (Test Procedures) and Article 7.9 (Perishable Goods), as Category A commitments.¹ Pursuant to Law No. 1.879 of 9 January 2018, Colombia adopted the Protocol of Amendment to insert the Agreement on Trade Facilitation into Annex 1A to the WTO Agreement. At the time of writing this report, the Constitutional Court was engaged in the process of reviewing the constitutionality of Law No. 1.879, following which the Government will be able to confirm ratification of the Protocol at the WTO.

3.2. In 2013, the Congress enacted the Customs Framework Law (Law No. 1.609 of 2 January 2013), by which the Government must be guided when modifying duties, tariffs and other provisions of the customs regime. The objectives which the Government must pursue in implementing Law No. 1.609 include the application of international agreements and treaties and participation in economic integration processes, as well as the facilitation and streamlining of foreign trade operations and promotion of the use of modern technologies and communications media. The Law also sets out specific obligations for the Government in the fight against smuggling and money laundering.²

3.3. By Decree No. 390 of 7 March 2016 the Government established a new Customs Statute aimed at compiling, updating and simplifying Colombia's regulations and adjusting them to best international practices, in order to facilitate trade and implement Colombia's commitments under trade agreements. Decree No. 390 also seeks to strengthen risk management in customs control so as to neutralize smuggling and money laundering, prevent environmental, sanitary and phytosanitary risks, as well as the violation of intellectual property rights, protect health and ensure both border and logistics-chain security.

3.4. The new Customs Statute provides for the phased implementation of its more than 670 articles.³ A first set of provisions entered into force 15 days following the publication of Decree No. 390 (31 March 2016); a second group after 180 days (7 September 2016), by which time the DIAN had to issue the corresponding regulations; and a third group of provisions will enter into force when the necessary IT adjustments have been made for their implementation, which cannot take more than 24 months.⁴ In March 2018 a draft decree was being prepared to extend this period until November 2019.

3.5. The main changes introduced by Decree No. 390 include, *inter alia*, the harmonization of terminology, processes and procedures with international standards; a new comprehensive risk management system as a fundamental pillar for the exercise of customs control; new requirements and categories of foreign trade operators classified on the basis of risk, and the elimination of previous types of special treatment⁵; the shift of responsibility to the declarant and the elimination of the obligation to use a customs agent/broker after a transition period (paragraph 3.8); the possibility of requesting early decisions in seven areas; introduction of the customs warehousing regime; improvements in the system of guarantees covering customs obligations; and a new penalty system. These changes are described below in greater detail.

¹ WTO Documents WT/PCTF/N/COL/1 of 13 June 2014; and G/TFA/N/COL/1 of 5 March 2018.

² Law No. 1.609 of 2 January 2013.

³ Articles 674 and 675 of Decree No. 390 of 7 March 2016.

⁴ The rules of Decree No. 2685 of 1999 and its amendments and additions will be repealed as from the date of entry into force of the provisions of Decree No. 390.

⁵ The categories of Regular Customs Users (UAP) and High Export Users (ALTEX) will disappear after four years from the date of entry into force of Decree No. 390.

3.6. Decree No. 390 (Article 142) establishes the following import regimes: definitive importation; suspensive regimes; processing and assembly; and special import regimes; the latter will be phased in when the corresponding electronic information systems (SIEs) are available.

3.7. Other measures designed to facilitate trade under the new Customs Statute include abbreviated customs clearance; advance declaration under the customs transit regime (already applied in the other regimes); special customs operations for the entry of goods and means of transport⁶ and exit of goods⁷; mandatory electronic payment, non-intrusive inspection⁸, simultaneous inspection, mandatory use of electronic security devices; and the category of specialized logistics infrastructures.

3.8. The computerization of formalities for all customs regimes is under way (the transit regime still has to be completed), to enable the processing of formalities and the submission of the declaration and other supporting documents to be done electronically, together with the use of digital signatures. A Computer Forensic Laboratory has been created, and work is also under way on the establishment of a Single Monitoring and Control Centre and a National Customs Laboratory. The aim of this set of measures is that customs clearance should not take more than 48 hours from the arrival of the goods. The authorities have indicated that the average time for customs clearance from receipt of the import declaration has been cut from 23.2 hours in 2012 to 20.5 hours in 2017.⁹

3.1.1.2 Customs procedures

3.9. Importers must be registered in the Single Tax Register (RUT) with the DIAN and, if they are legal persons, must be domiciled and/or legally represented in Colombia. In addition, when the goods for import are subject to prior registration, known as automatic licensing (Section 3.1.5.2.1), the importers must be included in the Users Register of the Single Window for Foreign Trade (VUCE).¹⁰ In 2014, the Ministry of Trade, Industry and Tourism (MinCIT) made available to users free of charge the digital certificate that is now required for registration with the VUCE.¹¹

3.10. Under the new customs regulations, the "declarant" is the importer, exporter, declarant of a customs regime, express delivery operator, or transporter (in the case of transshipment and cabotage).¹² After a one-year transition period starting from the entry into force of Decree No. 390, it will cease to be necessary to employ the services of a customs broker and responsibility will lie solely with the declarant, even where the latter may have given a mandate to a customs broker. The rules that are still in force (Decree No. 2.685 of 1999) require the intervention of a customs broker for all imports of a value exceeding US\$1,000 and for exports of more than US\$10,000. During the transition period, the use of the services of a customs broker is mandatory for imports, exports and transit of goods for a value exceeding US\$30,000, but this will become optional after the transition period.¹³ Customs brokers will be considered "foreign trade operators", responsible solely for carrying out the customs formalities related to their activity.

3.11. The import declaration must be signed and submitted by the importer or exporter using the DIAN electronic information services, which include a new electronic signature functionality. The declaration must be accompanied by the following supporting documents that may be submitted in

⁶ Under the special entry operations, through a single registration via the electronic information services the goods may return to the national territory, either temporarily or definitively, as may the means of transport that had left temporarily. Decree No. 390, Article 330 et seq.

⁷ Special exit operations include the temporary exit of goods that were subject to a temporary entry customs operation, and definitive exit operations for goods that were subject to the regimes of: temporary admission for re-export in the same state; temporary admission without undergoing processing; processing and/or assembly; and temporary imports of travellers. Decree No. 390, Article 379 et seq.

⁸ All ports are equipped for non-intrusive inspection, and this equipment is being introduced in airports and border crossing posts.

⁹ Online information from the DIAN, viewed at: <http://sinergiapp.dnp.gov.co/#IndicadorProgEntI/26/1146/4401>.

¹⁰ In order to import and market mercury and products containing mercury, importers must also be included in the Single Register of Authorized Importers and Marketers (RUNIC).

¹¹ MinCIT Circular No. 21 of 28 July 2014, replaced by Circular No. 21 of 2017.

¹² Article 39 of Decree No. 390 of 7 March 2016.

¹³ *Ibid.*, Article 669.

electronic or digitized form: commercial invoice, transport document (bill of lading, airway bill or freight bill), freight manifest, packing list, Andean Value Declaration (for imports whose declared and invoiced f.o.b. value is US\$5,000 or more) and the customs mandate when the declaration is submitted through a customs broker. The following may also be required where appropriate: certificate of origin; import registration or permit; health certificate; and other types of clearance or authorization according to the type of good.

3.12. The Single Window for Foreign Trade (VUCE), created in 2004, enables the online processing of the authorizations, permits, certificates or prior clearances required by the corresponding supervisory bodies for import and export operations. The VUCE is administered by the MinCIT and includes 21 government entities.¹⁴ Progress made by the VUCE during the period under review includes in particular the implementation in 2012 of the simultaneous inspection system (SIIS) for containerized export cargo, which enables four control entities to participate in a single inspection, thus reducing the inspection time in ports from three days to one day; the SIIS is expected to be applied to import operations in the future. In addition, the physical presentation of a "Letter of Responsibility" at the ports of Santa Marta, Barranquilla, Cartagena and Buenaventura has been eliminated.

3.13. Another advance has been the implementation, since 30 October 2015, of the risk management system (SAR) for import and export registration applications submitted to the VUCE.¹⁵ The authorities have indicated that, thanks to the SAR, 51% of the monthly applications for import registration are handled by the MinCIT in three minutes and between two and three working days in the case of other governmental control entities, as required by Decree No. 19 of 2012. Registration of exporting companies with the Anti-Narcotics Police is also done online through the VUCE, and applications for the programmes of the import-export special systems are expected to be computerized in the first half of 2018. The VUCE has interoperability for phytosanitary and origin certificates with the countries of the Pacific Alliance, and is expecting to have it for customs declarations in 2018.

3.14. Importers may use the advance import declaration (prior to the arrival of the goods) in order to speed up the customs clearance process. Decree No. 390 of 2016 also established this possibility for transit and warehousing regimes. Advance declaration is optional, except where the DIAN establishes it as a mandatory requirement, as in the case of imports of footwear, textiles and clothing.

3.15. After the import declaration has been submitted and accepted, the risk management system establishes whether the goods can be cleared immediately (automatic release or green channel) or whether a documentary inspection (yellow channel) or a physical inspection (red channel) is necessary.¹⁶ In the period 2011-2016, an average of 89% of registered declarations went through the green channel, while 9.5% were subjected to physical inspection (Table 3.1).

Table 3.1 Inspection percentages by selection channel, 2011-2016

(%)

Selection channel	2011	2012	2013	2014	2015	2016
Red (physical inspection)	9.0	10.0	9.8	10.7	9.1	8.5
Yellow (documentary inspection)	2.0	1.0	0.8	0.6	0.7	0.5
Green (no inspection)	89.0	89.0	89.3	88.6	90.1	90.9
Other (no assessment owing to system fault)	0.0	0.0	0.02	0.03	0.05	0.14
Total	100.0	100.0	100.0	100.0	100.0	100.0

Source: Information provided by the DIAN.

3.16. The new Customs Statute provides that when goods must be submitted for inspection by a number of authorities, it will be ensured that the inspections are carried out simultaneously.¹⁷ The Customs may provisionally suspend release of the goods at the request of an intellectual property

¹⁴ The VUCE website is: <http://www.vuce.gov.co>.

¹⁵ MinCIT Resolution No. 3.202 of 2015.

¹⁶ Article 217 of Decree No. 390 of 7 March 2016.

¹⁷ *Ibid.*, Article 219.

right holder based on the presumption of pirating or counterfeiting; such a request may also arise as a result of prior notification from the DIAN.¹⁸

3.17. Decree No. 390 provides that the DIAN should focus its control activities on the operations that present the greatest risk, in order to safeguard and facilitate international trade, and identifies the risk criteria to be taken into account.¹⁹ Coordination is encouraged between the DIAN risk management system and the corresponding risk systems of other bodies that control foreign trade, such as the National Food and Drug Surveillance Institute (INVIMA) and the Colombian Agricultural Institute (ICA) (Section 3.3.3). The DIAN is currently developing an advanced risk management system based on the above-mentioned elements while also strengthening the practice of post-clearance checks. Not all the government bodies that work at the border have risk management systems, and therefore avoiding a multiplicity of documentary and physical inspections continues to be a challenge for increasing the efficiency of border procedures.

3.18. Pursuant to Decree No. 390, import duties and taxes are only payable once release of the goods has been authorized. Payment must be made while the goods are in the place of arrival or the temporary or customs warehouse. The decree also makes online payment mandatory as from March 2018; however, at the time of writing of this report a draft decree was being prepared to prolong this period up to November 2019. Under the earlier rules, online payment was optional and had to be carried out as soon as the import declaration was accepted (other than in exceptional cases of deferred or consolidated payment) and prior to the risk analysis and possible inspection of the goods.

3.19. The new Customs Statute broadens the range of options for guarantees lodged to ensure payment of customs obligations.²⁰ In addition, when guarantees are renewed, reductions in the guaranteed amounts are allowed for foreign trade operators that have no record of violations. There is also a ceiling for the amount of guarantees. These may be comprehensive (covering various operations) or individual (covering a specific operation), and they will be handled by the electronic information system (SIE) that is being built.²¹

3.20. Under Decree No. 390 (Article 12), exporters, importers, producers, their representatives or any other authorized individual may request advance rulings from the customs authority on matters relating to: tariff classification; valuation criteria; origin; drawbacks, suspensions or other exemptions from customs duties; duty-free reimportation in outward-processing operations; application of a tariff quota share; and any other matter covered by a trade agreement. Advance rulings are to be issued within three months of the request, and in the case of requests for further information, the deadline for supplying the information is two months from the request. Advance rulings are binding for the customs authority and for the importer, and remain valid as long as the conditions under which they were issued apply. Advance rulings may be appealed under the procedure of appeal to the superior official of the entity that issued the rulings. DIAN Resolution No. 41 of 11 May 2016 (Articles 6 to 13) lays down the rules for the submission of requests for advance rulings.

3.21. In the new Customs Statute, the term "customs modalities" has been replaced by "customs regimes". In addition to the regimes of importation, exportation and transit, a "customs warehousing" regime has been established, under which goods entering the customs territory may be stored for a year (renewable for a second year) under customs control in a warehouse authorized for the purpose, provided they have not been subject to any other customs regime. The declarant must present the customs declaration at the place of arrival of the goods and obtain the corresponding authorization for the regime. The customs declaration covers transfer of the goods to the authorized warehouse. The covered goods will only become liable for payment of import duties and taxes when they are cleared through customs under an import regime that provides for

¹⁸ Ibid., Article 221, paragraph 2.

¹⁹ Risks associated with the persons involved in the logistics chain; the foreign trade operations; enforceable payment obligations; non-fulfilment of tax, customs and foreign-exchange obligations; evasion of payment of duties through distortion of the value, origin and preferential treatment; economic solvency to ensure payment of obligations; and the origin of the funds. Ibid., Article 494.

²⁰ The types of guarantees that may be lodged are: deposit of money or any other means of payment accepted by the DIAN; insurance company guarantees; banking institution guarantees; open promissory note; mercantile trust guarantees; endorsement of credit instruments; and any other kind of guarantee stipulated by the DIAN.

²¹ Decree No. 390, Chapter II, Section II; and DIAN Resolution No. 041 of 11 May 2016.

their free movement.²² No processing operations may be carried out under the warehousing regime.

3.22. There are several regimes for goods transit: customs transit, cabotage and transshipment. Goods covered by any of these regimes are not subject to payment of import duties and taxes.²³ The cabotage and transshipment regimes do not require submission of a customs declaration; the operation is carried out using the transport document. Goods under the transit regime may enter through any of Colombia's ports of entry, but the DIAN is empowered to prohibit or restrict access on grounds of public safety and health, for sanitary, phytosanitary or environmental reasons, at the request of the competent authorities, or where for control reasons it deems it desirable to do so. Transit of arms, explosives, precursors, drugs or narcotics that have not been authorized by the competent authority is not permitted, nor is that of any other good whose import is forbidden by law. The transit of goods from a special customs regime zone to the rest of the national customs territory or a free zone is likewise forbidden.

3.23. The international customs transit regime allows land transport under customs control of goods coming from abroad from one customs post to another, crossing one or several borders of neighbouring countries. In the case of transit between Andean Community (CAN) member countries the rules of the Cartagena Agreement apply, including the requirement to produce an international customs transit declaration (ICTD); in other cases, the rules provided for in the trade agreements signed by Colombia apply. Article 405 of Decree No. 390 provides that, in any case, Colombia's undertakings under Article V of the GATT 1994 and any provisions amending or replacing it must be observed. Customs transit operations require an electronic security device to be fitted at the declarant's cost and may only be carried out by transport companies authorized by the DIAN. In addition, a prior requirement for customs transit authorization is that the operations must be covered by cargo guarantees both by the declarant and by the carrier (Article 395 of Decree No. 390).

3.24. Decree No. 390 (Article 138) provides for "customs-approved treatment", defined as the treatment to be given to goods introduced into the national customs territory under customs authority. Goods that are at the place of arrival or in temporary warehousing may be subject to one of the following types of customs-approved treatment: inclusion in a customs transit regime, customs warehouse or import storage facilities; entry into a free warehouse or free zone; destruction; abandonment; or reshipment.

3.25. The new Customs Statute also provides for foreign trade operators, i.e. the natural or legal persons or branch offices of foreign companies that form or take part directly or indirectly in the customs-approved treatment, regimes, operations or any other customs formality.²⁴ Operators must obtain from the DIAN a Customs Registration, which is the authorization (in the case of persons) or approval (in the case of premises) to carry out customs operations and formalities. For this purpose, foreign trade operators must satisfy both general and specific requirements according to their activity, and also obtain approval, with a medium or low risk rating, based on the risk management system. They must also have a record of good behaviour in foreign trade operations and keep an up-to-date guarantee. The new regulations also require compliance with measures to prevent and control money laundering, the financing of terrorism and the proliferation of weapons of mass destruction.

3.26. Decree No. 390 also establishes three categories of special treatment for importers, exporters and foreign trade operators who obtain low-risk classification. These categories are: (i) authorized exporter; (ii) authorized economic operator (OEA); and (iii) trusted importers, exporters and foreign trade operators (trusted users). The first two of these are obtained at the request of the interested party, while the third is granted *ex officio*. Each category has specific

²² Decree No. 390 of 7 March 2016, Title VIII.

²³ *Ibid.*, Article 389.

²⁴ Foreign trade operators are: customs brokers; international cargo agents; air, maritime or land agents; processing and/or assembly industries; official postal operators or postal service concession holders; express delivery operators or express couriers; multimodal transport operators; transporters; users of the regime of temporary admission for inward processing; warehouses; entry/exit points for importation/exportation by means of networks or pipelines; Common Control Zones for several ports or docks; verification zones for express delivery or courier services; primary areas of airports, ports or docks and border crossing points.

requirements²⁵ and benefits; the latter are listed below in Table 3.2. The highest classification, having the greatest benefits, is the OEA certification, which is based on trust and security in the logistics chain.²⁶ In early 2018 there were 37 OEA-certified operators, of which 5 were importers and the rest exporters, as well as 23 authorized exporters.

Table 3.2 Benefits under special treatment categories

Authorized exporter	Trusted user	Authorized economic operator (OEA)
Issue origin declarations or certify origin in the invoice in accordance with Colombia's current trade agreements	Make consolidated payments for import declarations	Benefits set out in Decree No. 3.568 of 2011 and amendments thereto
	Make deferred payments in certain cases	All the benefits for trusted users
	Reduction in the insured value of guarantees	No need to lodge guarantees
	Lodge a comprehensive guarantee in the case of an operator that has obtained more than one Customs Registration	Customs clearance of imports in the declarant's facilities
	Lodge a comprehensive guarantee in the case of importers and exporters to cover various customs obligations	Submit the request for shipment authorization at the place of shipment
	Declarant may use the abbreviated customs clearance procedure (simplified declaration)	Declare goods under the customs warehousing regime after completion of transit or a special transport operation
	Inspections carried out in the exporter's facilities	50% reduction in the charge payable for correcting errors in description
	Higher quota for exports of samples without commercial value (up to US\$30,000)	No advance declaration obligation in cases where it is required
	Carry out transit operations without restrictions	In the case of warehousing: carry out cargo consolidation and deconsolidation, transport and customs brokerage activities
	Guarantee obligations with promissory notes	In the case of customs brokers: carry out cargo consolidation and deconsolidation, cargo transport and warehousing activities
	Air carrier: transfer immobilized cargo to warehouses at the same arrival point	Reship the goods in any circumstances that have involved customs intervention

Source: Article 35 of Decree No. 390 of 7 March 2016.

3.27. Another innovation in the Customs Statute is the possibility for foreign trade operators to use the specialized logistics infrastructure entities (ILE).²⁷ These are delimited areas where foreign trade operators (including warehouses, ports and airports) carry out logistical, transport, handling and distribution activities for goods. The DIAN determines the customs operations that may be carried out in the ILE in such a way as to integrate them in the logistical corridors and facilitate trade by means of intermodal transport from and to the ports of origin and destination.

3.28. Decree No. 390 establishes a new regime of sanctions designed to encourage voluntary compliance with obligations through persuasive management. Formal errors in customs declarations are no longer penalized. The decree also establishes a violation of a general nature that covers all obligations and formalities not specifically provided for, as well as a warning for minor infringements. Goods are only seized when they are actually different (not for formal errors); and grounds are provided for exoneration of responsibility (*force majeure*, acts of God, unforeseeable act of a third party, computer malfunction, etc.), which was not the case in the previous regulations. The penalty of 200% when the goods cannot be seized may only be applied following a procedure in which the release of the goods is cancelled.²⁸ Another new element is that customs intervention is explicitly provided for in cases of violation of intellectual property rights in foreign trade operations.

3.29. The decisions and rulings of the customs authority are subject to applications for internal administrative review, appeal or reconsideration, as the case may be, which must be lodged within 15 working days of the notification. A different body from the one that issued the challenged decision deals with these applications, in accordance with the DIAN's organizational structure. The period for issuing the ruling on an appeal for reconsideration is four months from the day following notification of the decision admitting the appeal. There is no further recourse against the ruling on

²⁵ The requirements are set out in Decree No. 390 of 7 March 2016 (Article 34).

²⁶ Joint resolutions (DIAN, Policía Nacional-ICA) No. 15 of 17 February 2016 and No. 67 of 20 October 2016 establish the requirements for obtaining OEA certification.

²⁷ The ILE were created by Law No. 1.682 of 2013 (Article 12).

²⁸ The penalty regime is set out in Decree No. 390 of 2016, Title XV. See also DIAN Resolution No. 64 of 3 October 2016.

an application for reconsideration, and the administrative channel is thus considered to have been exhausted.²⁹

3.1.1.3 Customs valuation

3.30. Decree No. 390 of 2016 confirms that the applicable rules for customs valuation in Colombia comprise, in the following order, the rules of the WTO Agreement on Customs Valuation³⁰, Andean Decision No. 571 of 2003 and its Community Regulations, updated through Resolution No. 1.684 of 23 May 2014³¹ and other related Andean Community rules, and the supplementary national regulations.³² The rules also include the instruments of the World Customs Organization (WCO) Technical Committee on Valuation. Colombia has submitted to the WTO Committee on Customs Valuation the replies to the check-list of issues on implementation and administration of the Agreement on Customs Valuation, as well as notifications on changes to its domestic legislation and on valuation of carrier media.³³

3.31. In order to facilitate the application of the valuation rules, Decree No. 390 provides the option to issue advance rulings on value criteria at the request of a party, under a procedure governed by Resolution No. 41 of 2016. It also maintains the possibility of rulings for permanent adjustment of value, whether *ex officio* or at the request of a party, as governed by Resolution No. 72 of 2016. In addition, in accordance with Andean Decision No. 571, Decree No. 390 envisages the need to develop a database for the purpose of strengthening risk control and management with respect to valuation, which will accompany the online submission of the declaration of value through the electronic information service for customs valuation that is currently under construction.

3.32. Pursuant to CAN Decision No. 571, the customs value of imported goods is determined in accordance with the methods set out in Articles 1 to 7 of the WTO Customs Valuation Agreement and its Interpretative Notes. The authorities indicated that the most widely used method for determining the taxable base of imported goods is the transaction value, without prejudice to the application, in their order, of the other methods provided for in the Customs Valuation Agreement, including the method of last resort for the valuation of special cases.³⁴

3.33. Colombia continues to use reference prices as control tools, on an indicative basis, in case of dispute between the customs authority and the declarant concerning the declared value of goods. If the dispute arises during the customs clearance of the goods, the latter may be released against security lodged by the importer, amounting to the difference between the declared price and the reference price. In the subsequent control, if it has not been possible to determine the customs value by one of the secondary methods, under the last-resort method the reference price may be taken as a reasonable criterion for valuing the imported good. Reference prices are regularly updated by the DIAN. At present, reference prices are applied to 66 products, including agricultural products, footwear, clothing, cellular telephones, computers, tyres, bicycles and vehicles.

3.34. In accordance with Decree No. 2.685 of 1999 (Article 128), which is still in force, when the customs authority has grounds for doubting the declared value of the good, the declarant, within a maximum period of five days, has the following options: submit documents accrediting the declared price; lodge a specific insurance company guarantee to cover payment of the import duties and taxes that may finally be payable on the imported goods; freely and voluntarily adjust the declared price to the actually negotiated price; or correct the import declaration on the basis of the findings set out in the official inspection report of the customs officer.

²⁹ Decree No. 390 of 2016, Chapter X.

³⁰ Incorporated into Colombian law by Law No. 170 of 1994.

³¹ Resolution No. 1.684 replaces Resolutions No. 846 and No. 1.486 of the CAN. The CAN resolutions were notified to the WTO in document G/VAL/N/1/COL/3 of 19 November 2014.

³² The national regulations include Decree No. 2.685 of 1999, its Regulatory Resolution No. 4.240 of 2000 and Resolutions No. 41 of 2016 and No. 72 of 2016 establishing regulations under Decree No. 390.

³³ WTO documents G/VAL/N/2/COL/2, G/VAL/N/1/COL/2 and G/VAL/N/3/COL/1, all of 7 October 2014.

³⁴ In Colombia, all the elements listed in Article 8.2 of the Customs Valuation Agreement form part of the customs value, regardless of the valuation method used.

3.35. Decree No. 390 (Article 221) maintains the options of the submission of supplementary documents, correction of the declaration of value and lodging of a guarantee. However, it introduces the following changes: (i) the time-frame for settling the dispute over value is extended to one month, which is the storage deadline; (ii) in the case of natural persons or high-risk users, the specific guarantee must take the form of a bank deposit; (iii) any correction to the declared value must be accompanied by the supporting document; and (iv) in no case may the reference prices used as a comparison replace the declared prices. When the declarant has lodged a comprehensive guarantee or has the status of an OEA, release of the goods will be authorized without any requirement of the above-mentioned alternatives.

3.1.2 Rules of origin

3.36. The Customs Statute empowers the DIAN to establish provisions for determining the non-preferential origin of goods subject to trade defence and other measures.³⁵ To date, Colombia has not applied non-preferential rules of origin, but it is currently working on a draft for their application. It applies preferential rules of origin under its trade agreements.

3.37. Colombia's regulations on rules of origin consist primarily of Decree No. 390 of 2016 (Articles 155-166 and 599-600); DIAN Resolutions No. 41 of 11 May 2016 and No. 72 of 29 November 2016 (Articles 24-32); and Decree No. 1.351 of 22 August 2016 (supply shortage).

3.38. Decree No. 390 (Article 136) provides that, in order to benefit from tariff preferences under a trade agreement in force for Colombia, the importer must submit proof of origin supporting the originating status of the imported goods. The proof of origin submitted as a supporting document for an import declaration must comply with the parameters established or be issued in the format provided for in the corresponding agreement. Where the DIAN issues the proof of origin, a valid sworn declaration of origin issued by the producer and other requirements under the corresponding trade agreement are required.³⁶

3.39. The proof of origin must be obtained prior to the submission and acceptance of the import declaration. The importer, producer, exporter or competent body of the exporting country must issue the proof of origin in electronic or physical form, as required under the trade agreement in question.³⁷

3.40. Generally speaking, the rules of origin provisions in trade agreements signed by Colombia comprise: (i) a core body of rules defining origin criteria, flexibilities, obligations and rights, certification and verification of origin; and (ii) specific rules of origin (SROs) establishing specific conditions of production and use of inputs to determine origin. The general criteria conferring origin include: goods wholly obtained or produced in the territory of one or more parties to the trade agreement; goods wholly produced in the territory of one or more parties exclusively from materials that qualify as originating; goods in whose production non-originating materials that comply with a change in tariff classification are used; and goods that satisfy a regional content value threshold. The agreements also include *de minimis* and cumulation clauses (the latter may be bilateral, regional and expanded). Some agreements include a mechanism for the textiles and clothing sector permitting the acquisition of third-country material and inputs deemed to be "in short supply", which, when incorporated into goods traded between the parties, qualify as originating and are entitled to the preferential tariff treatment provided for in the agreement concerned.³⁸

3.41. Under most of the agreements signed by Colombia, origin certification is carried out through a competent authority. Colombia has 12 Sectional Customs Directorates in the country's main cities that issue certificates of origin for Colombian exporters.³⁹ Self-certification of origin is allowed under the agreements with EFTA, Canada, the United States, the European Union, the Republic of Korea and the Northern Triangle (Guatemala, El Salvador and Honduras).

³⁵ Article 166 of Decree No. 390 of 2016.

³⁶ *Ibid.*, Article 159.

³⁷ *Ibid.*, Article 160.

³⁸ Decree No. 1.351 of 22 August 2016 establishes a procedure for drawing up lists of materials and inputs in short supply for the textiles and clothing sector in Colombia.

³⁹ In 2016, 237,782 certificates of origin were issued; 192,116 had been issued by 30 August 2017.

3.42. The DIAN may carry out *ex officio* checks to verify origin as a result of a control programme after receiving a complaint or any other information concerning possible non-compliance with rules of origin. The procedures for verifying the origin of imported and exported goods are set out in Decree No. 390 (Articles 599 and 600), in accordance with the mechanisms provided for in the trade agreements in force. The authorities have stated that from 2011 to 2017, 98 verifications of origin of imported goods were carried out under seven agreements, the origin of which was recognized in only six cases. The verifications focused on the following imported products: cigarettes, chemical products, clothing and textiles, bed linen, vehicles, white goods, optical goods, electric generators, palm oil and tyres. In the case of exports, origin verifications focused on flowers (83%), fruit, clothing, biscuits, marine fisheries products and chocolate products.

3.1.3 Tariffs

3.1.3.1 Tariff structure and policy

3.43. Since 2010, through Decrees No. 4.114 and No. 4.115 of 2010, the Colombian Government has been engaged in a Structural Tariff Reform (REA). According to the authorities, the aim is to tackle problems associated with the tariff structure, such as the negative effective protection and high tariff dispersion harmful to national competitiveness and exports, which were accentuated by changes in the Andean Community rules and the signing of free trade agreements. The REA was a response to requests from the private sector, and underwent a series of amendments, through Decrees No. 492 of 23 February 2011, No. 511 of 24 February 2011, No. 765 of 17 April 2012, and No. 882 of 30 April 2012. Tariff cuts were also part of the Productivity and Employment Promotion Plan (PIPE) fostered by the National Government through Decrees No. 1.755 of 13 August 2013 and No. 1.625 of 14 August 2015.

3.44. Decree No. 074 of 23 January 2013 temporarily imposed mixed tariffs on imports of the clothing and footwear products classified in HS Chapters 61, 62, 63 and 64. The reason given was the high level of technical smuggling by means of under-invoicing. This measure was modified on various occasions, for example by Decrees No. 456 of 28 February 2014 and No. 515 of 30 March 2016.

3.45. With the aim of pursuing measures to prevent and control customs fraud in clothing and footwear imports, the Government issued Decrees No. 1.744 and No. 1.745, both of 2 November 2016. Decree No. 1.744 established for one year a tariff of 35% for footwear and 40% for clothing (maximum bound rates in the WTO). These tariffs are applied when the declared f.o.b. prices of imports of these goods are equal to or less than the established thresholds. By Decree No. 1.786 of 2 November 2017, the Government extended for two more years the measure affecting imports of such goods entering at prices below or equal to the thresholds established in the corresponding decree.

3.46. Decrees No. 1.744 and No. 1.786 established a 40% tariff on imports of products classified in chapters 61 and 62 of the National Customs Tariff, where the declared f.o.b. price was less than or equal to US\$10 per gross kg, and a 35% tariff on imports whose declared f.o.b. price was lower than or equal to: US\$6 per pair for imports under HS headings 6401, 6402 and 6404; US\$10 per pair for imports under heading 6403; and US\$7 per pair for imports under heading 6405. In the case of imports of HS line 6406.10.00.00, the 35% tariffs applied when the declared f.o.b. price was less than or equal to US\$5 per gross kg, while for goods in chapters 61, 62 and 64 from a special customs zone or a free zone the provisions of these decrees would apply only when entering the national customs territory.

3.47. Decree No. 1.745 of 2 November 2016 introduced mechanisms for strengthening the risk management system and customs control relating to possible situations of customs fraud affecting imports of clothing and footwear, regardless of the country of origin and/or provenance, where the declared f.o.b. price was less than or equal to the threshold established in the Decree. Decree No. 2.218 of 27 December 2017 replaced Decree No. 1.745 and widened the range of imports covered to include fibres, yarns and woven fabrics (Table 3.3).

Table 3.3 Price thresholds established in Decree No. 2.218 of 27 December 2017

Tariff heading	Threshold US\$/kg gross or per pair
Yarns	
52.05 54.02 55.09 55.10	2.00
Fibres	1.00
55.03 55.04 55.05 55.06 55.07	
Woven fabrics	
52.08 52.09 52.10 52.11 52.12 53.09 54.07 54.08 55.12 55.13 55.14 55.15 55.16 56.01 58.01 58.02 58.03 58.04 58.05 58.06 59.01 59.03 59.06 59.07 59.10 59.11 60.01 60.02 60.03 60.04 60.05 60.06	2.50
Clothing	
61.01 61.02 61.13 61.14 62.01 62.02 62.05 62.11	10.0
61.04 61.10 61.12 62.06	8.0
61.03 61.05 61.06 61.07 61.08 61.09 61.11 61.15 61.16 61.17 62.03 62.04 62.07 62.08 62.09 62.12 62.13 62.14 62.15 62.16 62.17	5.0
Other made up textile articles	
63.01 63.02	2.0
63.03	1.5
63.04	4.5
Footwear	
64.01 64.02 64.04	3.0
64.03	8.0
64.05	4.0
6406.10.00.00	2.0

Source: Decree No. 2.218 of 27 December 2017.

3.48. Decree No. 2.218 provides that the National Government shall revise the thresholds annually or earlier when foreign trade trends warrant doing so. It also provides that, in order to import the covered products at a price lower than or equal to the threshold, a number of requirements must be satisfied. These include: submission of a customs declaration at least one month in advance of the arrival of the goods in the national customs territory, legalized certification of the supplier abroad, list of distributors in Colombia of the imported good, and proof that the value to be declared for the goods to be imported corresponds to the price actually paid or to be paid. In the event of a dispute concerning value when the goods are inspected or checked, the importer may obtain their release by lodging a guarantee for a value equivalent to 200% of the difference between the importer's declared f.o.b. price and the amount resulting from multiplying the unit threshold price established in Decree No. 2.218 by the quantity imported.

3.1.3.2 MFN tariff features and levels

3.49. Colombia applies the Andean countries' Common Tariff Nomenclature (NANDINA), which is based on the Harmonized Commodity Description and Coding System (HS). It only uses *ad valorem* tariffs, applied to the c.i.f. value of the goods. As a CAN member, Colombia implements the Andean Price Band System (SAFP), which consists of variable duties calculated on the basis of a reference price that is fixed periodically (Section 4.1). The SAFP is used for imports of products classified in 162 tariff lines, including palm oil, soya oil, white rice, white sugar, raw sugar, pigmeat, barley, whole milk, yellow maize, white maize, yellow soya, wheat and chicken cuts.

3.50. In 2017, the Colombian tariff contained 7,708 lines at the 2017 HS ten-digit level (Table 3.4). The number of tariff lines has increased since the previous trade policy review of Colombia in 2012 (7,292 lines), partly as a result of the tariff reform and partly owing to changes in the HS. Compared with the average tariff rate applied as from 2011, which included temporary reductions in the rates applied to capital goods, the average MFN applied tariff rate rose by 0.9 percentage points from 6.2% in August 2011 to 7.1% in 2017 (7.9% if the average tariffs under the SAFP are included). However, the average tariff in 2017 is 1.1 percentage points lower than the arithmetic mean of applied tariffs in the first half of 2011 (8.2%), when the tariff reform containing permanent tariff rates was launched.

Table 3.4 MFN tariff structure, 2011 and 2017

(%)

	2011 (HS07)		2017 ^a (HS17)	2017b(HS17) including SAFP
	January- July	August- December		
1. Total number of lines	7,285	7,292	7,708	7,708
2. Non- <i>ad valorem</i> tariffs (% of tariff lines)	0.0	0.0	0.0	0.0
3. Non- <i>ad valorem</i> tariffs without <i>ad valorem</i> equivalents (AVEs) (% of tariff lines)	0.0	0.0	0.0	0.0
4. Tariff quotas (% of tariff lines)	0.1	0.1	0.3	0.3
5. Zero-rated tariff lines (% of tariff lines)	4.8	47.5	49.7	49.7
6. Average of lines above 0 (%)	8.6	11.8	14.2	15.7
7. Arithmetic mean	8.2	6.2	7.1	7.9
8. Agricultural products (WTO definition)	14.8	14.5	15.4	15.4
9. Non-agricultural products (including petroleum, WTO definition)	7.2	4.9	5.8	5.8
10. National tariff "peaks" (% of tariff lines) ^b	1.4	1.4	5.0	6.7
11. International tariff "peaks" (% of tariff lines) ^c	1.6	1.6	6.2	7.1
12. Typical global deviation of applied rates	8.6	9.3	10.9	14.3
13. Bound tariff lines (% of tariff lines)	100.0	100.0	100.0	100.0

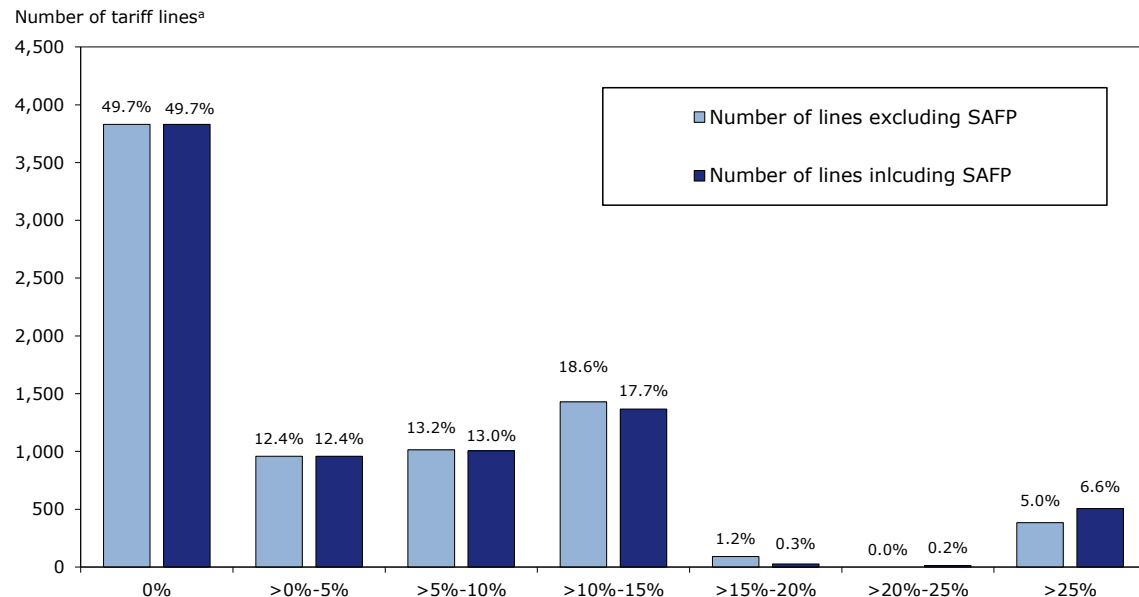
a Excludes the Andean Price Band System (SAFP) and only considers the basic *ad valorem* part of conditional tariffs.

b Domestic tariff peaks are defined as rates exceeding three times the overall simple average of applied rates.

c International tariff peaks are defined as rates exceeding 15%.

Source: WTO Secretariat estimates, based on data provided by the authorities.

3.51. In 2017, Colombia applied 13 different tariff rates, ranging from 0% to 98%. If the price bands are taken into account, the number of levels rises to 32, ranging from 0 to 174.3%. The maximum applied rate, excluding the SAFP, remains the same as in August 2011. As may be seen in Chart 3.1, almost half (49.7%) of lines were zero-rated, while 12.4% were subject to a 5% rate; 13.2% were subject to a rate of up to 10% (13.0% including the SAFP); 18.6% (17.7%) to a rate of up to 15%; and only 6.3% (7.1%) to a rate exceeding 15%.

Chart 3.1 Frequency distribution of tariff rates, 2017

a The total number of tariff lines is 7,708.

Source: WTO Secretariat calculations, based on data provided by the authorities.

3.52. Colombia affords an average level of protection that is almost three times higher for agricultural products (WTO definition) than for non-agricultural products (Table 3.5). The average tariff for agricultural products (WTO definition), which in August 2011 was 14.5%, rose to 15.4% in 2017, whereas the average tariff on non-agricultural products rose from 4.9% to 5.8%. The

highest average duties per WTO category continued to be for dairy products, clothing and animals and animal products, with tariffs of 55.1%, 40% and 20.3%, respectively. The highest tariff in 2017, excluding the SAFP, was 98%, applied to some lines of HS heading 04.02 (concentrated milk and cream). Colombia has bound its entire tariff universe in the WTO, although the certified schedule (in HS 2012) is not strictly comparable with the tariffs currently applied (HS 2017). The bindings range from 0% to 227%, with an average bound tariff of 41.2% (90.3% for agricultural products and 34.3% for non-agricultural products). As between comparable lines, no applied duties above the bound rates have been detected.

Table 3.5 Summary analysis of the MFN tariff, excluding the Andean Price Band System (SAFP) and conditional tariffs, 2017

Product description	MFN						Bound tariff (range) ^a (%)
	No. of lines	Average (%)	Average incl. SAFP	Range (%)	Range (%) SAFP	Coefficient of variation (CV)	
Total	7,708	7.1	7.9	0 - 98	0 - 174.3	1.5 (1.8)	0 - 227
HS 01-24	1,284	15.6	19.9	0 - 98	0 - 174.3	0.9 (1.2)	15 - 227
HS 25-97	6,424	5.4	5.5	0 - 40	0 - 82.5	1.7 (1.7)	0 - 180
By WTO category							
Agricultural products	1,053	15.4	20.7	0 - 98	0 - 174.3	1.0 (1.3)	15 - 227
- Animals and products of animal origin	140	20.3	42.7	5 - 80	5 - 174.3	1.0 (1.3)	70 - 209
- Dairy products	36	55.1	63.8	15 - 98	15 - 98	0.7 (0.5)	90 - 159
- Fruit and vegetables	304	14.1	14.1	5 - 60	5 - 60	0.7 (0.7)	15 - 178
- Coffee and tea	35	12.7	12.7	10 - 15	10 - 15	0.2 (0.2)	70 - 70
- Cereals and preparations	141	14.4	18.7	5 - 80	5 - 82.5	0.8 (0.9)	70 - 195
- Oilseeds, oils and fats and products thereof	113	13.2	20.2	0 - 20	0 - 38.2	0.4 (0.6)	75 - 227
- Sugar and confectionery	28	13.9	22.6	5 - 20	5 - 37.1	0.3 (0.5)	90 - 130
- Beverages, alcoholic liquids and tobacco	71	14.2	14.2	5 - 15	5 - 15	0.1 (0.1)	70 - 137
- Cotton	8	5.0	5.0	5 - 5	5 - 5	0.0 (0.0)	70 - 99
- Other agricultural products n.e.s.	177	9.9	12.5	0 - 70	0 - 82.5	0.9 (1.2)	35 - 151
Non-agricultural products (including petroleum)	6,655	5.8	5.8	0 - 40	0 - 40	1.6	0 - 104
- Non-agricultural products (excluding petroleum)	6,624	5.9	5.9	0 - 40	0 - 40	1.6	0 - 104
- - Fish and fishery products	316	14.0	14.2	0 - 15	0 - 15	0.2	35 - 104
- - Mineral products and metals	1,120	2.7	2.7	0 - 15	0 - 15	1.7	17.5 - 35
- - Chemicals and photographic goods	1,596	1.9	1.9	0 - 15	0 - 15	2.0	0 - 70
- - Wood, wood pulp, paper and furniture	372	5.2	5.2	0 - 15	0 - 15	1.2	35 - 35
- - Textiles	698	6.1	6.1	0 - 35	0 - 35	1.0	35 - 40
- - Clothing	255	40.0	40.0	40 - 40	40 - 40	0.0	40 - 40
- - Leather, rubber, footwear and travel goods	208	8.8	8.8	0 - 35	0 - 35	1.3	30 - 35
- - Non-electrical machinery	804	2.0	2.0	0 - 15	0 - 15	2.0	0 - 35
- - Electrical machinery	425	3.4	3.4	0 - 15	0 - 15	1.5	0 - 35
- - Transport equipment	258	11.4	11.4	0 - 35	0 - 35	1.1	35 - 40
- - Non-agricultural products n.e.s.	572	7.0	7.0	0 - 15	0 - 15	1.0	0 - 40
- Petroleum	31	1.6	1.6	0 - 5	0 - 5	1.4	35 - 35
By ISIC sector^b							
Agriculture and fishing	524	10.5	10.5	0 - 80	0 - 80	0.6	20 - 194
Mining	109	1.0	1.0	0 - 5	0 - 5	2.0	35 - 35
Manufacturing	7,074	7.0	7.0	0 - 98	0 - 98	1.6	0 - 227
By HS section							
01 Live animals and animal products	470	19.0	19.0	0 - 98	0 - 98	1.0	35 - 209
02 Vegetable products	435	13.1	13.1	5 - 80	5 - 80	0.8	15 - 195
03 Fats and oils	66	15.5	15.5	5 - 20	5 - 20	0.3	75 - 227
04 Prepared foodstuffs, etc.	313	14.1	14.1	5 - 20	5 - 20	0.2	35 - 151
05 Mineral products	198	0.9	0.9	0 - 5	0 - 5	2.1	35 - 35
06 Products of the chemical or allied industries	1,493	1.7	1.7	0 - 20	0 - 20	2.1	0 - 180

Product description	MFN						Bound tariff (range) ^a (%)
	No. of lines	Average (%)	Average incl. SAFP	Range (%)	Range (%) SAFP	Coefficient of variation (CV)	
07 Plastic and rubber	315	4.8	4.8	0 - 15	0 - 15	1.1	30 - 35
08 Raw hides and skins	78	7.2	7.2	0 - 15	0 - 15	0.9	35 - 70
09 Wood and articles of wood	145	3.4	3.4	0 - 15	0 - 15	1.5	35 - 35
10 Pulp of wood, paper, etc.	196	5.5	5.5	0 - 15	0 - 15	1.1	35 - 35
11 Textiles and textile articles	941	15.1	15.1	0 - 40	0 - 40	1.1	35 - 99
12 Footwear, hats and other headgear	55	22.7	22.7	0 - 35	0 - 35	0.6	35 - 40
13 Articles of stone	169	3.8	3.8	0 - 15	0 - 15	1.4	17.5 - 35
14 Precious stones, etc.	59	3.2	3.2	0 - 15	0 - 15	1.9	35 - 35
15 Base metals and articles of base metal	721	3.1	3.1	0 - 15	0 - 15	1.5	35 - 35
16 Machinery and mechanical appliances	1,253	2.5	2.5	0 - 15	0 - 15	1.8	0 - 35
17 Transport equipment	270	11.1	11.1	0 - 35	0 - 35	1.2	35 - 40
18 Precision instruments	281	2.5	2.5	0 - 15	0 - 15	1.6	0 - 40
19 Arms and ammunition	69	14.9	14.9	10 - 15	10 - 15	0.0	35 - 35
20 Miscellaneous manufactured articles	174	12.2	12.2	0 - 15	0 - 15	0.4	35 - 40
21 Works of art, etc.	7	15.0	15.0	15 - 15	15 - 15	0.0	35 - 35
By stage of processing							
First stage of processing	990	9.0	9.0	0 - 80	0 - 80	1.1	15 - 194
Semi-processed products	2,540	2.6	2.6	0 - 20	0 - 20	1.7	0 - 195
Fully processed products	4,178	9.4	9.4	0 - 98	0 - 98	1.4	0 - 227

- a The bound tariff is in the HS2012 nomenclature and the applied tariff in the HS2017 nomenclature; hence differences in the number of lines included in the analysis.
- b ISIC (Rev.2). excluding electricity (one line).

Note: This analysis only considers the basic *ad valorem* part of the conditional tariffs.

Source: WTO Secretariat estimates, based on data supplied by the authorities.

3.53. The applied tariff shows signs of escalation according to the degree of processing between semi-processed and finished goods. This is chiefly the case for products for which there is a domestic industry. The exceptions are capital goods not produced in the Andean subregion, which are often duty free. Imports of raw materials are subject to a higher average duty than semi-processed products.

3.1.3.3 Tariff quotas

3.54. Colombia did not use WTO tariff quotas during the review period, as the applied tariff is lower than the in-quota tariff. Colombia applies preferential quotas to agricultural products under its trade agreements (Section 4.1). It has a Government Mechanism for Administering Agricultural Quotas (MAC), created by Decree No. 430 of 2004, which consists in allocating an import quota with a preferential tariff for certain agricultural products such as yellow flint maize, white flint maize, rice, sorghum, soybeans and cotton.⁴⁰ The condition is that the imports should come from countries that are not CAN members and that the importer should also purchase a specified quantity of the domestic output by public auction through the Colombian Commodities Exchange (BMC). This mechanism was not activated during the review period.

3.1.3.4 Preferential tariffs

3.55. Colombia grants preferential treatment to imports from its CAN trading partners (the Plurinational State of Bolivia, Ecuador and Peru), provided they fulfil the Andean Community's origin requirements. It also grants preferential treatment to imports from countries with which it has signed agreements in the LAIA framework and under other bilateral agreements (Section 2). During the review period, FTAs were signed and came into force with Canada, the Republic of Korea, Costa Rica, the United States and the European Union, and a new LAIA Partial Scope Agreement was signed with the Bolivarian Republic of Venezuela.

⁴⁰ Decree No. 430 of 2004.

3.56. The average preferential tariff applied per country varies from 0.2% for its Andean Community partners to 4.6% for CARICOM member countries, and 6.3% for Nicaragua. The preferential tariffs applied on agricultural products are generally higher than those applied to non-agricultural products, except in the case of CAN countries (Table 3.6).

Table 3.6 Summary analysis of preferential tariffs, 2017

	Preferential lines (% of total tariff lines)	Total		WTO categories			
				Agricultural products		Non-agricultural products (excl. petroleum)	
		Average (%)	Duty-free lines (%)	Average (%)	Duty-free lines (%)	Average (%)	Duty-free lines (%)
MFN		7.1	49.7	15.4	0.6	5.8	57.4
Regional agreements							
CARICOM	17.5	4.4	61.1	8.9	41.2	3.8	64.0
Andean Community	74.9	0.3	97.8	0.8	96.2	0.2	98.0
Northern Triangle of Central America							
El Salvador	73.3	3.7	71.9	9.1	48.2	2.9	75.4
Guatemala	73.4	3.6	72.0	9.1	47.7	2.8	75.5
Honduras	85.7	2.5	80.7	8.5	48.7	1.6	85.5
LAIA agreements							
Argentina	98.1	2.1	55.2	5.0	43.8	1.6	56.8
Brazil	99.6	2.2	59.7	5.0	41.7	1.8	62.3
Chile	98.7	0.4	97.1	2.9	81.4	0.0	99.6
Cuba	82.2	4.5	53.9	10.7	14.7	3.6	59.8
Mexico	97.7	0.9	94.8	6.2	64.3	0.1	99.4
Paraguay	99.6	1.3	57.6	4.1	40.6	0.9	60.1
Uruguay	97.2	1.7	60.8	5.3	42.5	1.2	63.4
Venezuela, Bolivarian Rep. of	97.3	2.4	83.8	10.6	36.4	1.1	91.4
Bilateral agreements							
Canada	97.0	1.2	87.5	5.9	64.2	0.5	91.3
Korea	97.0	4.3	66.3	9.5	54.1	3.4	68.2
Costa Rica	96.7	3.6	72.6	12.8	52.8	2.1	75.7
United States	96.7	0.9	87.8	1.6	90.5	0.8	87.5
European Union	96.7	2.1	74.1	7.1	55.1	1.3	77.3
Pacific Alliance							
Chile-Peru	96.7	0.4	96.7	3.1	76.2	0.0	100.0
Mexico	96.7	0.6	96.4	4.5	73.8	0.0	100.0

a The 2017 MFN tariff includes 7,708 tariff lines.

Source: WTO Secretariat estimates, based on data provided by the Colombian authorities.

3.1.3.5 Tariff concessions

3.57. Colombia offers two kinds of tariff concessions; the first type is based on the export or import regime, and the second is designed to promote specific sectors of the Colombian economy. The first group includes the various export promotion programmes (Special Import-Export Systems, Free Zones and Special Economic Export Zones and the various import modalities or customs regimes, such as the temporary admission regime. These regimes provide for suspension of the payment of duties and other taxes on goods imports under certain conditions. With regard to the tariff concessions included in the second group, between 2011 and 2017 the Government granted concessions to various sectors such as the automotive sector, industry in general, and the agriculture and livestock sector.

3.58. With regard to the concessions granted to the automotive sector, by Decree No. 2.910 of 17 December 2013, as amended by Decree No. 1.567 of 31 July 2015, the Government established an Automotive Industry Promotion Programme (PROFIA) under which certain goods may be imported duty free with the commitment to include them in the production of vehicles or vehicle parts for sale on the domestic market or abroad. Tariff concessions are also offered to promote the importation and use of clean-technology vehicles (hybrid and electric). Decrees No. 2.658 of 29 July 2011, No. 4.931 of 29 December 2011, No. 2.909 of 17 December 2013, and

No. 1.116 of 29 June 2017 contain measures along the same lines, consisting of establishing preferential tariff quotas for imports of vehicles of this kind as well as chassis and electric charging systems.

3.59. During the review period, the Government also granted temporary tariff reductions to 0% for imports of agricultural chemicals classified in HS Chapter 31 (fertilizers) and subheading 3808 (pesticides) for which there is no registered domestic production. These advantages are granted under Decrees No. 2.052 of 13 June 2011, No. 1.989 of 12 September 2013 and No. 2.180 of 11 November 2015. In addition, for a two-year period, under Decree No. 1.280 of 31 July 2017 the Government granted a tariff reduction to 0% for imports of used agricultural machinery at least one year old and at most seven years old. To encourage investment in hydrocarbons and mining, through Decrees No. 562 of 2 March 2011 and No. 1.570 of 13 May 2011 the Government extended until 2015 the duty-free concessions granted under Decrees No. 4.114 and No. 4.115 of 2010 for a group of tariff lines.

3.60. By means of Decrees No. 2.916 and No. 2.917 of 12 August 2011 and Decree No. 1.703 of 15 August 2012, the Government pursued its policy of temporarily reducing tariffs to 0% on raw materials and capital goods not included in the domestic production register. These tariff reductions were subsequently again prolonged, for two years in each case, by Decrees No. 1.755 of 13 August 2013 and No. 1.625 of 14 August 2015. Thereafter, under Decree No. 1.343 of 11 August 2017 the tariff reduction to 0% for raw materials and capital goods not included in the national production register was made permanent.⁴¹

3.61. Given the insufficient level of domestic cotton production and in order to boost the textiles and clothing sector, through Decrees No. 2.530 of 12 December 2014 and No. 1.347 of 22 August 2016 the Government temporarily authorized the use of zero tariff quotas on cotton imports for a specified number of tonnes according to industry needs. Likewise, under Decree No. 1.573 of 25 July 2012 the tariff applied to polyester fibres of less than 1.7 decitex, in HS tariff line 5503.20.00.91⁴², was permanently reduced to zero.

3.62. During the review period, the authorities have used temporary tariff reductions on various occasions in response to supply shortfalls, to counter inflation or to address special circumstances. For example, Decrees No. 2.021 of 2 October 2012 and No. 927 of 9 May 2013 temporarily established a 0% duty on imports of whole and frozen tuna fish. This duty relief was still in force in October 2017 under Decrees No. 1.755 of 2013 and No. 1.625 of 2015. Decree No. 2.049 of 13 June 2011 authorized a tariff reduction to 0% for the importation of 20 used truck-cranes intended for the National Highway Safety Programme. Similarly, Decree No. 1.571 of 13 May 2011 and Decree No. 1.750 of 26 May 2011 authorized zero rating for imports of pumps, machinery and equipment in order to increase their availability to deal with the damage caused by the harsh winter weather that had damaged the country's road infrastructure. Decrees No. 2.050 of 13 June 2011 and No. 2.230 of 24 November 2015 authorized the import of warships at zero duty. More recently, Decree No. 343 of 29 February 2016 reduced to zero, until 30 June 2016, the duty on imports of certain agricultural products such as lentils, beans and garlic, in order to counter the latent inflationary expectations in the country at the time. The same Decree recommended suspending the application of the SAFP for imports of oils and established a 0% duty for a six-month period. Finally, in response to the country's energy crisis and to reduce consumption of electricity, through Decree No. 588 of 11 April 2016 the Government permanently reduced to 0% the duty applied to imports of LED lamps.

3.1.4 Other charges on imports

3.1.4.1 Value added tax (VAT)

3.63. Value added tax (or "sales tax" in Colombia) is charged on domestic and imported goods (both movable and immovable), services provided in Colombia or from abroad, and the sale or transfer of rights on intangible assets related to industrial property. For imported goods, the taxable base is the customs value plus import duties (tariffs). However, in the specific case of

⁴¹ The list of these products is periodically revised, and a product may be removed from the list if domestic production begins.

⁴² This tariff line also has a 0% duty as a result of the exemptions granted for raw materials and capital goods not included in the national production register.

beer, VAT is charged on the "retail price", which is calculated differently depending on whether the beer is produced in Colombia or imported. The retail price of domestically produced beer is the price invoiced to the distributor, whereas the retail price of imported beer is the customs value, including tariffs, plus a 30% marketing margin.⁴³ This situation could lead to a difference in the incidence of VAT applied to domestic and imported beer.

3.64. Law No. N° 1.819 of 29 December 2016 (Structural Tax Reform) raised the general rate of VAT from 16% to 19% as from 1 February 2017. In addition to the general rate, there is a 5% rate and also a 0% rate that is applied to some basic foods and services in the household basket. Some goods are exempt from VAT (for example, live animals and plants, honey, maize, sugar cane, certain seeds, certain medicines, used tyres for agricultural vehicles, tractors, etc.), as are certain services (medical services, land transport under certain conditions, educational services, public electricity, water and sewerage services).

3.65. Imports of certain types of machinery and equipment not produced in Colombia are excluded from payment of VAT. This is also the case for products imported under special import-export programmes (Plan Vallejo) and other types of goods (Table 3.7). In order to obtain relief from VAT on certain types of machinery⁴⁴, the importer must apply through the VUCE for a certificate from the MinCIT (Domestic Goods Registration Group). During the review period, goods delivered by express delivery or courier of a value not exceeding US\$200 were added to the list of imports excluded from payment of VAT. In addition, imports of beer in the San Andrés, Providencia and Santa Catalina Archipelago and imports of consumer goods from enterprises established in Leticia (Amazonas Department) are exempted from VAT payment (i.e. zero rated) (Tax Statute, Article 475).

Table 3.7 VAT-exempt imports

VAT-exempt imports
Materials to be processed under special import and export programmes or Plan Vallejo
Articles intended for use by the official foreign diplomatic or consular service and foreign technical missions in accordance with legal provisions on diplomatic reciprocity ^a
Arms and ammunition for national defence
Temporary imports of heavy machinery for basic industries ^b , provided they are not produced in Colombia
Machinery or equipment, provided they are not produced in Colombia, for the recycling and processing of garbage or waste, and for purifying or treating waste water, atmospheric emissions or solid wastes, provided they form part of a programme approved by the Ministry of the Environment. Equipment for environmental control and monitoring, including that needed to comply with the Montreal Protocol
Industrial machinery not produced in Colombia intended for use in the processing of raw materials, when imported by high export users (ALTEX). ^c This exclusion will be applicable to Authorized Economic Operators after a period of 4 years from the entry into force of Decree No. 390
Goods and equipment under conventions, treaties or international agreements destined for the national Government or national public-law entities, excluding State industrial and commercial firms and semi-public companies
Goods that are delivered by express delivery or courier of a value not exceeding US\$200 as from 1 January 2017
Equipment imported by research or technological development centres and educational institutions recognized by the Ministry of Education and intended for scientific, technological or innovation projects, meeting the criteria of the National Council on Tax Benefits for Science, Technology and Innovation

- a The exemptions for vehicles are non-transferable within the year following their importation.
- b Mining, hydrocarbons, heavy chemicals, iron and steel, extractive metallurgy, electricity generation and distribution, and catchment, purification and transport of water.
- c ALTEX users must export 30% of their annual sales by value and the imported machinery must remain in their ownership throughout its useful life. Non-compliance is sanctioned by the levying of the unpaid VAT plus outstanding interest and a fine of 5% of the f.o.b. value of the imported machinery.

Source: Tax Statute, Articles 428 and 428-1. Viewed at <http://www.dian.co>.

3.1.4.2 Other taxes

3.66. Colombia also taxes the consumption of certain products, both imported and domestic, such as beer and alcoholic beverages; cigars and tobacco; petrol (gasoline) and other fuels; certain motor vehicles and motorcycles; yachts and other boats; plastic bags; and fossil fuels according to their carbon content.

⁴³ Tax Statute (Article 475) and Law No. 223 of 1995 (Article 189).

⁴⁴ Heavy machinery for mining, hydrocarbons, metal working, heavy chemicals and electricity generation activities; machinery intended for the processing of raw materials for the ALTEX companies; and machinery intended for environmental improvement. Tax Statute (Article 428).

3.67. Under Law No. 223 of 1995, taxes are levied on the consumption of beer, aerated waters, shandies and mixtures of alcoholic and non-alcoholic beverages; spirits, wines, aperitifs and the like; and cigarettes and manufactured tobacco.⁴⁵ The excise tax on spirits and tobacco is applied at the departmental level, whereas the excise tax on beer is applied nationally.

3.68. The tax base of the excise tax on beer, aerated waters, shandies and mixtures of alcoholic and non-alcoholic beverages differs according to whether it is a domestic or imported product. In the case of domestic products, the tax base is the retail price, whereas in the case of imported products it is the sum of the customs value plus duties plus a 30% marketing margin. Furthermore, Law No. 223 provides that the tax paid by foreign products may never be lower than the average tax paid by domestically produced products.⁴⁶ In order to implement this provision, the Finance Ministry's Directorate-General of Fiscal Support issues every six months, through a "certification", the weighted averages of the excise tax on domestically produced beers, aerated waters, shandies and mixtures that are applicable as the minimum for imported products.⁴⁷ The applicable rate is shown in Table 3.8.

Table 3.8 Excise tax on beer, aerated waters, shandies and mixtures

Products	Tax base	Rate
Beers and aerated waters		
Domestic	Retail price	48%
Imported	Customs value + applicable tax + 30% marketing margin	48%
Shandies and mixtures		
Domestic	Retail price	20%
Imported	Customs value + applicable tariff + 30% marketing margin	20%

Source: Law No. 223 of 1995.

3.69. Law No. 1.816 of 19 December 2016 introduced a significant change in the regime governing excise tax on spirits, wines, aperitifs and the like, by eliminating the *de facto* discrimination that resulted from the application of a higher tax for beverages with an alcoholic strength of over 35° (mostly imported beverages) than for those with a lower alcoholic strength such as locally produced aguardiente. The new structure of excise tax has two elements: (a) a specific flat-rate component of Col\$220 per degree of alcohol; and (b) an *ad valorem* component of 25% on the retail price before excise tax. The tax base of the *ad valorem* component is calculated and established each year by the National Administrative Department of Statistics (DANE), taking into account the prices at which each alcoholic beverage is sold in the market.⁴⁸ Another change was that the VAT was separated from the calculation of the excise tax on alcoholic beverages, which enabled producers to deduct the VAT paid on inputs. The excise tax on wine has a similar structure, with lower rates (Table 3.9).

3.70. In the case of cigarettes and manufactured tobacco, the excise tax again has a specific component and an *ad valorem* component (surtax⁴⁹). Law No. 1.819 of 2016 raised the specific component for cigarettes and tobacco to Col\$1,400 per pack of 20 cigarettes and Col\$90 per gram of rolling tobacco or snuff for 2017 (Col\$2,100 and Col\$167, respectively, for 2018). The *ad valorem* component is set at 10% of the retail price certified every six months by the DANE for cigarettes⁵⁰ and 10% of the amount of excise tax per gram of rolling tobacco (Table 3.9).

⁴⁵ Law No. 223 of 1995, Chapters VII, VIII and IX, and amendments thereto.

⁴⁶ Article 189 of Law No. 223 of 1995. See also Judgment C-412/96 of the Constitutional Court of Colombia at: <http://www.corteconstitucional.gov.co/relatoria/1996/C-412-96.htm>.

⁴⁷ Article 4 of Decree No. 2.141 of 1996.

⁴⁸ The DANE publishes annually the list of certified prices for the various alcoholic beverages solely for the purposes of determining the excise tax; prices are fixed freely by producers and distributors. Online information from the DANE, viewed at:

<http://www.dane.gov.co/files/investigaciones/boletines/cigallo/certificacion-cigarrillo-II-semester-2017.pdf>.

⁴⁹ The consumption surtax for cigarettes and tobacco was created by Law No. 1.393 of 2010.

⁵⁰ Online information from the DANE, viewed at: <http://www.dane.gov.co/files/investigaciones/boletines/cigallo/certificacion-cigarrillo-II-semester-2017.pdf>.

Table 3.9 Rates of excise tax on alcoholic beverages and tobacco, 2017

Product	Specific component	Ad valorem component
Spirits, wines, aperitifs and the like		
Spirits, aperitifs and the like	Col\$220 per degree of alcohol in 750 cc unit	25% on retail price
Wines and wine-based aperitifs	Col\$150 per degree of alcohol in 750 cc unit	20% on retail price
Cigarettes and manufactured tobacco		
Cigarettes, tobacco, cigars and cigarillos	Col\$1,400 per pack of 20 units	10% of retail price
Rolling tobacco	Col\$90 per gram	10% of the excise tax

Source: Law No. 1.816 of 2016 (Articles 19 and 20) and Law No. 1.819 of 2016 (Articles 347 and 348).

3.71. During the review period, a "national excise tax" was established on the supply or sale to the final consumer or importation by the final consumer of specific goods and services.⁵¹ Law No. 1.819 of 2016 establishes that the national excise tax is charged on: the sale of certain domestically produced or imported vehicles; the supply of mobile telephony, Internet and mobile navigation services; and the serving of food and beverages (restaurants, cafeterias, self-service establishments, etc.). The law also introduced national excise tax on the supply of plastic bags (by commercial establishments) and the sale of cannabis-based products. The national excise tax is levied throughout the country (with the exception of the Amazonas department and the San Andrés, Providencia and Santa Catalina Archipelago). The current rates of the national excise tax are shown in Table 3.10.

Table 3.10 National excise tax, 2017

Products and services	Rates
Family cars and camper vehicles with an f.o.b. value or equivalent less than US\$30,000 including their accessories ^a	8%
Family cars, camper vehicles and pick-up trucks with an f.o.b. value or the equivalent equal to or more than US\$30,000, with their accessories ^a	16%
Pick-up trucks with an f.o.b. value or the equivalent of less than US\$30,000, with their accessories ^b	8%
Pick-up trucks with an f.o.b. value or the equivalent equal to or more than US\$30,000, with their accessories ^b	16%
Motorcycles with reciprocating internal combustion piston engine of a cylinder capacity exceeding 200 c.c.	8%
Yachts and other vessels for pleasure or sports; rowing boats and canoes	8%
Balloons and dirigibles; gliders and other non-powered aircraft, for private use	16%
Other aircraft (helicopters, aeroplanes); space vehicles (including satellites) and their launch vehicles and suborbital vehicles for private use	16%
Mobile telephony, Internet and mobile navigation ^c	4%
Food and beverage services (restaurants, cafeterias, etc.)	8%
Psychoactive and non-psychoactive cannabis products	16%
Plastic bags ^d (other than reusable or biodegradable)	Col\$20 per bag

- a The equivalent value of the f.o.b. value for motor cars and camper vehicles assembled or produced in Colombia is the average f.o.b. value given in the export declarations of vehicles of the same make, model and specifications, exported during the six-month period immediately preceding the sale. Does not apply to used vehicles over 4 years old.
- b Motor vehicles classified in heading 87.04 of the Customs Tariff, with a maximum load capacity not exceeding 10,000 US pounds, intended primarily for the transport of goods.
- c Telephony, data, Internet and mobile navigation services are taxed at a rate of 4% on the entire service, not including sales tax. Tax is payable only on consumption in excess of Col\$45,000 per month.
- d This tax will be raised to: Col\$30 in 2018, Col\$40 in 2019 and Col\$50 in 2020 per bag.

Source: Law No. 1.819 of December 2016.

3.72. There is also a national tax on petrol (gasoline) (INGA) and engine fuel oils (ACPM), whether domestic or imported⁵², in the form of a specific tax levied per gallon. Law No. 1.819 of 2016 excludes the sale of biofuels from this tax, as well as marine diesel and fuels used for refuelling ships in international traffic, as this operation is considered an export.⁵³ The Law also established the rates of tax in force since 1 January 2017, which are considerably lower than the rates during the previous review period, apparently reflecting the fall in oil prices. In addition, domestic and imported petrol and ACPM are subject to a consumption surtax whose base is the

⁵¹ The "national excise tax" was established by Law. No. 1.607 of 2012 (Articles 71 to 83).

⁵² Article 58 of Law No. 223 of 1995.

⁵³ Article 218 of Law No. 1.819 of 2016.

reference retail price established and certified monthly by the Ministry of Mining and Energy (Table 3.11).

Table 3.11 National tax on petrol (gasoline) and engine fuel oils (ACPM), 2017

Product	Rate ^a	Surtax
"Regular" petrol	Col\$490 per gallon	25%
Premium-grade petrol	Col\$930 per gallon	25%
ACPM ^b	Col\$469 per gallon	6%
Other petrol, other than premium	Col\$490 per gallon	6%

a The rates will be adjusted as from February 2018 on the basis of the reported inflation for the previous year.

b ACPM fuel oils include: combustible engine fuel oils, marine diesel, gas oil, *intersol*, No. 2 diesel, fuel for electric generators or any middle distillates and/or emulsified oils.

Source: Law No. 1.819 of 2016, and online information from the District Finance Secretariat of Bogotá, viewed at: <http://www.shd.gov.co>.

3.73. Colombia also levies a national carbon tax, introduced by Law No. 1.819 of 2016, on the sale, withdrawal and import of fossil fuels according to their carbon content, including all petroleum derivatives and all types of fossil gas used for energy purposes, provided they are used for combustion. The sale of marine diesel and fuels used for refuelling ships in international traffic are excluded, as this operation is considered an export. This is a specific tax which takes into account carbon dioxide (CO₂) emissions, corresponding to Col\$15,000 per tonne of CO₂; the values per unit according to the type of fuel are shown in Table 3.12. The resources collected go to the Fund for Environmental Sustainability and Sustainable Rural Development in conflict-affected areas.

Table 3.12 National carbon tax, 2017

Product	Rate/unit	Unit
Natural gas ^a	Col\$29	cubic metre
Liquid petroleum gas ^b	Col\$95	gallon
Gasoline	Col\$135	gallon
Kerosene and jet fuel	Col\$148	gallon
ACPM	Col\$152	gallon
Fuel oil	Col\$177	gallon

a The tax is only levied on sale to the hydrocarbon refining and petrochemicals industry.

b The tax is only levied on sales to industrial users.

Source: Articles 221 to 223 of Law No. 1.819 of 2016, implemented by Decree No. 1.625 of 2016.

3.1.5 Import prohibitions, restrictions and licensing

3.1.5.1 Import prohibitions

3.74. Colombia prohibits the importation of certain goods on grounds of national security, public health or morals, and environmental conservation, and to fulfil commitments under international agreements such as the Montreal Protocol of 1997. In particular, there is a ban on the importation of chemical, biological and nuclear weapons; nuclear and toxic waste; war toys; products containing ozone-depleting substances; and pornographic material. The Government can also impose temporary import bans to eliminate risks that could affect human, animal and plant health.

3.1.5.2 Licences, registration and other requirements

3.75. Colombia applies an automatic licensing system, known as "free importation", under which import registration is required for a considerable number of tariff lines; and a non-automatic licensing system under which a licence must be obtained prior to importation.⁵⁴ Licensing and registration requirements apply irrespective of the origin of the product in question.

⁵⁴ The legal basis for import licensing consists of Decree Law No. 444 of 1967, Law No. 7 of 1991, Decree No. 925 of 2013, Resolution No. 5.097 of 2011 and Circular No. 37 of 2016.

3.76. During the review period, Decree No. 925 of 9 May 2013 was issued, establishing the goods, conditions and requirements for the import licensing and registration procedures, which are carried out online through the VUCE. Decree No. 925 has been notified to the WTO.⁵⁵ At the time of writing of this report, Colombia had submitted replies to the questionnaire on import licensing procedures for the years 2013 and 2015⁵⁶ as well as replies to the questions posed by the United States.⁵⁷

3.1.5.2.1 Automatic licensing

3.77. Automatic import licensing or import registration is used to ensure that the goods to be imported comply with the requirements, permits or prior authorizations (health certificates, phytosanitary and zoosanitary certificates, technical regulations, environmental regulations, etc.) imposed by control entities.

3.78. Article 25 of Decree No. 925 of 2013 establishes the goods that must comply with requirements, permits and authorizations to be fulfilled or obtained for the import registration to be approved. They are: (i) fishery and aquaculture products; (ii) private surveillance and security equipment; (iii) radioactive isotopes and radioactive materials; (iv) clothing for exclusive use by law enforcement agencies; (v) hydrocarbons and petrol; and (vi) products subject to sanitary controls, technical regulations, dynamic test emission certification, vehicle type-approval, and controls to ensure environmental protection under international treaties or pursuant to national policies; quotas established under international treaties and agreements or for reasons of trade policy; and quantitative safeguard quotas. MinCIT Circular No. 37 of 29 December 2016 lists over 6,000 tariff lines subject to prior import requirements, permits or authorizations imposed by control entities.

3.79. Automatic licences may be applied for at any time of the year and must be processed through the VUCE before the import declaration is submitted. If the applicant fulfils the requirements, the entities participating in the VUCE must issue the authorization within two working days. The MinCIT Foreign Trade Directorate is the authority responsible for deciding at last instance on import registration applications, and must do so within 12 working hours. In practice, these licences are issued within the space of one day on average and cost roughly US\$15. Automatic licences or import registrations are valid for six months from their date of issuance, and can be extended for a further six months. In the case of licences to import capital goods, the validity is 12 months, which can be extended for successive periods of up to three months each, without exceeding 12 months.

3.1.5.2.2 Non-automatic licensing

3.80. Non-automatic import licences (or prior licences) apply to goods of a kind that need special import controls on the basis of criteria laid down by the National Government. It should be noted that the Government maintains the exclusive right to import raw materials for explosives, weapons and in general goods for the exclusive use of the armed forces.⁵⁸

3.81. Article 14 of Decree No. 925 of 2013 lists the imports that are subject to prior (non-automatic) licensing, namely: (a) products that the Higher Council for Foreign Trade has included in this regime as listed in Annex 1 of that Decree; (b) remaindered goods; (c) products subject to special market conditions; (d) goods for which duty-free treatment is requested; (e) products controlled by the National Narcotic Drugs Fund (FNE), the National Narcotic Drugs Council (CNE) of the Ministry of Justice and Law, and the Defence Industry (INDUMIL); (f) goods for national security and defence or war material or reserved material destined for the armed forces and the national police; (g) imports using the annual licensing system (Table 3.13).⁵⁹

⁵⁵ WTO document G/LIC/N/1/COL/3 of 4 October 2013.

⁵⁶ WTO documents G/LIC/N/3/COL/10 of 1 October 2013 and G/LIC/N/3/COL/11 of 21 March 2016.

⁵⁷ WTO document G/LIC/Q/COL/3 of 6 May 2014.

⁵⁸ Decree No. 2.535 of 1993 and Decree No. 1.809 of 1994.

⁵⁹ The annual licensing system covers imports of the mining and petroleum industries, the armed forces and the Colombian aviation industry; the licences are processed in accordance with the decrees governing the corresponding matters.

3.82. Annex 1 of Decree No. 925 of 2013 includes 180 tariff lines subject to prior licensing that cover a very wide range of products such as poultry cuts, weapons, chemicals, precursors, narcotic drugs, detonators, explosives, used tyres, etc. Of these 180 lines, 12 are excluded from the prior licensing regime when they originate in countries with which Colombia has an international agreement in force granting access for such goods. Decree No. 925 of 2013 also excludes the following imports from the prior licensing regime which were previously subject to it (under Decree No. 3.803 of 2006): non-refundable operations; imports of vehicles manufactured during the previous year; imports made by official entities; imports of books, publications and other printed matter; alcoholic beverages; CKD material manufactured within two years prior to the import application; and remanufactured goods in accordance with current trade agreements signed by Colombia.

3.83. The MinCIT Imports Committee is responsible for administering and approving non-automatic import licences. Applications are processed electronically through the VUCE at any time, subject to due notice since release of the goods must be justified by a valid prior import licence. Under Law No. 19 of 2012, the bodies participating in the VUCE must decide on the prior licences or authorizations under their control within three working days, and the Imports Committee must rule on approval of the non-automatic import licence within one working day, after having received all the requisite permits or authorizations. The procedure costs about US\$15.

Table 3.13 Non-automatic import licences, 2017

Product category	Control entity	Type of product covered	Justification	Legal measure
Products included in the list drawn up by the Higher Council for Foreign Trade ^a	INVIMA or ICA for imports of food and chemical products, if for human or animal use	Poultry cuts; arms; chemicals; precursors; narcotic drugs; detonators and explosives; rags; used tyres; bandages	National security; health protection; absorption of production	Decree No. 925 of 2013, Circular No. 037 of 2016
Remaindered goods ^a	Imports Committee	New goods manufactured at least two years previously or new vehicles of the previous year's model ^b	Consumer safety; avoid unfair competition	Decree No. 925 of 2013
Products controlled by the National Drugs Council (CNE)	Ministry of Justice and Law	Chemical substances and products	National security; health protection	Decrees No. 3.990 of 2010 and No. 925 of 2013, CNE Res. No. 0001 of 2015 and Res. No. 0008 of 2015
Products imported through the Defence Industry (INDUMIL)	INDUMIL	Defence industry inputs	National security	Law No. 525 of 1999, Decrees No. 2.535 of 1993, No. 1.419 of 2002, No. 334 of 2002 and No. 1.070 of 2015
Products imported by or through the National Narcotic Drugs Fund (FNE)	National Narcotic Drugs Fund	Narcotic drugs and precursors	Security and health protection	Resolution No. 1478 of 2006 as amended by Res. No. 262, No. 2.335 and No. 3.962 of 2009, No. 2.593 of 2012 and No. 2.340 of 2013
Products subject to special market conditions ^a	Imports Committee	Any used, remanufactured, low-quality, out-of-season or similar good	Environmental security and public health	Decree No. 925 of 2013
Duty-free imports ^a	National Mining Agency and National Hydrocarbons Agency (goods for exploring for minerals and hydrocarbons); ICA (inputs needed to produce vaccines); Ministry of Health (drugs, vaccines) if imported by the private sector	Donations to the official sector; imports for the education and health sectors; products for the fertilizer industry; paper for scientific and cultural journals; diplomatic vehicles; imports for the fire brigade and the prison system; goods for exploring for minerals or petroleum	Sectors having priority and strategic importance for national economic and social development	Decree No. 255 of 1992, Law No. 633 of 2000, Law No. 788 of 2002, Law No. 1.430 of 2010, Decree No. 562 of 2011, Law No. 1.575 of 2012, Decree No. 540 of 2004

Product category	Control entity	Type of product covered	Justification	Legal measure
Imports for the Armed Forces and National Police	Ministry of National Defence	Goods for national security and defence, war material and reserved material	National security	Decree No. 925 of 2013
Imports under the annual licensing system	National Mining Agency and National Hydrocarbons Agency (licences for the mining and petroleum sector)	Imports for the mining and petroleum industry, the armed forces and the Colombian Aviation Industry (CIAC)	Facilitating and streamlining import operations	Decrees No. 4.801, No. 4.802 and No. 4.803 of 2008, No. 1.573 of 2002, No. 3.307 of 2006 and No. 03 of 2006

- a The Imports Committee must verify the absence of domestic production in the Register of Producers of Domestic Goods in order to determine whether or not the import licence can be granted.
- b "Remaindered goods" does not include books, magazines, videos, films, alcoholic beverages, CKD material, goods that entered a Free Zone in new condition during the previous two years, and spare parts for vehicles, with the exception of subheadings 40.11, 40.12 and 40.13.

Note: INVIMA: National Food and Drug Surveillance Institute. ICA: Colombian Agricultural Institute.

Source: WTO Secretariat, on the basis of Decree No. 925 of 9 May 2013, and MinCIT Foreign Trade Directorate Circular No. 037 of 29 December 2016.

3.84. Colombia has notified the WTO that non-automatic licensing is not intended to restrict the quantity or value of imports.⁶⁰ However, according to Decree No. 925 of 2013 (Article 18), the Imports Committee has to check whether there is any domestic production registered with the MinCIT in order to evaluate and decide on non-automatic licence applications for imports of certain products (namely, products identified by the Higher Council for Foreign Trades; remaindered goods; products to which special market conditions apply; and goods for which duty-free treatment is requested).⁶¹ If an application for a non-automatic licence is refused, the applicant may enter an appeal for reconsideration, and once this government channel has been exhausted, have recourse to the administrative courts.

3.85. Non-automatic licences are valid for six months from their date of approval, and may be extended for three months twice. Licences covering imports of narcotic drug precursors are valid for three months and may not be extended. Licences covering capital goods are valid for twelve months and may be extended for successive periods of up to three months each, which cannot together exceed twelve months.

3.1.5.2.3 Other measures

3.86. With a view to renewing the fleet of trucks of over 10.5 tonnes, for some years Colombia has had a "scrapping" programme, involving a one-for-one scheme whereby a new truck may be licensed if an old truck is withdrawn from the market (i.e. scrapped). In the context of Colombia's accession to the OECD, its trade partners argued that this measure distorted the market and constituted *de facto* discrimination as it only applied to trucks of over 10.5 tonnes, which are mostly foreign; and also that the measure raised the cost of new trucks and of transport, making the Colombian economy less competitive.

3.87. In 2016, the Government decreed the abolition of the one-for-one scheme for new vehicles entering the market as from 31 December 2018 subject to fulfilment of one of the following two conditions: utilization of the remaining resources of the scrapping programme, or conclusion of a supply and demand study.⁶² The authorities have indicated that the first of these conditions will be fulfilled, as the resources have been allocated under the 2018 Budget Law. In addition, in order to satisfy market demand, the Government has introduced a temporary registration system, in parallel with the one-for-one scheme, allowing the entry of an additional number of new vehicles without requiring the scrapping of old vehicles. This system will remain in place at least until 31 December 2018. The authorities have stated that currently the transitional system is primarily used for introducing new trucks.

⁶⁰ WTO document G/LIC/N/3/COL/11 of 21 March 2016.

⁶¹ Ministry of Trade, Industry and Tourism, Prior Licensing System Manual. Viewed at: http://www.vuce.gov.co/fileman/files/manuales/MANUAL_LIC_PREVIA_09_30.pdf.

⁶² Presidential Decree No. 1.517 of 22 September 2016.

3.1.6 Anti-dumping, countervailing and safeguard measures

3.1.6.1 General

3.88. The implementation of trade protection measures is regulated at both national and Andean Community (CAN) levels (Table 3.14). The MinCIT Foreign Trade Directorate, through its Trade Practices Subdirector, is the authority responsible for investigating dumping, subsidy and safeguard cases. The Trade Practices Committee adopts the final recommendations.⁶³ Anti-dumping and countervailing duties may not be imposed simultaneously on an imported product from the same country.⁶⁴ At the regional level, anti-dumping, subsidy and safeguard investigations concerning products originating in Andean Community countries are handled by the CAN General Secretariat. Governments and producers of the CAN countries may request the initiation of investigations.

Table 3.14 Legal provisions on trade protection measures, 2017

Legal instrument	Subject
Domestic legislation	
Law No. 170 of 1994	Incorporates the WTO Agreements into domestic law
Decree No. 1.750 of 2015	Application of anti-dumping duties
Decree No. 152 of 1998	Multilateral safeguards for WTO Members
Decree No. 1.407 of 1999	Safeguards under a special procedure
Decree No. 1.820 of 2010	Bilateral safeguards in free trade agreements
Decree No. 573 of 2012	Special agricultural safeguard in non-WTO international trade agreements
Decree No. 299 of 1995	Countervailing measures
Andean Community (CAN)	
Decision No. 283 of 1991	Dumping and subsidization of third-country products
Decision No. 452 of 1999	Safeguards for third-country products
Decision No. 456 of 1999	Intracommunity dumping (CAN members)
Decision No. 457 of 1999	Intracommunity subsidies
Chapter IX of the Cartagena Agreement and Decision No. 563 of 2003	Intracommunity safeguards

Source: WTO Secretariat, on the basis of online information from MinCIT, viewed at: <http://www.MinCIT.gov.co>.

3.1.6.2 Anti-dumping measures

3.89. During the review period, Colombia adopted new regulations on the application of anti-dumping duties under Decree No. 1.750 of 1 September 2015, which repealed Decree No. 2.550 of 2010. The new Decree has been notified to the WTO⁶⁵ and has been considered by the Committee on Anti-Dumping Practices.⁶⁶ The main changes introduced by Decree No. 1.750 concern: duration of anti-dumping duties; application of duties for the whole dumping margin; information from the exporting country and country of origin; strengthening of anti-circumvention provisions; and institutional review (Box 3.1). In addition, since February 2016 applications for anti-dumping investigations must be processed online as provided for by the MinCIT.

3.90. Decree No. 1.750 applies to investigations on imports of products originating in WTO Members as well as from non-WTO member countries and countries with which Colombia has not entered into any international commitments in this area (Article 2). Pursuant to Decree No. 1.750, the investigation and imposition of anti-dumping duties meets the public interest in preventing and remedying the "causation" of material injury, threat of material injury or material retardation in the creation of an industry, provided that it is linked to dumping.

⁶³ This Committee consists of: the Vice-Minister for Foreign Trade (Chairperson); the Vice-Minister of the entity most closely related to the domestic industry concerned; the Director of the DIAN; the Deputy Director-General of the National Planning Department; two advisers from the Higher Council for Foreign Trade; and the Head of the Supervisory Authority for Industry and Trade (or the corresponding Deputy Head, depending on the case), and the Director of Foreign Trade who participates in an advisory capacity.

⁶⁴ Article 49 of Decree No. 1.750 of 2015.

⁶⁵ WTO document G/ADP/N/1/COL/4 of 12 October 2015.

⁶⁶ The questions posed by the United States regarding the notification of Colombia are contained in WTO document G/ADP/Q1/COL/6 of 5 April 2016 and Colombia's replies are in document G/ADP/Q1/COL/7 of 28 April 2016.

Box 3.1 Main changes introduced by Decree No. 1.750 of 2015

Article 14. Margin of dumping: where products are not imported directly from the country of origin but from a third country, the price at which they are sold from the country of export to Colombia shall be compared with the price in the exporting country. This introduces the possibility of applying anti-dumping duties to an exporting country through which the goods have transited.

Article 22. Initiation of investigation: provides for the possibility of *ex officio* initiation of an investigation without domestic producers having to submit evidence.

Article 28. Dispatch and receipt of questionnaires: eliminates the possibility for interested parties to request the specific exclusion of goods with unique characteristics (i.e. not "like goods") during the preliminary or final stages of the investigation.

Article 31. Examination of evidence: eliminates the possibility for the interested parties to hold meetings with the investigating authority during the investigation and the possibility for the investigating authority to provide assistance to small and medium-sized enterprises.

Article 43. Calculation of duties: anti-dumping duties may be applied up to the full margin of dumping. Under the earlier rules, anti-dumping duties could be applied in a "sufficient amount" to eliminate the injury ("lower duty").

Article 49. Application and duration of definitive anti-dumping duties: establishes the general rule that the duration of anti-dumping duties is five years; previously, anti-dumping duties could be applied for a maximum period of five years.

Article 50. Anti-circumvention measures: the investigation must be concluded within five months. The lodging of guarantees may be required for imports from the countries under investigation as of the start of the investigation.

Article 76. Review: adds two factors that the investigating authority must take into account in five-year reviews and examinations: improvements in the state of the domestic industry brought about by the duty imposed or the price undertakings; and whether the domestic industry is likely to suffer material injury if the duty imposed is removed or the price undertakings are terminated.

Source: WTO Secretariat.

3.91. The various stages of the investigation procedure are regulated in Chapter IV of Decree No. 1.750. The MinCIT Foreign Trade Directorate (DCE) may initiate an investigation at the written request of the domestic industry⁶⁷, or *ex officio* if there is sufficient evidence to determine the existence of injury, threat of injury or material retardation caused to the domestic industry by the dumped imports. Article 24 of the Decree sets out the requirements for submission of the application.

3.92. Where the DCE makes a preliminary determination that imports are being dumped and are causing injury to the domestic industry, it may impose provisional duties through a reasoned resolution. Within three months from the publication of the preliminary resolution, the DCE must present the final results of the investigation to the Trade Practices Committee for the latter to assess them and make a final recommendation. On that basis, the DCE adopts the corresponding decision through a reasoned resolution published in the Official Journal. Where a definitive anti-dumping duty is imposed, it may be in an amount up to the full margin of dumping (under the previous rules a "lower duty" was given preference). Definitive anti-dumping duties expire after five years or a shorter time where this proves sufficient to eliminate the injury. The duties may be reviewed on grounds of changed circumstances provided a year has passed since their imposition, and they may also be subject to a five-year review before the end of their fifth year in force, either *ex officio* or at the request of the domestic industry. The decisions taken in the course of the investigations may form the subject of direct proceedings before the MinCIT to seek the revocation of the administrative measure which initiated the investigation or imposed an anti-dumping duty, in accordance with the Code of Administrative Procedure and Administrative Disputes.

3.93. The authorities have indicated that between 1 January 2012 and 31 December 2017, Colombia initiated 45 anti-dumping investigations and applied 29 new definitive duties and 13 provisional duties. It also carried out 15 sunset reviews, in 14 of which extension of the duties was granted. As at end December 2017, 12 proceedings were under way, including new

⁶⁷ An application is submitted by or on behalf of the domestic industry when it is supported by domestic producers whose joint production represents more than 50% of the total production of the like product produced by the domestic industry supporting or opposing the application.

investigations and five-year reviews. At the same date, the average duration of anti-dumping duties in force was 3.5 years.

3.94. At 31 December 2017, Colombia maintained 17 definitive anti-dumping duties on imports of products from the following countries: China (11), Republic of Korea (2), Mexico (2), India (1) and the Bolivarian Republic of Venezuela (1) (Table 3.15). The products covered by the measures were: tableware and kitchenware and loose articles of earthenware or porcelain; link chains, polished, galvanized; hoes, bars and mattocks; casing and tubing; radial tyres for buses and trucks; extruded aluminium profiles; flexible and rigid PVC sheets; galvanized smooth sheet; sodium citrate; low carbon steel wire; DOP plasticizer (DI 2 Ethylhexyl phthalate); standard gypsum board; and high-pressure decorative laminates.

Table 3.15 Anti-dumping measures in force at 31 December 2017

Product (HS code)	Investigation ID number	Measure	Date of initial imposition or latest extension (Official Journal No.)
China			
Tableware and kitchenware and loose articles of porcelain (6911.10.00.00)	RD-215-01-39	Duties: difference between the f.o.b. base price of US\$2.88/kg and the f.o.b. price declared by the importer, provided this is lower than the base price. The duty cannot exceed the estimated dumping margin of US\$1.81/kg.	Extension 21.12.17 (50.454)
Tableware and kitchenware and loose articles of earthenware (6912.00.00.00)	RD-215-01-39	Duties: difference between the f.o.b. base price of US\$1.71/kg and the f.o.b. price declared by the importer, provided this is lower than the estimated base price.	Extension 21.12.17 (50.454)
Link chain, polished or galvanized (73.15.82.00.00)	D-215-05-39	Duties: 4.5% on the f.o.b. price declared by the importer, in addition to the 10% tariff in force.	Extension 01.11.16 (50.044)
Shovels, hoes, digging bars and picks (8201.30.00.00)	D-215-14-48	Duties: difference between the base price of US\$ 2.04/kg and the f.o.b. price declared by the importer, provided this is lower than the base price.	Extension 19.10.15 (49.670)
Casing or tubing (7304.29.00.00, 7306.29.00.00)	D-215-16-51	Duties: difference between the f.o.b. base price of US\$1,913.92/tonne and the f.o.b. price declared by the importer.	Extension 18.08.17 (50.329)
Radial tyres for buses or lorries (4011.20.10.00)	D-215/20-58/59	Duties: difference between the f.o.b. base price of US\$5.37/kg and the f.o.b. price declared by the importer provided this is lower than the base price.	12.06.13 (48.819)
Extruded aluminium profiles (7604.21.00.00, 7604.29.10.00, 7604.29.20.00, 7608.10.90.00 and 7608.20.00.00)	D-215/850-02-61/CHN	Duties: difference between the f.o.b. base price of US\$ 3.60/kg and the f.o.b. price declared by the importer, provided this is lower than the base price.	Extension 13.10.17 (50.385)
Rigid PVC film (3920.49.00.00)	D-215-21-62/CHN D-215/190-01-63/CHN	Duties: <i>ad valorem</i> duty equivalent to 7.17% of the f.o.b. value declared by the importer.	Extension 12.07.17 (50.290)
Galvanized smooth sheet (7210.49.00.00)	D-215-22-64s	Duties: <i>ad valorem</i> duty equivalent to 47.62% of the f.o.b. value declared by the importer.	20.12.17 (50.453)
Sodium citrate (2918.15.30.00)	D-215-25-69	Duties: difference between the f.o.b. base price of US\$1.80/kg and the f.o.b. price declared by the importer.	20.03.15 (49.459)
Low carbon bars and rods (7213.91.90.10, 7213.91.10.10, 7227.90.00.11 and 7227.90.00.90)	D-215-33-82	Duties: difference between the f.o.b. base price of US\$419/tonne and the f.o.b. price declared by the importer, provided this is lower than the base price.	13.05.16 (49.872)
Korea, Rep. of			
DOP plasticizer (2917.32.00.00)	RD-190-02-081/KOR	Duty: difference between the f.o.b. base price of US\$1.44/kg and the f.o.b. price declared by the importer.	Sunset review 26.09.17 (50.368)
Rigid PVC film (3920.49.00.00)	D-215-21-62/KOR D-215/190-01-63	Duties: <i>ad valorem</i> duty equivalent to 12.77% of the f.o.b. price declared by the importer.	Extension 12.07.17 (50.290)
India			
High-pressure decorative laminates (3921.90.10.00)	D-361-02-79	Duties: difference between the f.o.b. base price of US\$3.34/kg and the f.o.b. price declared by the importer, provided this is lower than the base price.	09.12.15 (49.721)

Product (HS code)	Investigation ID number	Measure	Date of initial imposition or latest extension (Official Journal No.)
Mexico			
DOP plasticizer (2917.32.00.00)	RD-190-02-081/MEX	Duties: difference between the f.o.b. base price of US\$1.96/kg and the f.o.b. price declared by the importer, provided this is lower than the base price.	25.08.14 (49.254)
Standard gypsum board	D-493-02-84	Duties: <i>ad valorem</i> duty as follows: ABAMAZ 7.14%; USG Mexico 25.00%; and other exporters, 42.86%.	12.10.17 (50.384)
Venezuela, Bolivarian Rep. of			
Extruded aluminium profiles (7604.21.00.00, 7604.29.10.00, 7604.29.20.00, 7608.10.90.00 and 7608.20.00.00)	D-215/850-02-61	Duties: difference between the f.o.b. base price of US\$3.72/kg and the f.o.b. price declared by the importer, provided this is lower than the base price.	Extension 13.10.17 (50.385)

Source: WTO Secretariat, based on Colombia's notifications (G/ADP/N/*/COL), MinCIT Foreign Trade Directorate Resolutions and information provided by the authorities.

3.1.6.3 Countervailing measures

3.95. During 2012-2017, Colombia did not adopt any countervailing duties, nor did it initiate any subsidy investigations.⁶⁸ There were no changes in the law on the subject.

3.1.6.4 Safeguard measures

3.96. In the national legislation, Decree No. 152 of 1998 governs the application of safeguard measures for WTO Members. Measures may be applied when imports of a product have increased to such an extent and under such conditions as to cause or threaten to cause serious injury to the domestic industry that produces like or directly competitive products. The measures apply to all imports of the investigated product regardless of origin. The application of provisional safeguards in the form of a duty is authorized when there are critical circumstances in which any delay would cause injury that would be difficult to repair to the domestic industry, provided there has been a preliminary determination of the existence of clear evidence that the increased imports have caused or threaten to cause serious injury.

3.97. After completing its investigation, the DCE prepares a technical report for submission to the Committee on Customs, Tariff and Foreign Trade Matters (AAA Committee), which makes its recommendation to the Higher Council for Foreign Trade. Where adoption of a measure is recommended, the MinCIT will hold consultations with the governments concerned, and then send the results of the consultations together with the AAA Committee's recommendation to the Higher Council for Foreign Trade, which assesses it and gives its recommendation on the adoption of the measure to the Government. The definitive safeguard consists preferably in the imposition of a tariff levy, and where this is not viable, a quantitative restriction. The measure may not last more than four years (including the period of the provisional measure) and, if it is extended, the total period of application may not exceed eight years. The extended measure may not be more restrictive and should be progressively phased out. When a measure is adopted for an initial period of more than three years, the situation is reviewed at mid-term to determine whether the measure needs to be maintained. There is also a requirement to evaluate the applicant's adjustment programme.

3.98. In the period between January 2012 and December 2017, Colombia opened four safeguard investigations under Decree No. 152 of 1998. The products concerned were: (i) profiles and bars of iron or non-alloyed steel; (ii) corrugated bars and rods; (iii) steel angles; and (iv) steel wire rod.⁶⁹ Of the four investigations, two gave rise to the adoption of provisional measures, and in only one case was a definitive safeguard measure imposed (steel wire rod) in the form of a tariff

⁶⁸ WTO documents G/SCM/N/321/Add.1 of 23 October 2017, G/SCM/N/313/Add.1 of 21 April 2017, G/SCM/N/298/Add.1/Rev.1 of 25 October 2016, G/SCM/N/305/Add.1 of 21 October 2016, G/SCM/N/298/Add.1 of 22 April 2016, G/SCM/N/289/Add.1 of 22 October 2015, G/SCM/N/267/Add.1 of 15 April 2014, G/SCM/N/259/Add.1 of 18 October 2013, G/SCM/N/250/Add.1 of 10 April 2013, G/SCM/N/242/Add.1 of 12 October 2012, and G/SCM/N/235/Add.1 of 24 April 2012.

⁶⁹ WTO documents G/SG/N/6/COL/4 of 29 July 2013; G/SG/N/6/COL/5, G/SG/N/6/COL/6 and G/SG/N/6/COL/7, all of 4 September 2013.

quota.⁷⁰ In January 2015, Colombia initiated an investigation to evaluate extension of the definitive measure applied to steel wire rod⁷¹ and subsequently notified the Committee of its decision not to prolong the measure beyond its original deadline (30 April 2015).⁷²

3.99. Decree No. 1.407 of 1999 regulates the application of safeguard measures for both WTO Members and non-member countries through a special procedure. These measures are applied when, as a result of an investigation, it is shown that there is a disruption of the domestic industry as a result of increased imports under unfair price or quantity conditions. If the exporting country is a WTO Member, the measure only applies when the resulting tariff increase does not exceed the level bound by Colombia. Imports originating in countries with which Colombia has signed a free trade agreement are excluded.⁷³ Measures applied pursuant to Decree No. 1.407 may only take the form of tariff levies and have a duration of two years without extension. The authorities indicated that since 2012 there have been 14 investigations under Decree No. 1.407 and only two safeguards have been applied.

3.100. Decree No. 1.820 of 2010 governs the application of bilateral safeguard measures under international trade agreements to which Colombia is a party. The Decree is not applicable to the same good originating in another contracting party and during the same period, and supplements the other domestic regulations implementing GATT Article XIX and the WTO Safeguards Agreement.

3.101. Within the Andean Community, Decree No. 452 of 1999 governs the application of safeguards on third-country imports, while Chapter IX of the Cartagena Agreement and Decision No. 563 of 2003 govern the application of safeguards to intracommunity imports. The authorities have stated that there has only been one intracommunity investigation (on sugar imports) which concluded without imposition of measures.

3.2 Measures directly affecting exports

3.2.1 Customs procedures and requirements

3.102. The National Tax and Customs Directorate (DIAN) is the authority in charge of processing export formalities, including the sale of goods from the national territory to a Free Zone. Export formalities are processed through the customs IT system.⁷⁴ The authorizations, approvals and permits, depending on the product to be exported, are processed online through the Single Window for Foreign Trade (VUCE) administered by the MinCIT.⁷⁵ Any natural or legal person that carries out export transactions must be registered in the Single Tax Register (RUT) on an updated basis. Legal persons must be legally domiciled and/or represented in Colombia. Coffee exporters must also make an annual application for registration in the Register of Coffee Exporters, which is a means of monitoring the minimum quality requirements laid down by the National Committee of Coffee Growers.⁷⁶

3.103. Under the current rules (Decree No. 2.685 of 1999) the services of a customs agent are required for all exports exceeding US\$10,000. However, during a one-year period from the entry into force of Decree No. 390, this obligation applies only in the case of exports exceeding US\$30,000. After this transition period, exporters will be free to apply directly to the DIAN regardless of the value of the exports.⁷⁷

3.104. Four years after the entry into force of Decree No. 390, the categories of Regular Customs Users (UAP) and High Export Users (ALTEX) will cease to exist.⁷⁸ The new Customs Statute

⁷⁰ WTO document G/SG/N/8/COL/1/Suppl.1 of 25 April 2014.

⁷¹ WTO document G/SG/N/6/COL/4/Suppl.1 of 13 January 2015.

⁷² WTO document G/SG/N/6/COL/4/Suppl.2 of 20 May 2015.

⁷³ Decree No. 1.407 of 1999 (Article 1 and Article 4).

⁷⁴ The Single Revenue and Automated Control Services Form (MUISCA). Online information from the DIAN, viewed at: <https://muisca.dian.gov.co>.

⁷⁵ The VUCE website is: <http://www.vuce.gov.co>.

⁷⁶ Resolution No. 1 of July 2009 of the National Committee of Coffee Growers.

⁷⁷ Article 669 of Decree No. 390 of 2016.

⁷⁸ *Ibid.*, Article 675.

includes the special treatments for authorized exporters, trusted users and authorized economic operators (Section 3.1.1.2, Table 3.2).

3.105. In order to carry out an export transaction, a shipment authorization application must be submitted online to the DIAN. The application must be accompanied by the following documents: a document substantiating the transaction (e.g. commercial invoice); any applicable approvals or authorizations; customs mandate (while the obligation to employ a customs agent is in force, and subsequently when such services are used voluntarily); proof of payment of withholdings, royalties, promotion duties as appropriate, fees or any other tax payable; and any other document required under specific rules. Before submitting the shipment authorization application, the declarant must, if the product to be exported so requires, provide the following: prior registration documents (emeralds, medicines, panela); marketing permit (fish and molluscs), prior authorizations (primary forest products), clearances (arms, ammunition, explosives), or sanitary inspection certificates (food), tax payment certificate (coal, coffee, panela) and certificates of origin (preferential agreements). The latter are issued by the DIAN or by the producer, manufacturer or exporter as may be provided for in the trade agreement.

3.106. Once the shipment application has been accepted and the goods have entered the primary customs zone, on the basis of a risk analysis the DIAN determines whether an examination of the documents or physical inspection is necessary or shipment can be authorized directly. If the intervention of various entities is necessary for the inspection of the goods, the inspection must be carried out simultaneously.⁷⁹

3.107. The shipment operation comprises loading on the means of transport for the goods to exit. The international carrier must certify the shipment at the initial port of shipment and register the following information through the electronic information services: arrival at the actual port of exit, unloading where appropriate, transfer to the means of transport that will exit the country and actual departure for the final destination. Once the shipment has been certified by the transporter, the shipment authorization application becomes the customs export declaration generated by the electronic information services of the DIAN for signature by the exporter or customs agent, which completes the export process.

3.108. Decree No. 390 establishes the following export regimes: definitive export (definitive export, export of samples of no commercial value, and coffee export regime); temporary export; and special export regimes (postal traffic, express or courier delivery, export of household effects and export through networks and pipelines).

3.2.2 Taxes, charges and levies

3.109. Exports do not incur VAT or municipal and departmental taxes. However, contributions are charged on exports of mild coffee, unset emeralds and coal for the purpose of promoting the development of these sectors.

3.110. Coffee exports are subject to a coffee contribution of US\$0.06 per pound of mild coffee exported when the benchmark price of mild coffee is over US\$0.60 cents per pound. The contribution may never be less than US\$0.02 per pound of coffee exported.⁸⁰ The purpose of this contribution is to finance the National Coffee Fund.

3.111. The parafiscal contribution applied to unset emerald exports is 1% of the value of the exports in foreign currency, applying the representative market exchange rate on the date the contribution is paid for each export operation.⁸¹ The resources collected go to the National Emeralds Fund.

3.112. Coal exporters must provide the customs office of exportation with proof of payment of the royalties on coal production assessed on the reference price fixed by the Ministry of Mining and Energy. There is also a minimum price for coal exports, fixed on the basis of technical and commercial criteria, such as the weighted average f.o.b. price in Colombian ports over the

⁷⁹ Ibid., Article 343.

⁸⁰ Law No. 1.151 of 2007.

⁸¹ Decree No. 2.407 of 2000.

six months prior to the date of determination, after allowing for transport and port costs, the quality of the coal and the characteristics of the coalfield.⁸²

3.2.3 Export prohibitions, restrictions and licensing

3.113. The Higher Council for Foreign Trade and the Committee on Customs, Tariff and Foreign Trade Matters are authorized to recommend the adoption of measures to control exports, or even to prohibit them in order to ensure export quality or keep the domestic market supplied, as well as to determine packaging standards and other requirements.⁸³

3.114. In accordance with domestic legislation and the international agreements Colombia has entered into, exports of specific products are subject to some type of control, such as the requirement to obtain authorizations, certificates, approvals or other requirements. For example, for reasons of environmental conservation, exports of ozone-depleting substances are controlled. There are also restrictions on exports of wild fauna and flora of endangered species in order to comply with commitments under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

3.115. A marketing permit issued by the National Fishing and Aquaculture Authority (AUNAP) is required for exports of fishery resources for consumption or ornamental purposes. Each year the Ministry of Agriculture, Ministry of the Environment and AUNAP issue a resolution allocating quotas for such exports. The use of fishery resources is monitored by means of the approvals granted through the VUCE.

3.116. In order to administer its commitments under the Free Trade Agreement (FTA) with Mexico (1995), Colombia applies export quotas for cattle, dairy products, oils and flour, *inter alia*, which are administered by the Ministry of Agriculture and Rural Development.⁸⁴ The MinCIT, for its part, administers export quotas for sugar and sugar products agreed under the FTA with the United States. In the WTO framework, Colombia applies an export quota on unrefined sugar and panela exported to the United States.⁸⁵

3.117. Through Circular No. 038 of 29 December 2016, the MinCIT Foreign Trade Directorate updated the lists of products subject to control by the entities participating in the VUCE exports module (Table 3.16).

Table 3.16 Goods subject to export controls through the VUCE

Products	Entity	Requirement	Legal measure	Justification
Coal; precious metals; precious stones	ANM	Approval Payment of royalties	Laws No. 141 of 1994, No. 619 of 2000, No. 76 of 2002, No. 1.283 of 2009 and 1.530 of 2012, Decrees No. 600 of 1996 and No. 4.479 of 2009	Regulate the collection, distribution and transfer of royalties
Ornamental fish and fishery resources	AUNAP	Approval Marketing permit	Law No. 13 of 1990, Regulatory Decree No. 2.256 of 1991, Decrees No. 4.181 of 2011, No. 1.071 of 2015	Preserve fishery resources for consumption and ornamental purposes
Wild fauna and flora (Non-CITES)	ANLA	Non-CITES export permit	Decree No. 3573 of 2011 Resolutions 1.367 of 2000, No. 454 of 2001 and No. 2.202 of 2006	Environmental protection
Ozone-depleting substances	ANLA	Approval	Laws No. 30 of 1990, No. 29 of 1992, No. 306 of 1996, No. 618 of 2000 and No. 960 of 2005. Decrees No. 1.076 of 2015 and Res. No. 131 of 2014	Environmental protection; compliance with international conventions

⁸² National Mining Agency, Resolution No. 887 of 2014.

⁸³ Decree No. 2.553 of 1999.

⁸⁴ Decree No. 2.676 of 2011, as amended by Decrees No. 0015 and No. 1.545 of 2012.

⁸⁵ Postal Circular SOE No. 50 of 1990 of the Ministry of Trade, Industry and Tourism.

Products	Entity	Requirement	Legal measure	Justification
CITES endangered wild fauna and flora species	Ministry of the Environment and Sustainable Development	CITES export permit	Law No. 17 of 1981, Decrees No. 1.909 of 2000, No. 197 of 2004, No. 3.570 of 2011 and No. 1.076 of 2015, Res. No. 1.263 of 2006 and No. 2.652 of 2015	Prevent international trade in endangered species
Controlled chemical substances and products	Ministry of Justice and Law	Authorization; certificate of clean drug-trafficking record; export quotas	Decree No. 1.069 of 2015, CNE Res. No. 001 of 2015 and No. 008 of 2015, CAN Decisions No. 505 of 2001 and 602 of 2004, 1988 Vienna Convention	Public health
Agricultural products subject to export quotas to Mexico	MADR	Export quotas	Decree No. 2.676 of 2011, as amended by Decrees No. 0015 and No. 1.545 of 2012	Administration of quotas under the FTA with Mexico
Unrefined sugar and panela exported to the United States	MinCIT	Export quotas	MinCIT SOE Postal Circular No. 50 of 1990; Circular No. 024 of 2016, as amended by Circular No. 038 of 2016	Administration of quota allocated to the United States in the WTO
Sugar and sugar-containing products exported to the United States	MinCIT	Export quotas	Circular No. 024 of 2016, as amended by Circular No. 038 of 2016	Administration of quotas under the FTA with the United States

Note: ANLA: National Environmental Licensing Authority; ANM, National Mining Agency; AUNAP: National Aquaculture and Fisheries Authority; CNE: National Narcotic Drugs Council; MinCIT: Ministry of Trade, Industry and Tourism; MADR: Ministry of Agriculture and Rural Development.

Source: WTO Secretariat, based on MinCIT Circulars No. 024 of 2016 and No. 038 of 2016, and information provided by the authorities.

3.2.4 Export support and promotion

3.2.4.1 Support for exports

3.118. At the time of writing of this report, the latest notification submitted by Colombia pursuant to Article XVI:1 of the GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures dated from 30 May 2011. In that notification, Colombia stated that it had not granted any subsidies during the periods 2007-2009 and 2009-2011 and that, consequently, within its territory there were no national measures that needed to be notified under the above-mentioned provisions.⁸⁶

3.119. In 2016, Colombia notified the WTO that it had not granted any agricultural export subsidies or provided any food aid between 1 January and 31 December 2011.⁸⁷

3.2.4.1.1 Free Zones

3.120. In order to comply with its commitments under the WTO Agreement on Subsidies and Countervailing Measures, Colombia issued Law No. 1.004 of 2005 revising the free zone regime. During the review period, under Decree No. 1.289 of 17 June 2015 the MinCIT was tasked with formulating and administering policies on free zones, a function previously exercised by the DIAN. In addition, through Decree No. 2.147 of 23 December 2016 the free zone regime was again modified in order to unify and simplify the rules, streamline procedures, facilitate access to the regime and define the roles of the various entities involved in the process for declaring the establishment of free zones.⁸⁸ At the regional level, Article 57 of Andean Community Decision

⁸⁶ WTO document G/SCM/N/186/COL of 30 May 2011.

⁸⁷ WTO document G/AG/N/COL/52 of 10 August 2016.

⁸⁸ Decree No. 1.546 of 19 September 2017 deferred the entry into force of some provisions of Decree No. 2.147 of 2016, which are to be phased in. Some rules of Decree No. 2.685 of 1999 (customs legislation) remain in force, and the following resolutions apply: No. 3.025 of 10 September 2015 (form for the quarterly reports of free zones and free zone users), No. 0799 of May 2017 (designation of the technical secretariat of

No. 671 of 2007 on the harmonization of customs regimes provides that "free zones are governed by the provisions of the national legislation of each member country".

3.121. Legal persons set up in Colombia or branches of foreign companies, technology parks recognized by the MinCIT and port companies may be affiliated to the free zone regime. Users of free zones receive special tax, customs and foreign trade treatment.

3.122. Two kinds of free zone may be established in Colombia: permanent free zones and temporary free zones. Permanent free zones may consist of multiple users or a single enterprise (mono-enterprise or special zones). Offshore permanent free zones for the exploration and production of hydrocarbons may also be established.⁸⁹ Decree No. 2.147 of 2016 lays down the general and specific requirements governing the establishment of each of these types of zone.

3.2.4.1.1.1 Permanent free zones and special permanent free zones

3.123. A permanent free zone (ZFP) is a delimited area of the national territory in which multiple industrial users of goods or services and commercial users⁹⁰ may set up business. A special permanent free zone (ZFPE) is a delimited area of Colombian territory in which a single industrial user is established, whose business project is considered likely to have a significant economic and social impact by the MinCIT.⁹¹ The ZFPE regime is available to new goods-producing enterprises, dairy sector enterprises, agro-industrial projects, services enterprises (in general), health services and port services enterprises, as well as to already established enterprises provided they generate new investment. Free zones may be established in any part of the national territory.

3.124. Offshore permanent free zones (ZFPCA) are reserved exclusively for hydrocarbon technical evaluation, exploration and production activities, and are administered by the operator-user. Establishment of a ZFPCA requires a contract with the National Hydrocarbons Agency (ANH) and fulfilment of the detailed technical requirements set out in Decree No. 2.147 of 2016 (Article 40 et seq.). In addition to the user-operator, other users may also supply goods and services covered by the contract. The duration of a ZFPCA is equal to that of the contract between the operator and the ANH.⁹²

3.125. Colombia prohibits the pursuit of certain activities in free zones, namely: (i) the exploration, exploitation or extraction of non-renewable natural resources specified in the Mining and Petroleum Code; with the exception of the offshore permanent free zones; (ii) the provision of financial services; (iii) the provision of household public services, except for power generation or supply of national long-distance public telephony services; and (iv) any activity performed under a State concession contract, with the exception of port concessions.⁹³

3.126. The user-operator of a ZFP/ZFPE must be a legal person set up under Colombian law or established as a branch of a foreign company, have a net worth of at least 2,300 current statutory minimum monthly wage units (SMMLVs), comply with commitments of a technical nature, and be authorized by the MinCIT to administer, promote and develop one or more free zones.⁹⁴

3.127. In order to establish a ZFP/ZFPE, candidates must meet minimum investment, equity and job-creation requirements within an agreed time-limit, and submit an application to the MinCIT, which is the authority responsible for declaring the establishment of a free zone. The application must be accompanied by a Development Master Plan indicating the minimum requirements stipulated, as well as the estimated sales and a plan for the internationalization of the free zone.⁹⁵

the Intersectoral Free Zone Commission) and No. 1.451 of 31 July 2017 (Composition of the Intersectoral Free Zone Commission).

⁸⁹ At 31 December 2017, there were special conditions for free zones in the departments of Caquetá, Cauca, Huila, Nariño and Putumayo and the metropolitan area of Cúcuta.

⁹⁰ Commercial users engage in marketing or storage activities. They may not occupy an area greater than 15% of the ZFP (Decree No. 2.147, Article 4).

⁹¹ Decree No. 2.147 of 2016, Article 19 (paragraph).

⁹² Ibid., Chapter IV.

⁹³ Ibid., Article 21.

⁹⁴ The operator-user of a ZFPE must be a legal person other than the industrial user.

⁹⁵ The internationalization plan must specify, among other things, the action that will be taken to promote the free zone internationally, attract foreign investment, generate new business, incorporate

These requirements vary with the type of zone, the activity to be carried on and the department in which the free zone is located.⁹⁶ The Development Master Plan has to be approved by the Intersectoral Free Zone Commission, which consists of the Minister of Trade, Industry and Tourism, the Minister of Finance and Public Credit, the Director of the National Planning Department (DNP), the Director of the Tax and Customs Directorate, and a representative of the President of the Republic. Once the Development Master Plan has been approved and the approvals have been obtained from the DIAN (tax obligations and fiscal impact) and the DNP (economic impact), the MinCIT declares the establishment of the ZFP for a maximum of 30 years with the possibility of extension for a further 30 years; in the case of a ZFPE the maximum term is 30 years without possibility of extension.⁹⁷

3.128. In addition to these minimum requirements for ZFP/ZFPE operators, industrial and commercial users must satisfy investment and job-creation requirements that vary depending on their total assets (Table 3.17).

Table 3.17 Requirements applicable to industrial and commercial users of permanent free zones

Total assets (SMMLV ^a)	Investment (SMMLV ^a)	Direct employment
Less than 500	-	7 ^b
501-5,000	1,000	20
5,001-30,000	5,000	30
Over 30,000	11,500	50

a The current statutory minimum monthly wage (SMMLV) at 1 January 2017 was Col\$737,717; the amount is adjusted annually.

b Project start-up: three jobs; second year: two more jobs; third year: two more jobs.

Source: Article 80 of Decree No. 2.147 of 2016.

3.129. ZFP/ZFPE users benefit from tax concessions and simplified customs and foreign trade formalities (Table 3.18). The main advantages include: a single income-tax rate of 20%, compared with the general rate of 33%.⁹⁸ Goods introduced into the ZFP/ZFPEs are exempt from customs taxes (VAT and duties) and the foreign goods may remain in the free zones indefinitely. There is no restriction on the sale by users of ZFP/ZFPEs to the national customs territory of goods or services produced in the free zone provided they pay the corresponding taxes on the foreign component.⁹⁹ Exports from ZFP/ZFPEs to foreign markets are also free and benefit from the tax incentives granted to exports from the national customs territory, such as the Tax Reimbursement Certificate (CERT) and exemption from or refund of VAT.¹⁰⁰ Sales of raw materials, parts, inputs and finished goods from the national customs territory to the free zones or between free zones are exempt from VAT (with an entitlement to reimbursement).¹⁰¹

cutting-edge technology, and promote import substitution in the case of a ZFP, as well as international marketing strategies for products and services in the case of the ZFPEs.

⁹⁶ During the review period, there was a temporary regime for ZFPEs in the departments of Caquetá, Cauca, Huila, Nariño, Putumayo and the metropolitan area of Cúcuta (department of Norte de Santander). The time-limit for affiliation to this regime was 31 December 2017 (Decree No. 2.147, Article 36).

⁹⁷ Decree No. 2.147 of 2016, Article 23.

⁹⁸ Tax Statute (Article 240-1), as amended by Law No. 1.819 of 2016 (Article 101), which raised the income tax rate for ZFP/ZFPE users from 15% to 20% as of January 2017.

⁹⁹ Pursuant to Article 112 of Decree No. 2.147 of 2016, in force since September 2017, the tax base for the application of customs duties on goods imported from a free zone is determined on the f.o.b. value of each of the goods and the foreign raw materials and inputs involved in the production process of the finished final good, adding the cost of delivery to the point of importation into the national customs territory; and the customs duties to be paid correspond to those of the tariff line of the final good. In the case of VAT on imports of finished goods produced in a free zone with exported domestic components, the tax base is the customs value plus the customs duties, adding the value of the production costs and without disallowing the value of the exported domestic component. This tax base does not apply to companies declared as a free zone prior to 31 December 2012 or those already engaged in the procedure with the Intersectoral Free Zone Commission or the DIAN at that date (Tax Statute, Article 459).

¹⁰⁰ The CERT applies only to the value added in the free zone, without the inclusion of the value of the raw materials used in the production, processing or working of the goods exported from the national customs territory. At present, the CERT is 0% (information provided by the authorities).

¹⁰¹ Tax Statute, Article 481.

Table 3.18 Benefits for free zone users

Description	Legal basis
Tax concessions	
Single income tax rate of 20% for industrial users and operators	Law No. 1.004 of 2005, Article 5; Tax Statute, Article 240-1; Law No. 1.819 of 2016
Sales of raw materials, parts, inputs and finished goods between users exempted from VAT (entitled to refund)	Law No. 1.004 of 2005, Article 7; and Tax Statute, Articles 481 and 850
Customs concessions	
Exemption from payment of customs taxes (duty and VAT) on the introduction of goods from abroad while they remain in the free zone	Law No. 1.004 of 2005, Articles 1, 394 and 395
Foreign trade benefits	
Goods from abroad can be introduced into a free zone and are not considered an import provided that the transport document shows that they are for the account of a user. Export operations are authorized by the operator-user; no shipping authorization or export declaration is required	Decree No. 2.685 of 1999
Possibility of temporarily removing the raw materials for partial processing outside the free zone for up to nine months	Decree No. 2.685 of 1999, Article 406
No restriction on sale to third countries and to the national territory of goods or services produced in the free zone	Law No. 1.004 of 2005 and Decree No. 2.147 of 2016
Exemption from VAT on purchases of raw materials, parts, inputs and finished goods by free zone users from suppliers in the national customs territory and between free zone users, provided they are necessary for advancing the business purpose of the users concerned	Tax Statute, Article 481
No time-limit on how long goods entering the free zone may remain	Law No. 1.004 of 2005, Decrees Nos. 2.685 of 1999 and 2.147 of 2016

Source: Ministry of Trade, Industry and Tourism.

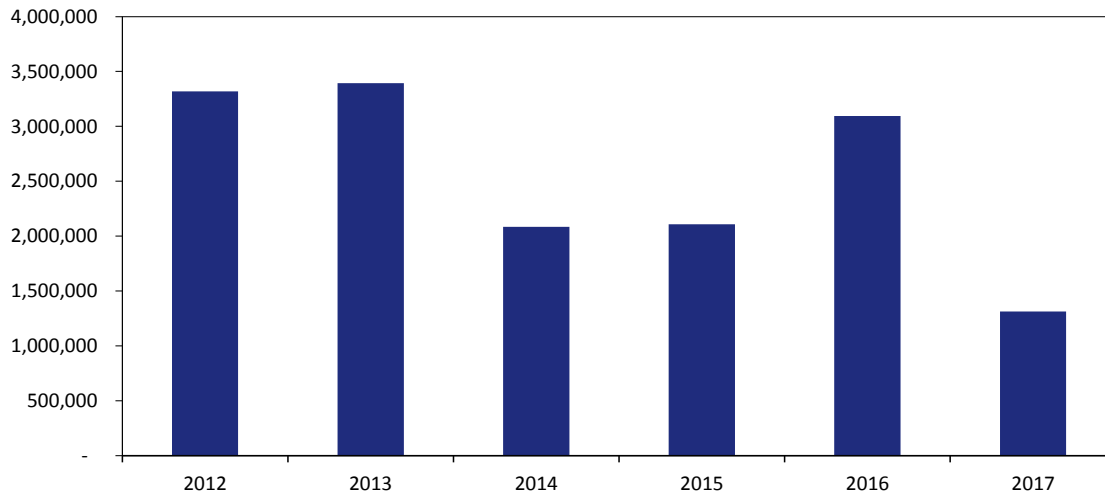
3.130. According to information from the MinCIT, at June 2017 there were 111 permanent free zones (88 at end 2011), operating in 20 departments. Out of the total number of free zones, 43 were ZFPs and 68 were ZFPEs. At June 2017, the ZFP/ZFPEs had generated a total of Col\$41.5 trillion of investment and about 175,000 direct and indirect jobs. At the same date, according to MinCIT information, 934 companies were operating in the free zones in the following sectors: 55% in industry (cement, gypsum board, glass, ceramics, toiletries, gases, refining, paper, parts and components, etc.); 33% in services (health services, port services, call centres and power generation); and 12% in agro-industrial projects (palm oil, fruit, foods, biofuels, sugar and ethanol).

3.131. The National Administrative Department of Statistics (DANE) publishes statistics on the foreign trade of the free zones.¹⁰² The data show that exports from these zones (ZFPs and ZFPEs) fluctuated during the review period (Chart 3.2). After growing in 2012 and peaking in 2013 (US\$3,393,600 f.o.b.), they decreased in 2014-2015, before rising again in 2016. However, the data for January-July 2017 show a decline (-24.5%) compared with the same period of 2016, primarily owing to the fall in exports to the United States, the main market. The value of imports by free zones fell gradually from 2012, reaching US\$2,041,086 c.i.f. at end 2016. Despite this trend, imports exceeded exports between January and July 2017, resulting in a trade deficit for free zones.

¹⁰² Online information from DANE, viewed at: <https://www.dane.gov.co/index.php/estadisticas-por-tema/comercio-internacional/zonas-francas/historicos-zonas-francas>.

Chart 3.2 Exports from free zones, January 2012-July 2017

(US\$ thousand, f.o.b.)



Source: Online information from DANE, viewed at: <http://www.dane.gov.co/index.php/estadisticas-por-tema/comercio-internacional/zonas-francas>.

3.2.4.1.1.2 Temporary free zones

3.132. Under Decree No. 2.147 of 2016, the MinCIT may declare as temporary free zones (ZFT) places where national or international fairs, exhibitions, congresses and seminars of importance for Colombia's economy and international trade are being held. In order to establish a ZFT, the entity wishing to administer it must submit information on its existence and legal representation; the boundaries and exact delimitation of the zone; the nature and duration of the event; and the type of goods that will enter the ZFT.¹⁰³ The declaration of temporary free zone status covers a period comprising the duration of the event, the three months prior to the event and six months following the event; the latter period may be extended once only for up to the same length of time. There are two kinds of users: the manager-user and the exhibitor-user. Imports of goods into temporary free zones benefit from the same facilities with respect to customs formalities as imports into ZFP/ZFPEs (Table 3.19). Once the period of establishment of the temporary zone expires, any goods used in the exhibition that are not exported, imported or transported to another free zone are deemed to have been legally abandoned.

3.2.4.1.2 Tax Reimbursement Certificate (CERT)

3.133. The CERT, created by Law No. 48 of 1983, is aimed at promoting exports of goods and services through the refund of all or part of the indirect taxes and charges and contributions paid by the exporter. Only definitive exports of goods manufactured or produced in Colombia are entitled to the CERT, which is calculated on the basis of a formula that includes a percentage level of refund fixed by the MinCIT, which can vary according to the product and the export destination.¹⁰⁴ CERTs may be used for the payment of income tax and supplementary taxes, VAT and tariff duties, among others. The CERT is used when justified by the prevailing economic conditions. It was last activated in 2011 with a percentage refund level of 1.5% for exports shipped between 1 January and 30 April 2011, and the certificates expired on 31 December 2012.¹⁰⁵ The authorities have indicated that the CERT was not activated in the period 2012 to 2017.¹⁰⁶

¹⁰³ Article 57 of Decree No. 2.147 of 2016.

¹⁰⁴ Exports to CAN member countries are not eligible for the CERT.

¹⁰⁵ Pursuant to Decrees No. 3045 of 23 August 2011 and No. 3180 of 2 September 2011.

¹⁰⁶ In a communication submitted to the Committee on Subsidies and Countervailing Measures, Colombia stated that the CERT was phased out pursuant to Decree No. 1.989 of 2002, WTO document G/SCM/Q2/COL/10 of 24 September 2002.

3.2.4.1.3 International Trading Companies (CI)

3.134. The special regime for International Trading Companies (CI), governed by Decree No. 67 of 1979, allows the purchase of goods on the domestic market with exemption from VAT, provided they are exported within six months following the issuance of the certificate to the supplier.¹⁰⁷ In addition, purchases by CIs are not subject to withholding tax. In order to apply for enrolment as a CI, it is necessary to set up as an international trading company with the business purpose of engaging in foreign trade operations, obtain a Tax Identification Number (NIT), enrol in the national register of exporters, and draw up a market study.¹⁰⁸ The MinCIT is responsible for administering this instrument. The authorities indicated that there were 265 authorized CIs at December 2017.

3.2.4.2 Export promotion

3.135. ProColombia (formerly Proexport) is a trust whose purpose is to promote exports (other than mining and energy exports), foreign investment, the expansion of Colombian companies abroad, tourism and Colombia's country brand.¹⁰⁹ Through its offices in Colombia and representative offices abroad, ProColombia promotes international business by various means, including the identification of market opportunities; design of market penetration strategies; internationalization of companies; support for the design of action plans; business contacts; support for foreign businesses interested in procuring Colombian goods and services or investing in Colombia; and partnerships between Colombian and foreign entities, both public and private, in order to expand the availability of resources.¹¹⁰

3.136. With regard specifically to export promotion, ProColombia provides information on business opportunities and offers training programmes and support for tailoring exportable supply to demand, as well as programmes to facilitate export processes. As a result of ProColombia's work, 7,197 companies reported that they had business opportunities with international purchasers between January 2012 and August 2017, and more than 5,132 companies reported that they had done business worth a total of 11,740 million (Table 3.19). The sectors concerned included agro-industry, textiles and clothing, flowers and live plants, engineering and construction services, metalworking, etc. ProColombia's budget allocated to export promotion activities totalled US\$112 million between 2012 and August 2017.

Table 3.19 ProColombia: export promotion performance, 2012-2017

Year	Number of companies with business opportunities	Number of companies with business	Amount of business (US\$ million)	Export promotion budget ^b (US\$ million)
2012	1,928	1,722	1,554	24
2013	2,102	1,923	1,977	24
2014	3,144	2,207	1,962	24
2015	3,239	2,289	2,011	15
2016	3,202	2,174	2,373	16
2017 ^a	2,808	1,568	1,862	9

a Data for 2017 cover January to August.

b Includes payroll costs of staff devoted to export promotion; average exchange rate used.

Source: Information provided by ProColombia.

3.2.4.3 Export financing, insurance and guarantees

3.137. The Foreign Trade Bank of Colombia (Bancoldex), a semi-public limited company having as its main shareholder the MinCIT (91.9%)¹¹¹, is a development bank supervised by the Financial

¹⁰⁷ Tax Statute, Articles 479 and 481.

¹⁰⁸ Online information from the Ministry of Trade, Industry and Tourism, viewed at: http://www.mincit.gov.co/publicaciones/10332/enque_consiste_el_regimen_como_sociedad_de_comercializacion_internacional_ci.

¹⁰⁹ The name Proexport was changed to ProColombia in 2014 to reflect the wider scope of its activities, which are not confined to export promotion.

¹¹⁰ Online information from ProColombia, viewed at: <http://www.procolombia.co/procolombia/que-es-procolombia/objetivos-y-funciones>.

¹¹¹ The other main shareholder is the Ministry of Finance and Credit (7.9%). Online information from Bancoldex, viewed at: <http://www.bancoldex.com/contenido/contenido.aspx?catID=92&conID=509>.

Supervisory Authority of Colombia, which functions as a second-tier bank through banks and other financial intermediaries to meet the credit needs of Colombian enterprises, whether they export or not. Abroad, Bancoldex offers financing to buyers of Colombian goods and services, through pre-authorized banks. The interest rate on loans granted by Bancoldex corresponds to the rediscount rate granted to the intermediary plus the additional points (spread) agreed between the intermediary and the enterprise that received the funds.

3.138. The Bancoldex products available to exporters include second-tier credit lines in US dollars for export financing, correspondent bank credit, discounting of trade documents, and second-tier credit lines in Colombian pesos for both working capital and investments (Section 3.3.1). According to the authorities, exporters account for 26% of the total Bancoldex portfolio. Between 2012 and 2016, an average of US\$491.3 million annually was earmarked for export financing (Table 3.20).

Table 3.20 Bancoldex: Disbursements to exporters 2012-2016

Year	Col\$ thousand	US\$
2012	764,564,729	425,176,243
2013	971,544,586	519,848,352
2014	1,337,542,894	668,544,142
2015	1,065,477,973	387,944,515
2016	1,389,633,856	455,107,341

Source: Information provided by Bancoldex.

3.139. Colombia has no official export insurance or guarantee programmes. Export credit insurance is provided by private insurers. According to the authorities, in November 2017 export credit insurance market shares were as follows: Solounión (55.1% of premiums written); Segurexpo, a Bancoldex subsidiary (33.8%), Coface (11.0%) and Seguros Mundial (0.1%).

3.3 Measures affecting production and trade

3.3.1 Incentives

3.140. One of the objectives of the National Development Plan (2014-2018) is to boost competitiveness by diversifying the supply of goods and services and exploiting comparative advantages. To this end, Colombia has a range of tax, credit and promotion and support incentives used both to attract domestic and foreign investment and to promote the development of specific sectors. The incentive schemes sometimes adjust their terms and conditions according to the type of beneficiary. Thus, in Colombia the business segment is classified into micro, small, medium and large enterprises; this classification is governed by Law No. 590 of 2000, known as the MSME Law, and its amendments (Law No. 905 of 2004).

3.3.1.1 Credit programmes

3.141. Bancoldex offers both financial and non-financial products and services to Colombian enterprises, meeting the credit needs of both exporting and non-exporting companies. Bancoldex acts as a second-tier bank, providing loans to users through authorized financial intermediaries, which include the banking system, financial corporations, finance companies, credit unions, financial NGOs and employee funds in order to promote economic development.¹¹²

3.142. Bancoldex extends two kinds of credit, namely credit lines and special credit limit arrangements. Credit lines may be for working capital and business support and modernization. Through credits for working capital and entrepreneurial support, Bancoldex finances, in pesos or dollars, the costs, operating expenses and other liquidity needs of businesses for their operations and development. These loans may be granted to both natural and legal persons classed as micro,

¹¹² Bancoldex is State-owned: 91.9% of the capital is held by the MinCIT, 7.9% by the Ministry of Finance and Credit and 0.2% by other shareholders. As a second-tier bank, Bancoldex supports the financing of companies by granting loans through financial intermediaries with a Bancoldex credit line such as banks, financial corporations, commercial financing companies, financial cooperatives, savings and credit cooperatives, multi-asset cooperatives, employee funds, compensation funds and specialized micro-credit foundations.

small, medium and large enterprises in all economic sectors for 100% of their needs.¹¹³ Loans in pesos are for up to five years, including a grace period up to three years, while US dollar loans are granted for up to five years with a grace period of up to one year. Through its business modernization loans, Bancoldex finances investment to increase production capacity, improve production processes, adopt new technology and innovation and for environmental conservation. These loans may be granted to both natural and legal persons in all economic sectors, and to finance 100% of their credit needs. They have a maximum term of ten years including a grace period of up to three years for loans in pesos, and up to ten years including a grace period of up to one year for loans in US dollars.

3.143. Through its special credit limit arrangements, Bancoldex makes funds available to beneficiaries on preferential terms up to a specified limit for a specific need or business segment. These credit lines arise out of agreements that Bancoldex signs and executes with ministries, municipal authorities, departmental governments and chambers of commerce, among other entities, in order to support business development initiatives, plans and programmes.

3.144. In 2016, Bancoldex granted loans totalling Col\$3,657 billion (about US\$1.3 billion) (Table 3.21), of which 25.6% went to manufacturing, 23.3% to trade, 15.9% to financial services, 14.2% to transport and 12.3% to other services.¹¹⁴ By type of user, in 2016 34.1% went to SMEs, 24% to large enterprises, 20.8% to micro-enterprises and 21.1% to others.

Table 3.21 Loans granted by Bancoldex, by user and sector, 2012-2016

(Col\$ billion)

	2012	2013	2014	2015	2016
Total	3,184	3,731	4,507	3,855	3,657
Type of user					
Large enterprises	710	663	883	573	877
SMEs	1,074	1,399	1,356	1,272	1,247
Micro-enterprises	530	679	625	620	762
Other	869	991	1,643	1,390	771
Sectors					
Agricultural and agro-industrial	59	80	59	62	69
Wholesale and retail trade	688	887	812	794	867
Mining	130	35	15	37	60
Manufacturing	347	887	1,362	765	946
Financial services	622	949	1,400	1,115	453
Transport	501	192	301	396	522
Other services	126	90	70	442	459
Construction	245	99	99	142	174
Accommodation and catering services	60	90	68	81	83

Source: Bancoldex.

3.145. Bancoldex also offers financing for purchasers of Colombian goods and services, through a financial intermediary abroad, to finance, in US dollars or euros, up to 100% of the value of the good or service. Bancoldex establishes the cost of the resources made available under these arrangements upon receipt of the formal request from the foreign financial intermediary concerned. The term of the financing depends on the type of good or service and the rating assigned to the foreign financial intermediary according to the risk conditions in each market. Bancoldex placed Col\$ 4,367 million through this type of product in 2016.

3.146. In addition, through a product entitled *Liquidex COP – USD*, Bancoldex enables exporters to receive advance payment of credit sale invoices (Table 3.22). The product consists in the discounted purchase without recourse of negotiable invoices originating from domestic trading and/or exports which are covered by a credit insurance policy issued by Segurexpo de Colombia S.A. or by Solución Colombia Seguro de Crédito S.A. The operation takes the form of endorsement

¹¹³ Online information from Bancoldex, viewed at: <https://www.bancoldex.com/Modalidades-de-credito337/Capital-de-trabajo-y-sostenimiento-empresarial.aspx>.

¹¹⁴ Online information from the MinCIT, viewed at: <http://www.mincit.gov.co/publicaciones/34800/descargar.php?id=77046>.

of the discounted invoice in favour of Bancoldex. In 2016, Bancoldex placed Col\$22,376 million through this product.¹¹⁵

Table 3.22 Bancoldex Loan Portfolio 2012-2016

Product	Description
Correspondent loan	Finances the purchase of Colombian products and services for companies abroad through correspondent entities in each country.
Second-tier credit line in US\$ for export financing	Provides finance for Colombian businesses with foreign trade activities (including operating and production costs, marketing and promotion of goods and services) through local financial intermediaries.
Document-discounting instruments	Facilitates export negotiations: purchase of export transaction documents covered by insurance or bank guarantee.
Liquidex COP – US\$	Discount purchase of up to 93% of the value of negotiable invoices originating from domestic and/or export transactions for goods or services covered under the credit insurance policy issued by Segurexpo de Colombia S.A. or Solución Colombia Seguro de Crédito S.A.
Liquidex production chains	Discounting of negotiable invoices and/or bills of exchange from credit sales of goods and/or services in Colombian pesos.
Second-tier credit line in Col\$ for working capital	Finances needs of enterprises engaged in foreign trading, including operating and production costs, marketing and promotion of goods and services through local financial intermediaries.
Second-tier credit lines in Col\$ for investment ^a	Finances investment plans to improve the productivity and competitiveness of exporting companies.

a These may be standard credit lines at the best terms offered by Bancoldex and special credit limits granting preferential conditions with the support of third parties that contribute resources in order to improve the terms and conditions (terms, rates and grace periods).

Source: Information provided by the authorities.

3.147. The Fund for Financing the Agricultural Sector (FINAGRO), set up under Law No. 16 of 1990, provides finance for the agricultural sector. FINAGRO is a semi-public company, organized as a credit institution, with its own regime, linked to the Ministry of Agriculture and Rural Development and supervised by the Financial Supervisory Authority. It acts as a second-tier establishment and finances the working and investment capital required for production, marketing and primary processing (Section 4.1).¹¹⁶ In addition to production, marketing and processing and support services for agricultural, livestock, fishing, fish farming and forestry production, financing is available for rural activities such as crafts, rural tourism, metal and gemstone working, and mining. FINAGRO also offers emergency funding for farmers in the event of loss of crops or livestock.

3.148. Colombia also has loan guarantee funds financed from public resources for various production sectors, such as the National Guarantee Fund (FNG) (see below) and the Agricultural Guarantee Fund (FAG).

3.149. The FAG guarantees loans and micro-credit to natural or legal persons to finance projects in the agricultural and rural sector (Section 4.1). The FAG is also authorized to support operations on agricultural and agro-industrial commodity exchanges.¹¹⁷ Guarantees granted by the FAG to agricultural producers totalled Col\$2,360 billion (about US\$840 million) in 2016, in favour of 240,441 recipients.¹¹⁸

3.3.1.2 Micro, small and medium enterprises (MSME)

3.150. The Colombian authorities have continued to promote the MSME sector during the period covered by this review. Law No. 590 of 2000, or MSME Law, and its amendments (Laws No. 905 of 2004 and No. 1.450 of 2011) provide a set of tools and instruments for this purpose. The aim is to promote the comprehensive development of MSMEs because of their potential to foster job

¹¹⁵ MinCIT (2017), High-level Councils of Small and Medium Enterprises and of Micro-enterprises, *Informe Anual de Gestión y Resultados 2016*.

¹¹⁶ Online information from FINAGRO, viewed at: <https://www.finagro.com.co/qui%C3%A9nes-somos/informaci%C3%B3n-institucional>.

¹¹⁷ Online information from the FAG, viewed at: <https://www.finagro.com.co/productos-y-servicios/FAG>.

¹¹⁸ This amount is included in the total disbursements of FINAGRO. MINCIT (2017), High-level Councils of Small and Medium Enterprises and of Micro-enterprises, *Informe Anual de Gestión y Resultados 2016*.

creation, regional development, integration among economic sectors and productive use of small-scale capital. The Law also seeks to boost the formation of highly competitive markets by promoting the ongoing creation and operation of the largest possible number of MSMEs.

3.151. The criteria for determining whether an enterprise is classed as micro, small or medium-sized are its total net worth, measured in SMMLVs, and number of employees (Table 3.23). Other criteria may also be used, such as the value of gross annual sales; pursuant to Law No. 1.450 of 2011, this will become the decisive criterion for the purposes of the benefits granted to micro, small and medium-sized enterprises once the implementing regulations for the Law have been issued. Until then, the definitions set out in Law No. 905 of 2004 remain in force.¹¹⁹

Table 3.23 Classification of enterprises in Colombia, 2017

Category	Total assets (SMMLVs)	Number of employees
Micro-enterprise	Up to 500 (Col\$368,858,500)	Up to 10
Small	Over 500 and up to 5,000 (Col\$3,688,585,000)	10 to 50
Medium	Over 5,000 and up to 30,000 (Col\$22,131,510,000)	51 to 100
Large	Over 30,000 (Col\$22,131,510,000)	Over 100

Note: SMMLV for the year 2017: Col\$737,717.

Source: Law No. 905 of 2004.

3.152. Law No. 1.429 of 2010 established fiscal incentives to promote the creation of MSMEs, by authorizing regional entities to grant special tax treatment (exemption periods, lower rates) providing preferential conditions for these enterprises. It also exempted MSMEs created before 31 December 2014 from the parafiscal contributions (contributions to the National Apprenticeship Service (SENA) and the Colombian Family Welfare Institute (ICBF)), as well as from the Commercial Register and income tax for the first two years of operation, and applied a reduced rate from the third to the fifth year of their operation. Law No. 1.819 of 2016 extended these benefits until 31 December 2016, and also provided that enterprises employing workers considered vulnerable on account of their low employability could discount the value of their parafiscal contributions from their income tax. Enterprises located in the departments of Amazonas, Guainía and Vaupés are exempted for eight years and benefit from reduced rates between the ninth and eleventh year.¹²⁰

3.153. The MSME Law created the framework for financial entities specializing in micro-enterprise credit to channel their resources into this segment. These resources may only be granted to micro-enterprises and may not exceed 120 current statutory minimum monthly wage units (SMLMV).

3.154. Law No. 1.450 of 2011 created the Modernization and Innovation Fund for Micro, Small and Medium Enterprises in order to promote MSMEs. The Fund operates as a separate account management system of Bancoldex.¹²¹ Table 3.24 shows Bancoldex disbursements on behalf of MSMEs as well as the number of beneficiary enterprises. It may be seen that in 2016 the disbursements totalled Col\$1,900 billion (about US\$680 million) in favour of 114,922 enterprises.

Table 3.24 Bancoldex: Credit operations for MSMEs, 2012-2016

Year/Portfolio type	Number of recipient units	Amount disbursed (Col\$ billion)
2012		
SMEs	7,069	1,069.7
Micro-enterprises	83,200	526.9
Overall total	90,269	1,596.6
2013		
SMEs	7,150	1,398.6
Micro-enterprises	157,866	689.1
Overall total	165,866	2,087.7
2014		
SMEs	5,722	1,356.1
Micro-enterprises	133,014	624.9
Overall total	138,736	1,981.0

¹¹⁹ Article 43 of Law No. 1.450 of 16 June 2011.

¹²⁰ Law No. 1.429 of 29 December 2010.

¹²¹ Article 44 of Law No. 1.450 of 2011, amending Law No. 590 of 2000.

Year/Portfolio type	Number of recipient units	Amount disbursed (Col\$ billion)
2015		
SMEs	6,202	1,272.1
Micro-enterprises	106,239	611.4
Overall total	112,441	1,883.5
2016		
SMEs	4,600	1,258.0
Micro-enterprises	110,322	645.9
Overall total	114,922	1,903.9

Source: Bancoldex.

3.155. The National Support System for MSMEs, created by Article 3 of Law No. 905 of 2004, amending Article 3 of the Law on MSMEs, organizes the mechanisms of financial and non-financial support for such enterprises, and consists of the High-level Council of Small and Medium-sized Enterprises, the High-level Council of Micro-enterprises and the Regional MSME Councils. The High-level Council of Small and Medium-Sized Enterprises, set up under Law No. 590 of 2000, as amended by Law No. 905 of 2004, and regulated by Decision 001 of 2012 and Decision 002 of 2013, and the High-Level Council of Micro-enterprises, regulated by Decision 001 of 2012 and Decision 002 of 2013, consisting of public and private sector representatives, are intended to contribute to the formulation and adoption of general, cross-cutting, sectoral and regional public policies for the promotion of MSMEs in order to boost this segment. The Regional MSME Councils are governed by MinCIT Resolution No. 3.205 of 2008.

3.156. The National Guarantee Fund (FNG), created in 1982, linked to the MinCIT and subject to supervision by the Financial Supervisory Authority, is the entity through which the Government facilitates access to credit for MSMEs and purchasers of social housing by providing guarantees through over 60 financial entities.¹²² To obtain an FNG guarantee, the enterprise or interested party must apply to the financial intermediary from which it intends to seek a loan.¹²³ All MSMEs legally domiciled in Colombia, whether natural or legal persons, are eligible for the FNG. The financing is available for enterprises in all economic sectors except for primary agricultural activities. The Law on MSMEs authorizes the FNG to grant special guarantee conditions for enterprises that are significant job creators, for 80% of the value of the credit requested by the establishment. FNG disbursements during the period 2012-July 2017 are shown in Table 3.25.

Table 3.25 Cumulative disbursements by the National Guarantee Fund, 2012-2017

(Col\$ billion)

Sectors	2012	2013	2014	2015	2016	2017 (July)
Commerce	3,951	4,657	4,903	4,711	4,899	2,873
Construction	643	635	798	848	938	779
Manufacturing	1,378	1,588	1,597	1,602	1,733	1,078
Other	553	529	571	517	503	194
Services	1,838	2,222	2,509	2,340	2,475	1,571
Transport	551	635	684	656	614	390
Tourism	275	318	342	265	253	124
Total	9,189	10,584	11,405	10,940	11,416	7,007

Source: National Guarantee Fund.

3.157. In the course of its first three years of operation, iNNpulsa Colombia, which began in 2012 as the Development and Innovation Unit (set up under Article 46 of Law No. 1.450 of 2011), mobilized resources totalling more than Col\$364 billion with 3,859 beneficiaries in the country's 32 departments. In 2016 iNNpulsa Colombia mobilized an estimated Col\$106 billion, of which Col\$39 billion came from the private sector.¹²⁴ Its primary objective is to foster the growth of production sectors by seeking partnerships between the public, private and academic sectors as a fundamental instrument for promoting innovation. In its activities it uses a set of industrial policy tools, such as calls for applications for co-financed, non-refundable resources.

¹²² The FNG shareholders are: the State, with 62% of the total, Bancoldex, 30%, Findeter, 8%, and private shareholders, 0.01%.

¹²³ Online information from the FNG, viewed at: <http://www.fng.gov.co/fng/portal/apps/php/index.get>.

¹²⁴ iNNpulsa Colombia (2017), *Informe de Gestión 2016*. Viewed at: https://www.innpulsacolombia.com/sites/default/files/informe_de_gestion_2016.pdf.

3.158. MSMEs are also eligible for FINAGRO loans and FAG guarantees. In 2016, FINAGRO reported disbursements of Col\$12,857 billion (US\$4.6 million) to a total of 600,752 MSME beneficiaries; 80.7% of this amount consisted of credit to agricultural and/or rural agro-industrial producers and providers of agricultural support services.¹²⁵ Over the period 2012-2015, FINAGRO disbursed a total of Col\$18,578 billion for MSMEs; guarantees granted by the FAG to MSMEs over the same period totalled Col\$9,657 billion.

3.159. The National MSME System presents an annual plan of action for MSMEs defining the strategies, programmes and activities to be carried out in the course of the year for these enterprises, as well as the resources that will be made available by the various entities comprising the National Support System, in order to foster and contribute to greater productivity and competitiveness. Initial estimates under the 2017 Action Plan were for 368,063 enterprises to receive approximately Col\$17,890 million (US\$6.4 million), including both non-refundable and refundable resources.

3.3.1.3 Support for research, development and improved competitiveness

3.160. Colombia supports scientific and technological development through the Administrative Department of Science, Technology and Innovation (COLCIENCIAS), created under Law No. 1.286 of 2009. COLCIENCIAS is the agency that runs the National System of Science, Technology and Innovation (SNCTI), which is charged with formulating, coordinating and implementing government policy on science and technology, as well as financing research, innovation and technological development projects and research centres. Decree No. 849 of 2016 redefined the functions of COLCIENCIAS and gave it a greater role in the formulation and promotion of science, technology and innovation policies.¹²⁶

3.161. Through COLCIENCIAS, the Government grants tax incentives to persons or enterprises that undertake innovation or technological development activities. In order to regulate the benefits granted for science, technology and innovation, Law No. 1.286 of 2009 created the National Council on Tax Benefits, which is responsible for laying down the criteria and conditions for designating projects as scientific, technological and innovative. The incentives available to those investing directly or through research or technological development centres recognized by COLCIENCIAS in projects classified as scientific, technological or technological innovation projects by the National Science and Technology Council, included, until 31 December 2016, the deduction from taxable income of 175% of the amount invested in the period in which the investment was made.

3.162. The Structural Tax Reform Law, No. 1.819 of 2016, included new provisions for the grant of tax benefits in science, technology and innovation, replacing the income tax deduction of 175% of the value of the investment in the corresponding products by a 100% deduction and a tax discount of 25% of the investment made. This benefit applies to investment in new projects as of 1 January 2017; projects approved prior to that date continue to benefit from the 175% deduction.

3.163. In order to be able to access these benefits, candidates must reply to the call for applications issued annually by COLCIENCIAS between September and December for the allocation of quotas for the following fiscal period. If a quota is not fully allocated, a second window is opened that is available between March and August for the registration of projects, or a new call for applications may be issued.

3.3.1.4 Special Import-Export Systems or Plan Vallejo

3.164. The Plan Vallejo, or Special Import-Export Systems (SEIEX), is a mechanism under which goods may be imported temporarily with total or partial exemption from or suspension of customs duties and taxes or deferral or elimination of payment of VAT. The Plan covers imports of inputs, raw materials, intermediate goods, capital goods and spare parts used in the production of goods for export or for the provision of services directly linked to the production or export of such goods

¹²⁵ MINCIT (2017), High-level Councils of Small and Medium Enterprises and of Micro-enterprises, *Informe Anual de Gestión y Resultados 2016*.

¹²⁶ Online information from COLCIENCIAS, viewed at: http://www.colciencias.gov.co/quienes_somos/sobre_colciencias/funciones.

or for the export of services. The benefit consists of the allocation of an import quota with export-linked tax benefits. The import quota on concessionary terms varies according to whether it applies to inputs or raw materials and according to the programme. The concessionary nature of these programmes has been considerably eroded by the recent decision to reduce permanently to 0% the duty applied to capital goods and raw materials not produced in Colombia.

3.165. The legal framework of the Plan Vallejo is established by Decree No. 444/67 (raw materials and inputs), Decree No. 688/67 (capital goods and spare parts) and Decree No. 631/85. The Plan Vallejo was extended to services in 2001 by Decree No. 2.331/01, and subsequently Decrees No. 2.099/08 and No. 2.100/08. The DIAN was responsible for administering the Plan Vallejo between 2005 and 2015. Under Decree No. 1.289/15, as amended by Decree No. 1.346/16, this responsibility was transferred to the MinCIT. Resolution No. 1.649/16 and Resolution 108/17 introduced changes in the application of the Plan Vallejo. Resolution No. 1.649/16 revived the Evaluation Committee responsible for formulating and adopting special criteria for the implementation and monitoring of the SEIEX programmes. It also provided for submission of documentation through the electronic information system and established that the import quota would be monitored electronically with information from the DIAN.

3.166. The Plan Vallejo is open to both businesses and business associations. The latter may access the SEIEX by fulfilling certain conditions, which include maintaining the independence of each of the associates with respect to exchange, tax and customs obligations in connection with their imports through the SEIEX. The import quota assigned to a SEIEX programme in the business association category is the average resulting from the evaluation of each of its member companies.

3.167. The Plan Vallejo covers several incentive programmes that include export requirements. The beneficiaries, whether natural or legal persons, may be entrepreneurs, producers, exporters or traders. Access to the Plan Vallejo is available to importers of raw materials or intermediate goods who produce and export the end product, importers and producers of intermediate products that are sold to an exporter, and providers of services linked with the production of goods for export. The benefits consist of tariff exemptions and exemption from or deferral of VAT payment. The export commitment conditioning eligibility for the SEIEX programmes ranges from 60% of the products produced using the imported raw materials, in the case of the publishing sector, up to 100% of the imports in the case of imports under the raw materials or inward processing (maquila) regimes. Table 3.26 presents the programmes classified under the Plan Vallejo in 2017.

Table 3.26 Programmes classified under the Plan Vallejo (SEIEX) in 2017

Programme	Type of programme	Benefits	Guarantee	Export commitment
Raw materials	MP	Do not pay duty Do not pay VAT	No	100% of the imports
	MQ Maquila	Do not pay duty Do not pay VAT	No	100% of the imports
	MX Publishing sector	Do not pay duty Do not pay VAT	No	60% of the products produced using the imported raw materials 40% domestic invoices
Capital goods	BR	Do not pay duty Deferred VAT	No	70% of the increased output (units)
	BK	Payment of duty VAT deferred	No	1.5 times the value of the quota used
	RR Spare parts	Do not pay duty Deferred VAT Payment of duty Deferred VAT	No	70% of production increases 1.5 times the value of the quota used
Services	BS	Do not pay duty VAT deferred	Yes	1.5 times the value of the quota used
Replacement	P.V. Junior	Do not pay duty Do not pay VAT	No	No commitment

Source: Information provided by the authorities.

3.168. SEIEX operations involving raw materials and inputs, capital goods and spare parts, and exports of services, may take the form of direct or indirect operations. Direct operations are those where the person importing the raw materials or inputs, capital goods, intermediate goods or spare parts is directly engaged in the production and export of the good or service. In the case of

indirect operations, the importer is not the person directly engaged in the production or export of the good or service.

3.169. Importers of inputs, raw materials, intermediate goods, capital goods and spare parts under a SEIEX programme must carry out their import operations under the programme without exceeding the authorized import quota. The total annual quota allocated is renewed automatically under the same terms and conditions established in the SEIEX programme concerned. The f.o.b. value in US dollars recorded in each customs declaration is used to establish the percentage of use and the remaining balance of the quota.

3.170. Beneficiaries registered as major SEIEX users, authorized economic operators, trusted users pursuant to Decree No. 390 of 7 March 2016,¹²⁷ High Export Users (ALTEX)¹²⁸, Regular Customs Users (UAP)¹²⁹, and national State-owned companies have a rolling quota under which the annual global quota used is cleared for each period in the same proportion as the exports carried out for the current import period, in accordance with the input/output tables of each programme, under the same terms and conditions as in the corresponding authorization. As a result of the changes introduced by Resolution No. 1.649/16, large-scale users of the SEIEX programmes may use the rolling quota, which enables the users to clear the import quota for the period proportionally to their exports.

3.171. The products manufactured using raw materials and inputs imported under SEIEX programmes must be exported, and shown to have been exported, within 18 months from the date of authorization of clearance of the first customs declaration. In the case of the agricultural sector the time-limit may be 24 or 36 months. Capital goods imported under the Plan Vallejo must be used for the intended purposes, and the export commitment will be equivalent, in physical units, to at least 70% of the increased output generated during the period required for 90% depreciation in the value of the capital goods. The importation of all capital goods intended for the provision of services directly linked with the production or export of goods gives rise to an export commitment in US dollars equivalent to 1.5 times that of the f.o.b. value of the authorized import quota.

3.172. The Plan Vallejo Junior or Replacement Plan created by Article 179 of Decree No. 444 of 1967 remains in force. It entitles the exporter to import again, free of customs duties and import taxes, a quantity equal to the raw materials or inputs used in the production of the exported goods, that were imported with payment of import duties and taxes. This right must be exercised within 12 months from the date of authorization of the respective export shipment.

3.3.2 Standards and technical regulations

3.3.2.1 Institutional and legal framework

3.173. The MinCIT Regulation Directorate continues to be the body responsible for policies and practices relating to standardization, quality, certification, accreditation, designation and metrology. The MinCIT coordinates the National Quality Subsystem (SICAL), which is part of the National Administrative System for Competitiveness and Innovation and has as its basic objectives to promote quality, animal, plant and human safety, environmental conservation and the competitiveness of the production sector, and to protect the interests of consumers. The MinCIT

¹²⁷ Decree No. 390 of 7 March 2016 refers to importers, exporters and trusted foreign trade operators, as classified by the DIAN risk management system. In addition, importers and exporters must have carried out operations involving more than 12 customs import and/or export declarations in each half-year of the two years immediately preceding such classification.

¹²⁸ The requirements for classification by the DIAN as High Export Users (ALTEX) are: (a) enterprises must have exported goods of an f.o.b. value of at least US\$ 2 million in the course of the 12 months prior to submission of the application; (b) the value of these exports must represent at least 30% of their total sales. ALTEX enterprises are exempt from the payment of VAT on their imports of industrial machinery not produced in Colombia. The classification is valid for five years. This category is gradually being replaced by that of Authorized Economic Operator (OEA).

¹²⁹ Regular Customs Users (UAP) must have carried out foreign trade operations for an f.o.b. value of US\$5 million and have submitted at least 100 import or export declarations during the previous 12 months. They are entitled to automatic clearance of the imported goods and may import raw materials or inputs under the regime of temporary admission for industrial processing. The classification is valid for five years. This category is gradually being replaced by that of the OEA.

Regulation Directorate acts as the technical secretariat of the Intersectoral Quality Commission (CIC), the body responsible for coordinating the work of the public entities involved in the process of creating, implementing and enforcing technical regulations in Colombia.

3.174. Various public and private sector institutions participate in the SICAL, namely: (a) the Colombian Technical Standards Institute (ICONTEC); (b) the National Institute of Metrology; (c) the MinCIT; (d) the Supervisory Authority for Industry and Trade (SIC); (e) the entities authorized to issue technical regulations (RT); (f) the National Accreditation Organization of Colombia (ONAC); (g) the Sectoral Standardization Units; (h) accredited certification and inspection bodies; (i) accredited Testing and Calibration Laboratories; and (j) other entities with accreditation and control functions such as the National Food and Drug Surveillance Institute (INVIMA) and the Colombian Agricultural Institute (ICA).

3.175. In Colombia, standardization is the exclusive responsibility of the Colombian Technical Standards Institute (ICONTEC), which is the national standardizing body designated by the Government. ICONTEC is a private non-profit organization that is backed by the country's production sector and is currently a multinational enterprise. ICONTEC has also been accredited for RT certification tasks. The National Accreditation Organization of Colombia (ONAC), created by Decree No. 4.738 of 2008, under the administrative control of the MinCIT, is the national accreditation body. ONAC is a non-profit semi-public entity. The National Institute of Metrology, created in November 2011, is the body responsible for scientific and industrial metrology, while legal metrology is the responsibility of the SIC, which also supervises compliance with technical regulations (RT).

3.176. Colombia has notified the WTO that the MinCIT is its national enquiry point under the Agreement on Technical Barriers to Trade (TBT). Colombia also notified the WTO that ICONTEC accepted the Code of Good Practice for the Preparation, Adoption and Application of Standards in July 1995.¹³⁰

3.177. Technical regulations are given legal status through domestic laws and decrees and Andean Decisions (Table 3.27). The main legal instruments regulating policy in this area are Decrees No. 1.595 of 2015 and No. 1.074 of 2015.

Table 3.27 Legal framework for technical regulations, 2017

Instrument	Description
Andean Decision No. 562	Guidelines for the preparation, adoption and application of technical regulations
Andean Decision No. 376	Andean system of standardization, accreditation, testing, certification, technical regulations and metrology
Andean Decision No. 506	Recognition and automatic acceptance of certificates of product conformity with technical regulations issued by accredited or recognized certification bodies
Andean Decision No. 419	Procedure for reporting technical barriers to trade and notifying technical regulations, conformity assessment procedures or other measures of a mandatory nature to be adopted
Andean Decision No. 615	Notification and Technical Regulation Information System of the Andean Community (SIRT)
Decree No. 2.269 of 1993	National standardization, certification and metrological system
Decree No. 1.074 of 2015	Contains the Single Regulatory Decree for the Trade, Industry and Tourism Sector
Decree No. 1.595 of 2015	Establishes rules for the National Quality Subsystem and amends Chapter 7 and Chapter 8, Section 1, of Book 2, Part 2, Title 1, of Decree No. 1.074 of 2015, and establishes other provisions

Source: Ministry of Trade, Industry and Tourism.

3.178. Decree No. 1.595 of 2015 defines four kinds of technical rules: Colombian Technical Standard (NTC), Sectoral Technical Standard (NTS), Technical Regulation (RT) and regulatory document. NTCs are voluntary rules approved by ICONTEC. The NTSs are voluntary technical standards drawn up by a Sectoral Standardization Unit for a specific sector. RTs are mandatory and issued by the competent authority, setting technical requirements, whether directly or by referring to or incorporating the contents of a national, regional or international standard, technical specification or code of good practice. RTs establish the characteristics of a product or the related processes and production methods, including the applicable administrative provisions. Regulatory documents establish requirements, rules or characteristics for activities or performance, e.g. for assessing compliance with an RT.

¹³⁰ WTO document G/TBT/CS/2/Rev.22 of 29 February 2016.

3.3.2.2 Standardization

3.179. Standardization in Colombia is carried out by ICONTEC, the only entity authorized to issue Colombian technical standards (NTCs).¹³¹ ICONTEC was recognized by the Colombian Government as the National Standards Body through Decree No. 1.545 of 2015. In addition to standardization, ICONTEC provides conformity assessment services (certification of management systems, product certification, and inspection) as well as health accreditation, and has calibration laboratories.¹³² ICONTEC's mission is to promote, develop and guide the application of NTCs and other standard-setting documents. ICONTEC represents Colombia in international and regional standardization organizations, such as the International Organization for Standardization (ISO), the International Electrotechnical Commission (IEC) and the Pan American Standards Commission (COPANT).

3.180. ICONTEC's standardization work is carried out through 253 standardization committees, which have drafted over 6,300 NTCs. There are five stages in the standardization process: (a) feasibility and planning; (b) Committee-stage work, in which the study is carried out and the standard-setting documents are approved in technical standardization committees; (c) public consultation; (d) approval, at which stage the document is submitted for consideration by an entity that is independent of the committee, in order to endorse the committee's technical decisions and ensure regulatory coherence; and (e) publication and dissemination.¹³³

3.181. Sectoral technical standards (NTS) are drafted by the Sectoral Standardization Units (USN), whose creation must be approved by the MinCIT Regulation Directorate in accordance with Decree No. 210 of 3 February 2003.

3.3.2.3 Technical regulations

3.182. The preparation of technical regulations in Colombia is not centralized and is the responsibility of various institutions, primarily ministries, regulatory commissions and decentralized bodies. According to the authorities, as a general rule RTs are based on international good practices. Where a public body prepares the RT, each entity has its own internal procedure for the purpose, within its sphere of competence; the MinCIT is responsible for regulating products. However, in practice similar procedures are adopted pursuant to Decree No. 1.595 of 2015 and the recommendations of the Intersectoral Quality Commission. In 2017, the procedure for the drafting of RTs was updated through the MinCIT Integrated Management System (SIG). A procedure (PAINERT) has since been agreed for the preparation and issuance of RTs, which compiles recommendations on good practices in technical regulation.

3.183. The authorities have noted that, in general, draft RTs are submitted for discussion with all interested persons or entities. The discussion of the regulatory drafts takes place throughout the process of preparing the regulation and up to the international notification of the RT. Thereafter, the procedures established by the TBT Agreement are followed, respecting the established time-frames. Thus, since 2001, Colombia has applied the recommended time-limit of 90 days or more for making comments on notifications.¹³⁴ RTs are issued through decrees and resolutions, and exceptionally through laws. Most RTs reflect or are based on ICONTEC standards, although there are also technical regulations based on international standards.

3.184. The Supervisory Authority for Industry and Trade (SIC) is responsible for monitoring compliance with RTs in the following fields: in the area of personal consumer goods, labelling of footwear and clothing, and toys, for example; industrial products such as plain and deformed steel wire and electrowelded mesh; electric and gas-powered equipment subject to energy efficiency labelling; corrugated bars and rods; electric fittings; reflective tape for motor vehicles; household consumer products such as ceramic tiles and dishware, batteries, refrigerators, freezers and pressure cookers; in transport, products such as public service vehicles, safety belts, safety windows, braking systems and tyres; and vehicular natural gas (VNG) and household gas. With

¹³¹ Decree No. 767 of 7 April 1964 granted ICONTEC the status of Advisory and Coordinating Body for Standardization.

¹³² ICONTEC (2017), *Informe de Gestión y Sostenibilidad 2016-2017*. Viewed at: http://www.icontec.org/NC/QS/Documentos%20compartidos/Informe_GyS%202016-2017.pdf.

¹³³ Online information from ICONTEC, viewed at: <https://portal.icontec.org/content/content-page>.

¹³⁴ WTO document G/TBT/18 of 17 February 2006.

respect to RTs and legal metrology, the SIC fixes permitted tolerances for purposes of metrological control and establishes the applicable requirements for measuring instrument models or prototypes and measurement standards that are to be marketed. The SIC also carries out administrative investigations of manufacturers, importers, producers and marketers of goods and services subject to compliance with RTs, and may impose the corresponding measures and penalties. In accordance with Law No. 1.480 of 2011 (Consumer Protection Statute), the SIC may suspend the marketing of a specific product or service when there is reliable evidence of a risk to the legitimate objective which the RT supervised by the SIC is designed to protect.

3.185. Producers and importers of products (goods or services) that are subject to compliance with RTs which the SIC is responsible for supervising and monitoring must be registered in the SIC Register of Producers and Importers before the products concerned can be placed on the market or imported. Registration or updating of the relevant information must be carried out through the website www.sic.gov.co. Each trading establishment under the same business name is linked to a single registration. The Register of Producers and Importers has a public consultation module.¹³⁵ The SIC also ensures that conformity assessment bodies register all conformity certificates and inspection reports that they issue in the Conformity Certificates Information System (SICERCO).

3.186. During the period January 2012-end 2017, Colombia submitted 62 substantive notifications to the WTO Information Centre (126 if the addenda and corrections are included). The notifications cover the various stages of preparation of technical regulations (draft, approval, etc.), as well as their amendments, rejections and implementation. Most of the RTs are issued by the MinCIT and the Ministry of Health and Social Welfare. The criteria most used for the drafting of RTs include the protection of human life and health, consumer protection and protection of the environment. In December 2017, 105 RTs were in force in Colombia. The products covered include a range of food products, additives, fuels, medicines, chemical products, containers and fertilizers, and products that have an environmental impact.

3.187. Since the previous review in 2012, when an automatic mechanism for reviewing the expiry of RTs did not exist in Colombia, there has been a major change in this area. Pursuant to Decree No. 1.595 of 2015, RTs must be reviewed by the regulatory entity in order to determine whether they should be maintained, modified or repealed, at least once every five years, or earlier if there is a change in the circumstances that gave rise to them.

3.188. At the Andean Community level, there is the Andean System of Standardization, Accreditation, Testing, Certification, Technical Regulations and Metrology, known as the Andean Quality System, created by Decision 376 of April 1995, as amended by Decision 419 of 30 July 1997. The Andean Quality System is intended to eliminate unnecessary technical barriers, and covers activities in the fields of standardization, accreditation, testing, certification, RTs and metrology. The system is administered by the Andean Quality Committee (CAC), comprising representatives of the member countries.¹³⁶ Standardization activity is carried out in the framework of the Andean Standardization Network (RAN), governed by the regulations set out in Resolution No. 313, whose purpose is to harmonize and adopt Andean Standards for the production sectors and services deemed of subregional interest, such as food, textiles and clothing, leather and footwear, wood and furniture, and the motor-vehicle sector.

3.189. CAN Decision No. 562 of 25 June 2003 establishes guidelines for the preparation, adoption and application of RTs in the member countries and at Community level, in order to avoid RTs becoming unnecessary barriers to trade within the subregion. However, RTs are prepared, adopted and applied in member countries by the various bodies of the central, regional, departmental, local or municipal governments or by a number of them within their respective spheres of competence.

3.190. The CAN Notification and Technical Regulation Information System (SIRT), created by Decision No. 615 of 2005, is part of the Andean Quality System.¹³⁷ The SIRT consists of the four focal points in member countries and the Community contact point in the CAN General

¹³⁵ Online information from the SIC, viewed at: <http://www.sic.gov.co/registro-de-productores-e-importadores>.

¹³⁶ Online information from the CAN, viewed at: <http://www.comunidadandina.org/Seccion.aspx?id=62&tipo=TE>.

¹³⁷ Decision No. 615. Viewed at: <http://intranet.comunidadandina.org/Documentos/decisiones/DEC615.doc>.

Secretariat, and operates an exporter alert system to warn exporters of mandatory technical requirements.¹³⁸ Pursuant to Decision No. 615, notifications concerning RTs adopted, as well as the conformity assessment procedures applicable to them, are made through the SIRT. They must be notified by the authorities responsible for notification through the SIRT within no more than 30 calendar days from their official publication. The relevant comments must also be sent through the SIRT.

3.191. According to information from the CAN, there is currently an Andean Technical Regulation Plan under which the priority subjects for member countries are being harmonized. The authorities reported that, in February 2018, Decision 562 containing the guidelines for the preparation of RTs was being finalized, and all that remained was to reach agreement on the issue of labelling to prove conformity with an RT under the conformity assessment procedure of first instance. RTs in the areas of footwear and leather goods and clothing are also being harmonized.

3.3.2.4 Conformity assessment and certification

3.192. In accordance with Decree No. 1.595 of 2015, conformity assessment for products subject to RTs is mandatory, and both importers and domestic producers must demonstrate compliance through an inspection report or a conformity certificate, whether a first-party certificate issued by an accredited body or a certificate issued by a designated body prior to marketing.¹³⁹ The mechanisms and methods for conformity assessment and proof are in general set out in the RT itself, and depending on the level of risk may consist in certification, inspection or testing carried out by bodies accredited or designated by the regulatory body.

3.193. At December 2017, there were 27 bodies accredited for product certification (all accredited by the National Accreditation Organization of Colombia (ONAC)), 14 accredited for certification of management systems and 24 accredited for certification of persons.¹⁴⁰ In general, the accredited certification bodies subcontract the services of accredited laboratories to assess product conformity. Conformity assessment bodies (certification, inspection, calibration, testing and assays) established in Colombia and accredited in accordance with international practices and rules are grouped in the National Association of Conformity Assessment Bodies (ASOSEC).¹⁴¹

3.194. In the case of voluntary certification, ICONTEC, which is a member of ASOSEC, certifies products by means of its ICONTEC Quality Seal. ICONTEC product certification is accredited by ONAC in Colombia and by the American National Standards Institute (ANSI) of the United States. ICONTEC also offers certification of processes and services, as well as agri-food certification. In order to obtain the ICONTEC Quality Seal, after receiving a request from an enterprise ICONTEC audits the manufacturer's quality system and has the product tested in reliable laboratories. If the product satisfies the quality requirements, ICONTEC issues the corresponding certificate, which is valid for three years. After receiving the ICONTEC Quality Seal, the manufacturer must mark the certified product with the appropriate logo. Follow-up audits are subsequently carried out.

3.195. Certification by accredited bodies abroad is accepted in Colombia by most ministries and agencies. In the case of the MinCIT, certificates issued abroad are accepted provided that a type-approval or validation procedure is followed or there is a mutual recognition agreement. In the case of most other public entities, acceptance is conditional upon whether the country where the certifying body is located has a mutual recognition agreement with Colombia or is a CAN country, and the certifying body is registered with the CAN General Secretariat, in accordance with Decision No. 506.

¹³⁸ Online information from the CAN, "Andean Exporter Alert System ", viewed at: <http://www.comunidadandina.org/reglamentos/sirt.htm>.

¹³⁹ A conformity certificate will be valid in Colombia provided: (a) it is issued by the certification body accredited by the national accreditation body and the scope of the accreditation covers the product and the RT; or (b) it is issued by a foreign certification body accredited by an accreditation body recognized under the multilateral recognition agreements to which the national certification body is a party. Otherwise, ONAC must check the scope of the accreditation and may declare it to be in conformity with the requirements laid down in the corresponding Colombian RT.

¹⁴⁰ Online information from ONAC, "List of Accredited Product Certification Bodies ", viewed at: <http://www.onac.org.co/modulos/contenido/default.asp?idmodulo=172&>.

¹⁴¹ Online information from ASOSEC, viewed at: <http://www.asosec.org/index.php/asosec/quienes-somos>.

3.3.2.5 Accreditation

3.196. Pursuant to Decree No. 4.738 of 2010, accreditation activities may be carried out under market conditions by entities established under the rules of private law, in accordance with the requirements laid down by the MinCIT. Decree No. 1.575 of 2015 designated the National Accreditation Organization of Colombia (ONAC), set up in 2007, as the national accreditation body, whose activities and programmes are subject to MinCIT administrative control. ONAC is also the sole official source of information about accreditation in Colombia and is responsible for granting, maintaining, broadening, restricting, suspending and withdrawing accreditations. It is the compliance monitoring authority on good laboratory practice for the Organization for Economic Cooperation and Development (OECD) and acts as the National Accreditation Organization of Colombia in accordance with the designation in Chapter 26 of Decree No. 1.074 of 2015, amending Decree No. 4.738 of 2010, and the other legal measures amending, replacing or supplementing them.¹⁴²

3.197. ONAC's accreditation work is done in accordance with the NTC ISO/IEC 17011 standard, using the generally accepted technical rules for each of the modalities of conformity assessment bodies. According to the authorities, the implementation of standard ISO/IEC 17011 implies, *inter alia*, the use of control mechanisms to ensure impartiality and transparency as well as procedures for complaint and appeal resolution.¹⁴³

3.198. ONAC grants accreditation for a three-year period in the case of a conformity assessment body that is accredited for the first time. In other cases, and as from the first renewal, accreditation is granted for five years. In all cases the validity is subject to the results of annual compliance audits.¹⁴⁴ The Accreditation Certificate is issued by the ONAC Executive Director on the basis of the corresponding official report of the Accreditation Committee.

3.199. Some other entities still have accreditation powers within their sphere of competence, such as, for example, the Institute of Hydrology, Meteorology and Environmental Studies (IDEAM), the National Food and Drug Surveillance Institute (INVIMA), the National Institute of Forensic Medicine and Forensic Sciences, and the ICA. At present, only the IDEAM is engaged in this activity, in connection with testing laboratories.

3.200. In order to deal with problems of fraud in connection with conformity certificates, the SIC established the Conformity Certificates Information System (SICERCO), governed by SIC Resolution No. 41.713 of 1 July 2014, as amended by SIC Resolution No. 61.971 of 16 October 2014, which established the obligation for conformity assessment bodies to enter in a register maintained by the SIC the conformity certificates they issue relating to the RTs supervised by the SIC. In addition, a Register of Certification and Inspection Bodies whose accreditation is linked to compliance with RTs supervised by the SIC was created. ONAC is responsible for this register.¹⁴⁵

3.201. At the Andean Community level, accreditation is carried out in the framework of the Andean Network of National Accreditation Bodies. The Andean Metrology Network (RAM), created by Decision No. 376, as amended by Decision No. 419, has as its general objective the harmonization of the National Metrology Systems so that they foster, at Andean level, the traceability of member countries' calibration standards and systems and support trade by avoiding the creation of trade barriers.

¹⁴² Decree No. 1.595 of 2015, which is an integral part of Single Regulatory Decree No. 1.074 of 2015, provides that the chief functions of ONAC as the national accreditation body are, *inter alia*: (a) to accredit conformity assessment bodies that so request, after verifying that they comply with requirements; (b) to implement a monitoring programme that can demonstrate that the accredited bodies are complying with the requirements underpinning their accreditation; (c) to support the drafting of legislation, regulations and rules in the area of conformity assessment; and (d) to act as the OECD compliance monitoring authority on good laboratory practice.

¹⁴³ Online information from ONAC, viewed at:

<http://www.onac.org.co/modulos/contenido/default.asp?idmodulo=243>.

¹⁴⁴ Online information from ONAC, viewed at:

<http://www.onac.org.co/modulos/contenido/default.asp?idmodulo=242>.

¹⁴⁵ SIC Resolution No. 41.713 of 1 July 2014, Article 1. Viewed at:

http://www.sic.gov.co/sites/default/files/files/Resolucion_41713_2014.pdf.

3.3.2.6 Metrology

3.202. The SIC is responsible for activities relating to legal metrology in Colombia. In August 2017 it received ONAC's Accreditation Certificate for its mass and volume calibration laboratories, which were set up in order to bolster the country's metrological control work.

3.203. The National Institute of Metrology (INM), created by Decree No. 4175 of 2011 and regulated more recently by Resolution DG No. 028 of 2016, is responsible for scientific and industrial metrology. In order to perform its functions, the INM establishes, coordinates, directs and oversees the national industrial quality control, weights, measures and metrology programmes, and organizes the quality control and metrology laboratories it needs to carry out its work. It also offers the technical traceability capability for verifying the quality of products made or marketed in Colombia and compliance with international undertakings relating to quality.¹⁴⁶

3.204. The Colombian Metrology Network (RCM) brings together public and private testing and calibration laboratories, providers of comparison programmes, producers of reference materials, natural persons involved in metrology activities and users of metrological products, and is coordinated by the National Institute of Metrology.¹⁴⁷ Pursuant to Resolution DG No. 092 of 2014, which governs the RCM, the latter's main general objectives are, inter alia, to identify the country's technical metrological capacity in terms of the existing supply, determine the metrological needs of Colombian laboratories, and promote and support joint processes and projects to generate the products and services that match those needs and requirements.

3.3.3 Sanitary and phytosanitary requirements

3.3.3.1 Policy formulation and implementation, legal framework and responsible bodies

3.205. The formulation and implementation of sanitary and phytosanitary measures (SPS) in Colombia falls under the remit of various bodies or agencies that make up the sanitary and phytosanitary system, such as the Ministry of Agriculture and Rural Development (MADR), the Ministry of Health and Social Welfare, the Colombian Agricultural Institute (ICA), the National Health Institute (INS) and the National Food and Drug Surveillance Institute (INVIMA). The sanitary and phytosanitary system, composed of the above-mentioned entities, operates on the principle of harmonizing policies in the various fields. However, SPS measures are adopted by the risk assessment agency, as appropriate. Each of these agencies is attached to a ministry, which coordinates its SPS policies within the Intersectoral Commission on Sanitary and Phytosanitary Measures, created by Decree No. 2.833 of 2006 and serving as the National SPS Committee. The participants in the Commission are the Ministries of Health and Social Welfare, Agriculture and Rural Development (MADR), Environment and Sustainable Development, the MinCIT and the National Planning Department (DNP). The ICA and INVIMA are regularly invited to participate.

3.206. The bodies responsible for issuing SPS measures follow certain common guidelines, including: (a) harmonization with international guidelines issued by reference bodies in the field and with CAN rules and regulations; (b) coordinating the implementation of SPS measures with other authorities; (c) regulatory best practices; (d) SPS design and implementation procedure based on international standards. Proposed SPS measures must include a technical rationale and be sent for fine-tuning to the respective technical division of the agency that formulates the measure. They then undergo public consultation, on which basis an amended draft resolution is published.

3.207. The aforementioned institutions or agencies implement sanitary and phytosanitary policies and oversee compliance with the rules in their field of competence, supported by local offices. INVIMA, for example, is responsible for the inspection, surveillance and control of medicines, medical devices and cosmetics intended for consumption as well as for food safety (including at the time of importation), and at the local level it relies on territorial working groups (GTT); the ICA monitors plant and animal health.

¹⁴⁶ Online information from the SIC, viewed at: <http://www.sic.gov.co/noticias/laboratorios-de-metrologia-de-la-superindustria-reciben-certificado-de-acreditacion-por-parte-del-onac>.

¹⁴⁷ Online information from the Colombian Metrology Network, viewed at: <http://rcm.gov.co/index.php/normatividad>.

3.208. The Colombian Agricultural Institute (ICA) is a public body with legal personality, administrative autonomy and independent resources, belonging to the National Science and Technology System and attached to the MADR.¹⁴⁸ The ICA is tasked with issuing SPS measures and ensuring that they are harmonized with international guidelines and/or supported by risk assessments, so as to protect animal, plant and human health and/or life from harmful agents. It is also responsible for the prevention, surveillance and control of health, biological and chemical risks to animal and plant species, for applied research and for administering, researching and managing fishery and aquaculture resources in order to safeguard human, animal and plant health and ensure that proper trading conditions exist.¹⁴⁹ The ICA is the competent national authority in matters of animal health, plant health and technical control of agricultural inputs; it also regulates fishing and aquaculture.

3.209. The ICA is tasked with negotiating bilateral and multilateral sanitary and phytosanitary agreements which make it possible to market agricultural products abroad and guarantee the quality of agricultural inputs and seeds used in Colombia, while regulating and controlling the use of living organisms modified by genetic engineering in the agricultural sector. The ICA lays down guidelines and coordinates studies to assess the risks associated with the genetic modification of animals, plants and living organisms for the trade in agricultural goods, in accordance with existing regulations and protocols. It also undertakes the relevant risk analyses to justify the adoption of SPS measures that serve to permit, limit or ban imports. The ICA maintains import and export checkpoints at 127 local offices in as many municipalities spread over 32 departments, as well as at eight airports, eight seaports and five border crossings. The ICA has 55 laboratories and a quarantine station.

3.210. The Ministry of Health and Social Welfare (MSPS) is responsible for Colombia's food policy. Food legislation in Colombia has been compiled in Decree No. 1.081 of 2015 (Single Regulatory Decree from the Office of the President), as amended and supplemented by Decree No. 270 of 2017. Pursuant to Law No. 1.122 of 2007, the INVIMA is attached to the MSPS and has exclusive responsibility for the inspection, surveillance and control of food production and processing, slaughterhouses, milk collection centres, milk and milk product processing plants, and the means of transport associated with these activities.¹⁵⁰ Decree No. 2.278 of 2012 created the INVIMA Office of International Affairs, which is tasked with formulating and executing plans, programmes and strategies to coordinate and manage international cooperation, in conjunction with the competent authorities in the spheres of health, intellectual property and international cooperation.

3.211. INVIMA also takes part in regulatory activities within its areas of competence by putting forward proposals to the MSPS for the formulation of policies and regulations concerning quality control and sanitary surveillance of the products referred to in Law No. 100 of 1993 and other pieces of legislation, and controls and monitors the quality and safety of the products specified in that law.¹⁵¹ INVIMA is empowered to prepare, propose, disseminate and update SPS measures relating to inspection, sanitary surveillance, quality control, assessment and sanctioning procedures and procedures relating to sanitary registrations. INVIMA has jurisdiction and is represented throughout Colombian territory through 11 regional offices known as territorial working groups (GTT), 13 front line checkpoints and seven laboratories. INVIMA serves as the national reference laboratory for the products within its purview and coordinates the Laboratory Network under its responsibility, establishing policies, guidelines, programmes, plans and projects for its operations.

3.212. The National Agricultural Health and Food Safety Policy for the system of SPS measures is contained in document CONPES (MSF) 3.335/2005. The following documents contain policy designs specific to the various subsectors: CONPES 3376 and CONPES 3676 – policy on bovine animals; CONPES 3458 – policy on pigs; CONPES 3468 – policy on poultry production; and CONPES 3514 – policy on fruits.

¹⁴⁸ The ICA was established by Decree No. 1.562 of 1962 and restructured by Decree No. 4.765 of 18 December 2008, as amended by Decree No. 3.761 of 30 September 2009.

¹⁴⁹ Online information from the ICA, viewed at: <https://www.ica.gov.co/El-ICA/Funciones.aspx>.

¹⁵⁰ INVIMA was established by Law No. 100 of 1993 and its functions laid down in Decree No. 1.290 of 1994.

¹⁵¹ Online information from INVIMA, viewed at: <https://www.invima.gov.co/nuestra-entidad/funciones/37-nuestra-entidad/funciones/72-generales.html>.

3.213. SPS measures are regulated by an appreciable number of legislative instruments in Colombia. The following are the basic regulations that still govern the use of SPS measures: Law No 101 of 1993 (agricultural and fisheries development) and Decrees No. 1.840 of 1994, No. 2.141 of 1991 and No. 4.765 of 2008 (functions of the ICA), Law No 9 of 1979 and its regulatory decrees (animal and plant health and primary food production), Law No 100 1993 establishing INVIMA, Decree No. 1.290 of 1994 specifying the functions and establishing the core organizational features of INVIMA, and Decrees No. 211 and No. 212 of 2004 and No. 2.078 of 2012 establishing the present structure.

3.214. As a member of the Andean Community of Nations (CAN), Colombia applies Andean regional sanitary and phytosanitary regulations and has taken part in efforts to harmonize them across the region. By virtue of the CAN Act on the Unification of Criteria (proceedings of the fifth meeting of government experts in 2011 for the harmonization of sanitary legislation), common procedures were adopted for the issuance of phytosanitary and zoosanitary permits and certificates, as well as rules for the registration, control, marketing and use of veterinary products. There is an Andean Agricultural Health System (SASA) in which framework sanitary activities are carried out among member countries to facilitate trade in animals and animal products, as well as to prevent, control and eradicate diseases. These actions are coordinated with the Andean Technical Committee on Agriculture and Livestock Health (COTASA), whose members are the heads of official veterinary services of the competent authorities in member countries responsible for managing, supervising and carrying out animal health activities. Pursuant to CAN Decision No. 515, Colombia and the other CAN member countries maintain common SPS measures in respect of plants, plant products, regulated items and animals and animal products.

3.3.3.2 Notifications to the WTO

3.215. The MinCIT is the body responsible for notifying SPS measures to the WTO. Between April 1997 (date of the first notification) and late 2017, Colombia submitted 279 different SPS notifications, as well as a series of additions to those notifications. During the review period, 47 notifications were made, of which 12 related to animal health, 12 to plants and three to other areas, chiefly food, veterinary medicines and fertilizers (Table 3.28). As at 31 December 2017 there were 496 SPS measures in force in Colombia. Some of the adopted measures have been in force for several years, though some of them are only partially in effect as portions of them have been repealed. Measures adopted since 1995 have been notified to the WTO; however, measures which predate that year are still being applied.

Table 3.28 SPS Notifications to the WTO, 2012-2017

Year	Total	Animals	Plants	Food and other areas
2012	13	3	3	7
2013	7	1	1	5
2014	4	2	2	
2015	6	1	1	4
2016	2	1		1
2017	15	4	5	6
Total	47	12	12	23

Source: Information provided by the Colombian authorities.

3.3.3.3 Animal health

3.216. The ICA operates the Health Information System for Agricultural and Livestock Imports and Exports (SISPAP), which provides information and makes possible direct participation in the process of importing/exporting agricultural and livestock products into/from Colombia. SISPAP enables the importer/exporter to familiarize himself in advance with the ICA's import/export phytosanitary and zoosanitary requirements. It is also possible to file online applications to obtain the documents for each of the requisite procedures, and to monitor the status of import/export applications, modify them, and pay for these procedures electronically.

3.217. Resolution No. 9.942 of 8 August 2016 regulates requests for pest and disease risk analyses in the process of importation into Colombia, and defines the situations that warrant a risk analysis. These analyses are done before importing items of animal or plant origin in order to assess the probability of the entry, establishment and spread of pests or diseases in Colombia and

justify the introduction of SPS measures so as to allow, limit or prohibit importation. According to ICA information, the risk analyses will be carried out: (i) if an application is filed for the importation of an animal or plant species or products or by-products not previously imported into Colombia when there are no mandatory sanitary and/or phytosanitary requirements for imports of animals, plants and products originating in a country or region, and when intended for a specific purpose and destination in Colombia; (ii) when there is a change in the sanitary or phytosanitary status of a country or region of origin; (iii) when new information emerges about a disease or pest; (iv) when a country or zone is required to demonstrate that an export product does not pose a significant risk to the importing country; (v) when the ICA deems it technically necessary to safeguard the country's sanitary or phytosanitary status; and (iv) at the start of a regionalization process.¹⁵² ICA risk analyses are conducted on the basis of guidelines from the World Organisation for Animal Health (OIE), the International Plant Protection Convention (IPPC) and other international reference organizations.

3.218. As regards animal health, the ICA keeps records of producing companies and contractual producers of veterinary medicines, of companies that import veterinary medicines (raw materials and finished product) and of the products themselves, as well as of companies producing and importing veterinary biologics and veterinary biological products. The ICA also issues free sale certificates for the purposes of domestic and export marketing, and VAT exclusion certificates for biological or veterinary medicines. It also issues the Biosafety Level 3 Agriculture certification, which is required for laboratories handling the live foot-and-mouth disease virus.¹⁵³

3.219. Colombia has agreed sanitary requirements for the admissibility of livestock products with 31 countries, *inter alia*, for the following products: beef and poultry meat, slaughter cattle, eggs, bovine semen and embryos, meat meal, breeding pigs, cooked and smoked bovine meat products, and dairy products.¹⁵⁴

3.220. Under Resolution (ICA) No. 1.558 of 7 May 2010, imports of animals (including aquatic animals) and products of animal origin, and of animal feed containing raw material of animal origin, veterinary biological products, biological reagents for veterinary diagnosis and micro-organisms for the production of veterinary biologics require an Animal Health Import Document (DoZa), which is issued by the ICA.¹⁵⁵ Generally speaking, the DoZa is required irrespective of the quantity being imported. Some products of animal origin are nevertheless exempt from this requirement as it is considered that owing to their physical make-up and the transformation processes they have undergone, they represent an insignificant risk for the spread of diseases that might affect the country's animal population. The ICA issues resolutions specifying the species and products that do not require DoZa in order to be imported (ICA Resolutions Nos. 3.336/2004, 1.418/2006 and 2.096/2006), by virtue of the level of sanitary risk they pose for the country. The only animals that can be entered without the DoZa are pet dogs and cats. Before animals can be imported they must also pass through a quarantine procedure, either in an official quarantine station or on premises specially equipped for the purpose authorized by the ICA. Both

¹⁵² Regionalization or zoning is a disease control tool intended to isolate or zone areas free of a disease or areas affected by it, assigning a distinct health status to some regions of a country or stepping up efforts, with limited resources, to contain, control and eradicate a disease. Online information from the ICA, viewed at: <http://www.ica.gov.co/getdoc/fb18dace-21dc-41d1-9733-80057e0f95e6/Evaluacion-del-Riesgo.aspx>.

¹⁵³ In September 2017 there were two certified laboratories: Limor de Colombia S.A and Empresa Colombiana de Productos Veterinarios VECOL S.A. Online information from the ICA, viewed at: <https://www.ica.gov.co/getdoc/2cf51f62-66db-4189-95b9-b5202a853a96/Certificacion-de-bioseguridad--Nivel-3.aspx>.

¹⁵⁴ The trading partners with which Colombia has agreed sanitary requirements for the admissibility of livestock products are: Angola; Aruba; Bolivia (Plurinational State of); Canada; Chile; Costa Rica; Cuba; Curaçao; Dominican Republic; Ecuador; Egypt; Eurasian Customs Union (Russia, Kazakhstan and Belarus); Honduras; Hong Kong, China; Iraq; Georgia; Jordan; Lebanon; Libya; Mexico; Panama; Paraguay; Peru; United Arab Emirates; United States; and Venezuela (Bolivarian Rep. of).

¹⁵⁵ The list of animal products and products of animal origin that do not require the DoZa to enter Colombia is available on the ICA website. These are usually fish, shellfish and fishery products, but also include products such as ambergris, antisera, wool tops, hides, cultures of micro-organisms for non-veterinarian use, waste of wool, wool and fine or coarse animal hair (washed), Food preparations for infant use with milk content, preparations for sauces, sauces, milk proteins, diagnostic reagents for non-veterinary use and for in vitro use in human medicine; animal foetal serums for in vitro diagnosis in human medicine and vaccines for human medicine, among others. Online information from the ICA, viewed at: <https://www.ica.gov.co/getdoc/3b4bbdb9-53de-49c9-b877-22c5a921dee6/Animales-y-productos-que-no-requieren-DoZa-para-su.aspx>.

the plant health and animal health requirements are set out in ICA Joint External Circular No. 037 of 16 September 2011.

3.221. Under Colombian law, all imported livestock shipments must be inspected at the point of entry. The Health Inspection Certificate (CIS) is issued once the inspection process is complete. Each CIS covers the imports contemplated in a single DoZa.¹⁵⁶ The ICA veterinarian indicates on the CIS whether or not the product can be authorized from a sanitary viewpoint and, if so, under what conditions. In some cases, authorization may be given for the imported products to circulate freely in the country, or to circulate after a period in quarantine on premises or at a quarantine station previously approved by the ICA Animal Health Risk Prevention Group. This applies, for example, to imports of live animals.

3.222. For products that are not exempt from the issuance of the DoZa, the establishment of origin must be registered. To that end, an application must be submitted, with the endorsement of the veterinary services of the country of origin, and if deemed necessary, a visit to the establishment of origin may be required before authorization is granted. Once the authorization has been obtained, the establishment is registered and may export to Colombia, after obtaining a DoZa. Export authorization is granted for one year for businesses that produce animals for animal improvement, slaughter animals or process meat; it is granted for three years in the case of establishments engaged in producing animal breeding stock, producing biologics for veterinary use, processing raw materials of animal origin for manufacturing animal feed, producing animal feed, processing milk and milk by-products and producing fish, crustaceans, molluscs and other aquatic invertebrates.

3.223. When products arrive at a point of entry in Colombia, the ICA's Port Health Veterinarian will review the required documents, which include: (a) the original of the DoZa; (b) the original of the animal health certificate from the country of origin; and (c) the sanitary inspection or public health certificate from the point of exit in the country of origin. In the case of veterinary biologics, an internal quality control protocol may also be required of the producer laboratory. Imports of veterinary medicines require a valid ICA-issued sales licence or product registration (Form 3-0 92-A) in which the registered party must also be the importer, otherwise the importer of the goods must be duly authorized in matters of animal health. The ICA also imposes requirements relating to zoosanitary export certificates, sanitary inspection at the point of exit or entry, registration of genetic material production centres, and import or export registration of inputs.¹⁵⁷ If the review of the documentation is satisfactory, the imports are then physically inspected. Should there be inconsistencies in the documentation that cannot be corrected, the goods must be reshipped within a maximum of five working days.

3.3.3.4 Plant health

3.224. Pursuant to Decree No. 1.840 of 1994, the ICA is charged with managing the Epidemiological Information and Phytosanitary Surveillance System (SisFito). The aim of SisFito is to determine the presence or absence of pests within the national territory, for which it has developed an IT platform that enables the ICA to consolidate information on the phytosanitary status of the country and the surveillance of high-risk exotic pests.

3.225. Imports of plants, plant products and regulated items, depending on their risk level, require a Phytosanitary Requirements Import Document (DRFI), issued by the ICA and setting out the phytosanitary requirements which must be met and which the exporting country must certify for it to be possible to export the product to Colombia. To import raw materials, cake, and protein and energy supplements for animal consumption it is necessary to obtain the approval of the Safety and Veterinary Inputs Directorate of the Animal Protection Division of the ICA. Imports of wild flora further require a clearance document issued by the Ministry of the Environment, Housing and Regional Development. Importers of seed for sowing and plant propagation material must be preregistered with the ICA.

¹⁵⁶ Before the signing and issuance of the CIS, a stamp is placed on the original of the DoZa indicating that it has been used, which means that it cannot be used for a new shipment.

¹⁵⁷ CMC Resolution No. 1.153 of 2008 of the CAN laid down the livestock risk categories classified from 1 (least risk) to 5 (greatest risk). Colombia requires a DoZa for products in categories 3, 4 and 5.

3.226. To obtain the DRFI, the importer must file an application through the Health Information System for Agricultural and Livestock Imports and Exports (SISPAP). Once the DRFI is obtained, the importer may apply to the MinCIT for import registration. The DRFI is issued for a single shipment, and must be issued prior to health certification in the country of origin and be valid for 90 days and must accompany the imports at the time of their entry into Colombia, as must the originals of the phytosanitary certificate from the country of origin. If the documentation is in order and if the result of the phytosanitary inspection is favourable, the Phytosanitary Clearance Certificate (CIS) is then issued, and must be delivered to the DIAN so that the inward clearance of the product may proceed.

3.227. Working through the ICA, the MADR is competent to authorize the transboundary movement, transit, handling and use of Living Modified Organisms (LMOs) for agricultural, livestock, fishing, commercial forestry and agro-industrial purposes.¹⁵⁸ Decree No. 4.525 of 2005 established the regulatory framework for LMOs in keeping with the procedures laid down in Law No. 740 of 2002, and established the National Technical Biosafety Committee, which is responsible for assessing the risks posed by GMOs. Resolution No. 946 of 2006 lays down the procedure for processing LMO import and marketing applications to the ICA. The sale of such products is authorized only following a favourable biosafety evaluation. The GMO Detection and Monitoring Laboratory, which is part of the ICA, provides an inspection service at ports and airports to detect genetically modified seeds and proteins. Resolution No 3.823 of 4 September 2013 requires the registration with the ICA of all laboratories engaging in trials, testing and/or veterinary diagnosis, the trial or testing of veterinary inputs, agricultural inputs, seed for sowing, propagation material, animal genetic material, pest residues, residues of veterinary medicines and pollutants, and trials or tests of genetically modified organisms in matrices of animal and plant origin obtained in primary production. In July 2013, nine resolutions were adopted authorizing the sowing, human or animal consumption or use as raw material of products containing GMOs. These products were cotton, maize and soybeans.¹⁵⁹

3.228. Under Resolution No. 00148 of 2005, importing or marketing seed for sowing requires certification and registration in the National Register of Cultivars. Imports of seeds for sale must comply with the quality standards established for each seed species and with the packaging and labelling regulations, which require imported seeds to be sold in the original packages with the original labels. Resolution No. 3168 of 2015 regulates and controls the production, importation and exportation of genetically improved seeds for marketing and sowing in Colombia, and the registration of agronomic assessment units and/or plant breeding research units.

3.229. Resolution No. 00329 of 2001 prescribes that laboratories which analyse agricultural inputs and pesticide residues must be registered with the ICA. Foreign laboratories must be certified by a recognized international body. The national registration of a pesticide requires a risk and environmental management assessment and laboratory analysis certificates. Resolution No. 0150 of 2003 establishes the arrangements for the registration of imports of finished fertilizer products or raw materials for manufacturing them. There are also approval and registration requirements that must be satisfied in order to import fertilizers for experimentation, and certification is required in order to be an importer, exporter or seller of fertilizers.

3.230. Colombia has established phytosanitary requirements for the admissibility of agricultural products in agreement with: Brazil, Chile, Costa Rica, Ecuador, Guatemala, Mexico, Nicaragua, Paraguay, Peru, Turkey, the United States and the Bolivarian Republic of Venezuela. The products include: coffee beans, pineapple, papaya, flowers, non-genetically-modified soya seed for sowing, celery, spinach, chard and avocado, among others.

¹⁵⁸ Law No. 740 of 2002 and Decree No. 4.525 of 2005.

¹⁵⁹ Resolutions Nos. 3.043, 3.046, 3.047, 3.049, 3.050 and 3.052, all of 5 July 2013, authorize the use of different types of genetically modified maize for direct consumption and/or as raw material for the production of feedstuffs for domestic animals, Resolution No. 3.051, also of 5 July 2013, authorizes the use of genetically modified soya DAS-68416-4 for direct consumption and/or as raw material for the production of feedstuffs for domestic animals; Resolution No. 3.053 of the same date authorizes the commercial sowing of certain types of genetically modified cotton in the natural subregions of the Magdalena River Valley and the Cauca River Valley.

3.3.3.5 Food safety

3.231. The MSPS is responsible for Colombia's food policy. Food legislation in Colombia has been compiled in Decree No. 1.081 of 2015 (Single Regulatory Decree from the Office of the President), as amended and supplemented by Decree No. 270 of 2017. INVIMA has exclusive responsibility for the inspection, surveillance and control of food producing and marketing establishments, slaughterhouses, milk collection centres and milk processing plants in the course of activities associated with production, import, export and marketing for consumption. INVIMA certifies the best practices and sanitary conditions of establishments producing the aforementioned products, as well as their renewal, expansion, modification and cancellation. It also has exclusive responsibility for the inspection, surveillance and control of the safety of imports and exports of foodstuffs and the raw materials used in their production, at ports, airports and border crossings, without prejudice to the powers assigned by law to the ICA. INVIMA also takes the lead, in coordination with other specialized entities, in preparing technical quality standards in its areas of responsibility.

3.232. With respect to the safety of processed food, INVIMA requires sanitary marketing registration valid for ten years. The INVIMA is charged with issuing these sanitary registrations, as well as with their renewal, amplification, amendment and cancellation. Before sanitary registration can be granted, a documentary, technical and legal assessment must be made; there is also a post-marketing check which can result in the suspension of the registration. Subsequently, every batch of product arriving at a Colombian port during the period of validity of the sanitary registration is physically examined by the health authority. A laboratory analysis is required for foods deemed to represent a major public health risk.

3.233. INVIMA serves as the national reference laboratory in respect of the products within its purview and coordinates the Network of Laboratories under its responsibility, in relation to the products specified in Article 245 of Law No. 100 of 1993. It is also responsible for assessing the risk factors and taking sanitary measures relating to foodstuffs and the raw materials used in their production and for the sanitary approval of imports and exports of the products within its sphere of competence. It is also responsible for enforcing the rules on quality control and sanitary surveillance of the products for within its competence.

3.234. Importers of food, raw materials or inputs for food intended for human consumption must satisfy a series of sanitary import requirements at the point of entry: (a) they must have the import approval issued by INVIMA; (b) food being imported must have the registration, permit or health notification issued by INVIMA; (c) they must submit the Health Certificate or, for products posing a negligible risk to public health, the Free Sale Certificate (CVL) from the country of origin. Once these requirements are met and in order to issue the Health Inspection Certificate (CIS) for importation, INVIMA will verify the health certificate or the CVL from the country of origin and undertake a physical inspection of the products, taking samples and conducting laboratory analyses of foods or food raw materials. If all is in order, it issues the import CIS.

3.235. Decree No. 539 of 2014 specifies the requirements that must be met by importers and exporters of food for human consumption as well as food raw materials and inputs. Other legal instruments governing food safety are: Resolution No. 719 of 2015 classifying foods for human consumption according to public health risk; Resolution No. 2.674 containing regulations on (food) manufacturing best practices; Decree No. 1.382 of 2013 laying down the maximum residue limits for veterinary drugs in products of animal origin; and Resolution No. 4.506 of 2013 and its amendments, establishing maximum levels for contaminants in food for human consumption. As regards inspection, surveillance and control, Resolution No. 1.229 of 2015 lays down the model frame of reference which incorporates the analysis and management of risks associated with the use and consumption of goods and services, including foodstuffs, in order to protect individual and collective health. Resolution No. 770 of 2014 of the MADR and the MSPS lays down the guidelines for the drafting, implementation and monitoring of the National Subsectoral Plans for the Surveillance and Control of Residues in Food. Resolutions Nos. 240, 241 and 242 of 2013 specify the sanitary requirements for cattle, buffalo, pigs and poultry, while ICA Resolution No. 2.304 of 2015 establishes the sanitary requirements for sheep and goats.

3.236. INVIMA has a Sanitary Surveillance Control System (SIVICOS), a computer application that enables users to submit requests and make online payments, and through which officials can

issue certificates. Moreover, SIVICOS allows INVIMA inspectors to log in and view information concerning imports and exports.

3.3.4 Competition policy and price controls

3.3.4.1 Competition policy

3.237. Colombia's general legal framework governing competition protection was maintained during the review period, though some regulations were issued relating to procedures for notification and pre-assessment of mergers and the whistle-blowing programme, among others. The authorities indicated that a draft law is being prepared, in which the Central Government is proposing institutional reforms designed, among other things, to increase the power of the competition authority to impose penalties. The formulation of competition policy comes within the purview of the MinCIT.¹⁶⁰

3.238. The Supervisory Authority for Industry and Trade (SIC) is the national authority designated to apply competition rules.¹⁶¹ The SIC bears exclusive responsibility, *inter alia*, for the in camera examination of complaints concerning actions that affect competition, for conducting investigations, ordering precautionary measures, imposing penalties and ruling on business integration projects (mergers or concentrations).¹⁶² The SIC is also tasked with overseeing compliance with the provisions on unfair competition, consumer protection and price controls.¹⁶³

3.239. Law No. 155 of 1959 (Article 1) and Decree No. 2.153 of 1992 (Articles 47, 48 and 50) lay down general rules regarding anti-competitive practices. Law No. 1.340 of 2009 is the main policy instrument for the protection of competition and the application of competition law. Decree No. 19 of 2012 introduced some changes to the procedures and formalities that must be completed with the SIC, while Decree No. 1.523 of 2015 regulated Law No. 1.340 on the whistle-blowing programme.

3.240. The review period witnessed the execution of many actions envisaged under the National Development Plan 2014-2018 to improve implementation of the competition protection regime and the functioning of the SIC. Among other things, human resources were increased; an Economic Studies Working Group was established¹⁶⁴; work began on compiling SIC administrative acts, the regulations and jurisprudence relating to competition protection, all of which will be made available on the SIC website; basic sectors were identified in which, exceptionally, the free competition regime would not apply (Decree No. 1.523 of 2015); and a Working Group on Competition Law was established.¹⁶⁵ Likewise, Decree No. 1.074 of 26 May 2015 (Chapter 30) designated the authorities charged with notifying the SIC of draft administrative acts that are to be issued for regulatory purposes, as well as the applicable rules, so that the SIC can offer a preliminary opinion on the potential impact of the regulations on free competition in the markets.

3.241. The general competition protection regime is set out in Law No. 1.340, which covers all sectors and economic activities. However, where there are sector-specific rules, they take precedence over the general rules. There are specific provisions on anti-competitive practices in areas subject to sectoral regulation, namely, the public services (Law No. 142 of 11 July 1994), the financial sector (Decree No. 663 of 1993) and the health services (Decree No. 1.663 of 1994).¹⁶⁶

3.242. Some sectors of the economy have a special status without being exempt from the general free competition regime. Law No. 155 of 1959 (Article 1) empowers the Government to authorize the conclusion of agreements which, despite restricting competition, are aimed at safeguarding the stability of a "basic sector that produces goods and services of interest to the economy as a whole". Law No. 1.340 provides that the agriculture and livestock sector should be considered a

¹⁶⁰ Decree No. 210 of 2003.

¹⁶¹ Law No. 1.340 of 2009 assigned this function to the SIC.

¹⁶² The Special Administrative Unit for Civil Aviation and the Financial Supervisory Authority deal with business mergers in their respective sectors. Laws No. 142 of 1994 and No. 182 of 1995.

¹⁶³ Article 6 of Law No. 1.340 of 2009 and Article 1 of Decree No. 4.886 of 2011.

¹⁶⁴ Resolution No. 22.890 of 19 April 2012. Viewed at: <http://www.sic.gov.co/estudios-economicos>.

¹⁶⁵ Resolution No. 16.424 of 2014.

¹⁶⁶ For more information see WTO (2012), *Trade Policy Review of Colombia*, Geneva.

"basic sector" for these purposes; however, the authorization of an agreement to stabilize that sector requires a binding and reasoned prior opinion from the Ministry of Agriculture and Rural Development.¹⁶⁷ Moreover, Decree No. 1.523 of 2015 defines as "basic sectors" for the purposes of Law No. 155 of 1959: the process of production and distribution of goods meant to satisfy the Colombian population's needs in terms of food, clothing, health and housing; fuel production and distribution; and the provision of banking, educational, transport, electricity, water supply, telecommunication and insurance services. No agreements were concluded under Article 1 of Law No. 155 of 1959 during the period from 2012 to 2017.

3.243. The following State intervention mechanisms are expressly exempted from the application of Law No. 1.340: price stabilization funds, parafiscal funds for the promotion of agriculture, the establishment of minimum support prices, the regulation of domestic markets for agricultural products, chain agreements in the agricultural sector, the safeguards regime, and the other mechanisms envisaged in Laws No. 101 of 1993 and No. 81 of 1988.

3.244. Decree No. 2.153 of 1992 sets out a non-exhaustive list of agreements between enterprises that are contrary to free competition, and presumptively unlawful. These include agreements having the following purposes or effects: direct or indirect price fixing; determination of discriminatory sales or marketing conditions in relation to third parties; market allocation between producers or distributors; allocation of production or supply quotas; allocation, distribution or limitation of sources of supply of production inputs; limitation of technical developments; tied sales; refraining from producing a good or service or affecting its levels of production; collusion in bidding or tendering, distribution of awards, distribution of tenders or fixing the terms of bids; and preventing third parties from obtaining access to markets or marketing channels.¹⁶⁸

3.245. The abuse of dominant position includes: predatory pricing when it is intended to eliminate one or more competitors or prevent them from entering the market; the application of discriminatory conditions for equivalent operations; tied sales; selling to one buyer on terms different from those offered to another where the intention is to reduce or eliminate competition in the market; price discrimination; and obstructing or preventing third parties from obtaining access to markets or marketing channels.¹⁶⁹ Also prohibited are business integration operations that substantially restrain competition while failing to compensate with efficiencies; as well as the acts of unfair competition specified in Law No. 256 which impair or have an impact on the market.¹⁷⁰

3.246. There is a system for the control of mergers (business integration operations). They must be notified in advance to the SIC when: (a) jointly or individually, during the tax year preceding the planned operation, the enterprises wishing to merge have operating income or total assets of more than 60,000 current statutory minimum monthly wage units (SMMLVs)¹⁷¹ or (b) jointly hold a 20% or greater share of the relevant market. When enterprises fulfil the terms of section (a) but hold a less than 20% share of the relevant market, the operation will be deemed to be authorized, and it will suffice merely to notify it to the SIC.

3.247. Resolution No. 10.930 of 2015 amended some aspects of the procedures for notification and pre-assessment of mergers, including the setting of a maximum time-frame for SIC decisions. The prior assessment procedure comprises two phases. In the first, "preliminary study" phase, the SIC has 30 days to determine whether: (i) there are no substantial risks to free competition and the operation can therefore be authorized; or (ii) the operation warrants in-depth study. If the SIC decides to conduct an "in-depth study" (second phase), it requests the enterprises involved to provide the information prescribed in the In-Depth Study Guide within a period of 15 days. As from the date of receipt of all the information, the SIC has three months in which to decide whether to authorize, set conditions for or oppose the operation. If deemed necessary, the SIC may, in the course of the in-depth study, request information other than that indicated in the In-Depth Study Guide, the receipt of which re-initiates the three-month period in which the SIC must make a decision. This deadline extension is applied only once (it was previously indefinite), which means that a maximum time-frame has been set, and this enhances legal certainty in the procedure.

¹⁶⁷ Article 5 of Law No. 1.340 of 2009.

¹⁶⁸ Article 47 of Decree No. 2.153 of 1992.

¹⁶⁹ *Ibid.*, Article 50.

¹⁷⁰ Articles 7 to 19 of Law No. 256 of 1996.

¹⁷¹ Resolution No. 90.556 of 2016 lowered this threshold from 100,000 to 60,000 SMMLVs.

3.248. The SIC may recognize the "efficiency exception" and not oppose an operation if the interested companies demonstrate that the beneficial effects for consumers outweigh the possible negative impact on competition, that such effects cannot be achieved by any other means, and undertake to pass on the benefits to consumers. It may also not oppose an operation when, independently of the merged enterprise's participation in the domestic market, external market conditions are such that they guarantee free competition in Colombia.¹⁷²

3.249. The competent authority is empowered to order the roll-back of a merger when it has not been notified or when it takes place before the end of the period available to the SIC to make a ruling, if it is determined that the operation involves an undue restraint on free competition. Similarly, the SIC may order the roll-back of the operation when the conditions under which it was authorized have been infringed. In the period from 2012 to June 2017, 774 company mergers were notified. The SIC took 754 decisions; in 97% of the cases the mergers were approved without conditions. In 17 cases conditions were set for mergers, and only one case was opposed. (Table 3.29)

Table 3.29 Business integration operations notified to the SIC, January 2012-June 2017

Year	Reported integrations	Integration decisions	Approved	Conditions set	Objections raised
2012	162	150	150	0	0
2013	145	141	138	3	0
2014	143	145	139	6	0
2015	135	130	126	3	1
2016	121	123	120	3	0
2017	68	65	63	2	0
Total	774	754	736	17	1

Source: WTO Secretariat, with information provided by the SIC.

3.250. To determine whether the rules of competition have been infringed, the SIC must initiate a preliminary inquiry, either *ex officio* or at the request of a third party; the outcome of the inquiry will determine whether or not it is necessary to launch an investigation.¹⁷³ When the SIC decides to launch a formal investigation, it notifies those being investigated so that they may seek or furnish the evidence they intend to present. During the investigation, the SIC gathers the requested evidence together with any other evidence it may deem appropriate. The SIC may order precautionary measures, including the immediate suspension of conduct that could run counter to the regulations on the protection of competition. Once the investigation has been instituted, the Deputy Superintendent of the SIC convenes a hearing at which the parties present the evidence gathered in the course of the proceedings and the arguments they intend to make in the light of that evidence. After the hearing, a reasoned report is submitted to the Superintendent of Industry and Trade indicating whether or not, in the view of the Deputy Superintendent for Protection of Competition, there has been an infringement. This reasoned report is not binding on the Superintendent. The report is communicated to the party under investigation and to interested third parties. Finally, the Superintendent issues the resolution that brings the proceedings to a close, after meeting with the Advisory Council to hear its recommendations.¹⁷⁴ The investigated party may enter an application for reconsideration. Appeals may also be filed with the Council of State seeking judicial review of the decisions of the SIC on free economic competition.

3.251. Under Colombian law, an investigation into restrictive trade practices can be closed early if the investigated party offers sufficient guarantees that he will cease or modify the conduct for which he is being investigated.¹⁷⁵ The authorities indicated that in 2012, four investigations into anti-competitive practices were terminated early, as guarantees were offered. The practices have not recurred since then.

3.252. The SIC has the power to impose, for each violation and on each infringer, fines of up to 100,000 SMMLVs or up to 150% of the profits derived from the conduct of the infringer, whichever

¹⁷² Article 12 of Law No. 1.340 of 2009.

¹⁷³ The procedure for determining the existence of an infringement is regulated by Decree No. 2.153 of 1992, Law No. 1.340 of 2009 and Decree No. 19 of 2012.

¹⁷⁴ The Advisory Council comprises five experts in economic, legal and/or business matters appointed by the President of the Republic. Article 25 of Decree No. 4.886 of 2011.

¹⁷⁵ The investigated party must offer a guarantee before the expiry of the time allowed by the SIC for seeking or furnishing evidence.

is the greater. The SIC is also authorized to impose on any person that assists, facilitates, authorizes, executes or tolerates conduct in breach of the rules on the protection of competition fines up to the equivalent of 2,000 SMMLVs at the time of imposition of the penalty.¹⁷⁶ The imposition of prison sentences is not envisaged.

3.253. During the period from 2012 to June 2017, the SIC conducted 92 investigations: 19 of them were discontinued (because the complaints were either withdrawn or deemed inadmissible) and four were closed upon acceptance of guarantees. Penalties were imposed in 72 cases. The average duration of the investigations doubled during the review period, which the authorities believe is attributable to the growing complexity of cases (Table 3.30).

Table 3.30 Activities of the SIC, January 2012-June 2017

Year	Total number of investigations and decisions	Decisions to discontinue investigations	Sanctions imposed	Guarantees accepted	Average time (from initiation to decision) (days)
2012	15	5	10	4	639.2
2013	13	4	9	0	602.7
2014	23	1	22	0	859.9
2015	8	1	7	0	867.5
2016	19	6	14	0	1,057.8
2017	14	2	10	0	1,241.9
Total	92	19	72	4	878.1

Source: WTO Secretariat, based on information provided by the SIC.

3.254. Decree No. 1.523 of 16 July 2015 regulated the whistle-blowing programme by establishing the conditions and form in which the SIC may accord benefits to persons who cooperate in detecting anti-competitive agreements and other restrictive practices. Benefits may be granted provided that the applicant: (i) is not the instigator or promoter of the conduct; (ii) submits the request to join the whistle-blowing programme within the allotted time-frame; (iii) signs and complies with the agreement on benefits for cooperating with the competent official; (iv) acknowledges participation in the anti-competitive practices and ceases those practices; and (v) provides information and evidence that are useful to the investigation and add to what has already been obtained. An order of precedence is established for the granting of benefits: the first to cooperate is given full exemption from the fine payable, the second is accorded a reduction ranging from 30% to 50%; and those coming forward subsequently obtain a reduction of up to 25% of the fine.

3.3.4.2 Price controls

3.255. Colombian laws empower ministries and other government bodies to issue resolutions laying down and applying the price policy for goods and services within their respective areas of regulatory responsibility (Table 3.31).¹⁷⁷ The competent bodies may proceed, *ex officio* or at the request of interested parties (producers, distributors, importers and consumer associations) to set price or margin controls that may be applied at any stage in the production or distribution of a product or service.

Table 3.31 Bodies empowered to apply price controls

Body	Product or service
Ministry of Agriculture	Agriculture sector inputs and products
Ministry of Health	Drugs, pharmaceutical inputs, surgical equipment and products relating to the health sector
Ministry of Mining and Energy	Petroleum and petroleum products, coal, and other minerals
Ministry of Transport	Urban and suburban passenger and mixed land transport; subsidized by the State: intermunicipal and interdepartmental land transport and river transport
Administrative Department of Civil Aviation	Domestic air fares
National Tourism Corporation	Hotels, restaurants, bars and similar businesses
Ministry of Trade, Industry and Tourism	Public performances, some manufactures and non-commercial services not covered by other entities

¹⁷⁶ Articles 25 and 26 of Decree No. 1.340 of 2009.

¹⁷⁷ Decree No. 149 of 1976, Decree No. 2.876 of 1984, Law No. 81 of 1988 and Law No. 142 of 1994.

Body	Product or service
Sectoral regulatory commissions	Household public services: water supply, sewerage and sanitation; electricity, gas distribution, basic public fixed telephony and local mobile telephony in the rural sector

Source: WTO Secretariat.

3.256. There are three price control regimes that may be applied: direct control; regulated freedom and monitored freedom.¹⁷⁸ Under the direct control regime, the competent bodies fix the maximum price for producers and/or distributors, after studying the costs of production. Under the regulated freedom regime, the competent bodies set the criteria and methodology (including profit margins, for example) to enable producers and distributors to determine or modify maximum prices. Under the monitored freedom regime, producers and distributors are free to set the price of goods and services but must notify and justify any price changes to the competent authority, which may reject the change. Tariffs for household public services may fall under the regulated or monitored regime.

3.257. Before issuing regulations on price controls, the competent bodies must inform the SIC so that it can issue an opinion on the application of competition law, which is a preventive mechanism to protect the system of free competition. When issuing a price regulation decision, the competent body must give its reasons, if applicable, for not accepting the SIC recommendation on the proposed price regulation. The authorities have stated that during the review period, the SIC evaluated various proposed price and tariff regulations and made recommendations in the sectors of transport; medicines and medical devices; water supply, sewerage and sanitation; natural gas and electricity.

3.258. The SIC is also empowered, before conducting an investigation, to recommend that the competent authorities impose price controls in the sectors where there may be restraints on competition, and is responsible for monitoring compliance with price controls and disseminating information in that regard.¹⁷⁹ Decree No. 2.876 of 1984 (as amended by Decree No. 863 of 1988) classifies infringements of price control rules and establishes the corresponding penalties, which may amount to as much as 300 times the value of the current statutory minimum monthly wage.

3.259. Price controls are currently applied to medicines and medical devices; agrochemicals, milk, gasoline, natural gas and liquefied petroleum gas; drinking water; sanitation and electricity. The Government has occasionally entered into agreements with producers to temporarily freeze the prices of some food items (red meat, fish, dairy products, eggs, grains and processed foods) in order to ensure food security.¹⁸⁰

3.260. During the period under review, Colombia maintained a price control regime for medicines so as to make drugs more accessible to the public and lower health system costs on the basis of the National Development Plan 2014-2018 and CONPES Social Document No. 155 of 30 August 2013. Before price controls can be applied to medicines, an *ad hoc* methodology must be developed and implemented for the purpose. Accordingly, in 2013 the National Commission on the Pricing of Medicines and Medical Devices (CNPMD) of the Ministry of Health and Social Welfare (MSPS) prepared such a methodology for the system of direct control of medicine prices based on international reference prices; it also expanded the list of medicines subject to regulation. In 2015, the price control regime was extended to include medical devices. CNPMD Circular No. 01 of 2017 contains a list of CPI-adjusted maximum sale prices for medicines, valid in 2017. Circular No. 03 of 22 December 2017 placed a larger number of medicines under direct price control, bringing the total to 1,000 drugs currently subject to control.¹⁸¹

3.261. In 2016 the Government issued a declaration of public interest (a prerequisite for obtaining a compulsory licence) regarding a cancer treatment drug patented and produced by a foreign company. The Government then decided, using a specific methodology, to substantially reduce the local price of the drug concerned. It did not proceed to issue the compulsory licence, however. The possible link between the public interest declaration and the price control entailed by these

¹⁷⁸ Law No. 81 of 23 December 1988.

¹⁷⁹ Online information from the SIC, viewed at <http://www.sic.gov.co/control-de-precios>.

¹⁸⁰ Those controls were applied from 12 December 2016 to 15 January 2017.

¹⁸¹ CNPMD Circular No. 03 of 22 December 2017. Viewed at: <https://www.minsalud.gov.co/sites/rid/Lists/BibliotecaDigital/RIDE/DE/DIJ/circular-03-2017.pdf>.

measures caused concern in the pharmaceutical industry.¹⁸² In response to those concerns, the Government issued Decree No. 670 of 2017 making the procedure for public interest declarations stricter and more systematic. This ruled out the possibility that declarations could be used as a pretext for imposing price controls on the drugs concerned.

3.3.5 State trading, State-owned enterprises and privatization

3.3.5.1 State trading

3.262. Under the Constitution and pursuant to various laws and decrees¹⁸³, Colombia's territorial subdivisions, known as departments, enjoy autonomy for exercising a monopoly on spirits, provided that the revenue obtained from that monopoly is primarily earmarked for education and health services. In this framework, departmental distilleries produce alcoholic beverages for consumption in their own department, for distribution to other departments (subject to authorization) and for export; they also import raw materials for production.¹⁸⁴ However, private traders may engage in import and export activities on the basis of permits or contracts.

3.263. Prior to the entry into force of Law No. 1.816 of 19 December 2016, departmental distilleries set their own conditions in the contracts authorizing the introduction and marketing of spirits in their territory, such as, for example the quantity of spirits that could be distributed, the department's percentage share in the sale price of the products and, on occasion, the minimum sale price. They could also refuse entry to a particular outside brand.

3.264. Law No. 1.816 of 2016 introduced new regulations on instruments through which distilleries may exercise a monopoly on spirits with discretion to allocate revenue. The new regulations prescribe that decisions taken by the departments in the exercise of the monopoly must be in accordance with the principles of non-discrimination, free competition and market access. The instruments through which the monopoly is exercised are import/distribution permits and production contracts. Law No. 1.816 sets out the requirements and procedures for permit applications and the issuance of permits and for the conclusion of contracts. It is expressly prohibited to set minimum or maximum shares of the quantity of spirits that can be introduced or to set minimum sale prices. All departments are required to apply the requirements and procedures in a transparent and uniform manner and must guarantee the interested parties the right to challenge their decisions.

3.265. Departments that exercise the monopoly on spirits collect a share of the sale price of the products covered by the monopoly and sold and consumed in their jurisdiction, as well as operating fees paid by producers and importers who have been awarded contracts or granted a permit.¹⁸⁵ Operating fees on production are set through a public tendering procedure, under which the Departmental Assembly is able to set their level as a minimum percentage of sales. Operating fees on distribution are equivalent to 2% of annual sales of the imported spirits. In both cases, the operating fees must be the same for all products and may not depend on volume, price, brand or type of product.¹⁸⁶ The duration of production contracts ranges from five to ten years and they are renewable once for up to half of the initial duration, while distribution permits have a term of ten years, renewable for the same length of time.

3.3.5.2 State-owned enterprises and privatization

3.266. Through its equity stakes in different enterprises, the State plays an important role in the Colombian economy. At the end of 2016, there were 119 enterprises in which the Government held a direct equity stake, with assets worth Col\$61.3 billion (approximately US\$20.3 million) and 27,000 employees (Table 3.32). The Government held a majority stake in 40 enterprises, which generated revenue equivalent to 9.6% of GDP.

¹⁸² *Business and Industry Advisory Committee to the OECD*, online information from *Insidetrade*, viewed at: https://insidetrade.com/sites/insidetrade.com/files/documents/oct2017/wto2017_0343a.pdf.

¹⁸³ Article 336 of the Political Constitution of Colombia, Article 61 of Law No. 14 of 1983, Decree No. 1.222 of 1986, Law No. 223 of 1995, Law No. 788 of 2002 and Law No. 1.393 of 2010.

¹⁸⁴ WTO document G/STR/N/16/COL of 1 June 2017.

¹⁸⁵ In the case of departments that decide not to exercise the monopoly over distilled spirits, the latter must be made subject to the excise tax on spirits, wines, aperitifs and the like.

¹⁸⁶ Articles 8 and 17 of Law No 1.816 of 2016.

3.267. The sectors in which the activities of national State-owned enterprises are mainly concentrated are hydrocarbons, energy (electricity) and financial services; in addition, the State has numerous smaller holdings in the transport, communications and agriculture and livestock sectors. The largest State-owned enterprise is ECOPETROL S. A., which operates in the hydrocarbons sector, followed by Interconexión Eléctrica S.A. E.S.P. (ISA). These are the only two national State-owned enterprises listed on the Colombia Stock Exchange.

Table 3.32 State-owned enterprises by sector and State holding, 2016

Sector	State-controlled (A)		Minority stake (B)		Total (A+B)	
	Total number of controlled enterprises	Total equity adjusted for State holding ^a	Total number of enterprises with a minority stake	Total equity adjusted for State holding ^a	Total number of enterprises	Total equity adjusted for State holding ^a
Agriculture	2	176,369	16	232,232	18	408,601
Energy	12	8,992,863	11	142,239	23	9,135,102
Financial	13	12,210,360	3	9,521	16	12,219,881
Hydrocarbons	1	38,647,654	0	0	1	38,647,654
Telecommunications	3	226,455	6	-104,473	9	121,982
Transport	3	-91,353	33	104,124	36	12,771
Health	4	377,082	0	0	4	377,082
Other	2	328,463	10	92,600	12	421,063
Grand total	40	60,867,893	79	476,243	119	61,344,136

a Col\$ million.

Source: Consolidator of Fiscal and Public Financial Information (CHIP) and data submitted by the ministries.

3.268. Broadly speaking, there are two types of State-owned enterprises: State Industrial and Commercial Enterprises (EICEs) and Semi-Public Companies (SEMs). EICEs are created by law, with a State holding of 90% or more; the SEMs are incorporated as commercial companies with public and private participation.¹⁸⁷ Both types of company are governed by private law, although there are several laws that provide for exceptions (for example, regarding their debt capacity and budget management). State-owned enterprises are regulated and supervised by different ministries, commissions and supervisory authorities, usually depending on the sector in which they operate. The legal and institutional framework governing State-owned enterprises is therefore complex and fragmented. According to a recent government study, the Colombian State is facing major challenges relating to the discharge of its function as owner and the capacity of State-owned enterprises to generate economic and social value, given the low standards of corporate governance and the rigidities in the regulatory framework that governs them.¹⁸⁸

3.269. During the review period Colombia took steps to meet these challenges and address the recommendations of the OECD, with a view to joining that organization.¹⁸⁹ In November 2015, the Central Government published the General Policy on National State-owned Enterprises (CONPES Document No. 3851) for the main purpose of progressing towards a model of corporate governance in State-owned enterprises that is structured, clear and efficient, based on accountability between a single owner and the boards of directors of the enterprises, and in which the boards are assured of autonomy as the highest decision-making bodies in the enterprises. The CONPES document sets out a road map and specific lines of action focused on two core areas: strengthening the role of the Central Government as owner and enhancing corporate governance and the regulations governing State-owned enterprises so as to provide them with an enabling environment in which to create value.

3.270. The new policy is now being implemented. Decree No. 2.384 of 11 December 2015 established the General Directorate for State Holdings (DGPE) within the Ministry of Finance and Public Credit in order to centralize the functions of business ownership in that Ministry's portfolio and take the lead in the activities envisaged in CONPES No. 3851. This is part of a pilot plan that will lead to the creation, in 2019, of a national body to act as owner of all State-owned enterprises. Other advances include the creation by the DGPE of technological tools to consolidate information

¹⁸⁷ Law No. 489 of 1998 stipulates that if the share of State capital in an SEM reaches or exceeds 90%, it will be placed under the EICE regime.

¹⁸⁸ CONPES, *Política General de Empresas Estatales del Orden Nacional* (General Policy on National State-owned Enterprises), CONPES Document No. 3851 of 23 November 2015. Viewed at: <https://colaboracion.dnp.gov.co/CDT/Conpes/Econ%C3%B3micos/3851.pdf>.

¹⁸⁹ OECD (2015), *OECD Review of the Corporate Governance of State-owned Enterprises. Colombia*. Viewed at: <http://www.oecd.org/corporate/oecd-review-corporate-governance-soe-colombia.htm>.

and monitor the management of State-owned enterprises, the preparation of a global strategy for determining which enterprises are strategically important to the State and which are not, and undertaking company reorganization processes or divesting unprofitable, non-strategic or high-risk assets.

3.271. Article 60 of the Constitution and Article 3 of Law No. 226 of 1995 prescribe that in divesting its holding in an enterprise, the State will give preference and offer special conditions to workers and solidarity-based organizations for assuming ownership. The Government periodically submits to Congress an asset disposal plan listing companies and equity stakes that could be privatized. There were few privatizations during the period of this review, but some of the enterprises disposed of were of high value. In January 2016, for example, the State sold its majority stake (57.6%) in ISAGEN, the country's third largest electricity generator, for US\$2,000 million. In addition, December 2016 saw the conclusion of the sale of the ECOPETROL equity holding in Interconexión Eléctrica S.A. E.S.P. (ISA), equivalent to 5.3% of that company's subscribed and paid-up capital, for an approximate value of US\$170 million.

3.3.6 Government procurement

3.3.6.1 Overview

3.272. Government procurement is of major importance in the Colombian economy as it accounts for more than 15% of GDP, according to information provided by the authorities. It also serves to promote domestic industry and employment.

3.273. Colombia is not a signatory to the WTO plurilateral Agreement on Government Procurement, but is an observer in the Committee. Colombia has made government procurement commitments under several of the trade agreements to which it is party (for example, with the European Union, the United States, the Republic of Korea, Chile and the countries of the Northern Triangle, among others).

3.274. During the period under review, Colombia pursued its efforts to upgrade the government procurement system in order to make it more efficient and transparent. The principal changes include establishing the National Government Procurement Agency (hereinafter *Colombia Compra Eficiente* (Colombia Buys Efficiently)); developing and codifying procurement best practices; implementing pricing framework agreements; advances in the Electronic System for Government Procurement (SECOP) with the creation of a platform allowing the entire procurement process to be carried out online, and the establishment of the Government's E-Store (*Tienda Virtual del Estado*). Some amendments were also made to the regulatory framework for government procurement.

3.275. *Colombia Compra Eficiente* is a special administrative unit attached to the National Planning Department (DNP), created by Decree-Law No. 4.170 of 2011. It is in part a response to the need for a national body responsible for formulating government procurement policy and promoting uniformity among practices followed by contracting bodies.¹⁹⁰ Its functions include, *inter alia*: proposing to the Central Government procurement policies, plans, programmes and rules in order to achieve greater efficiency and transparency and optimum use of government resources; preparing studies, diagnostic analyses and statistics; handling queries on the application of general rules and issuing external circulars relating to government procurement; developing and managing the SECOP; and drawing up, organizing and entering into pricing framework agreements and other mechanisms for aggregating demand.¹⁹¹

3.3.6.2 Regulatory framework

3.276. The general procurement regime is governed mainly by Law No. 80 of 1993 (General Government Procurement Statute) and Law No. 1.150 of 2007. These two laws lay down the principles and rules governing procurement by most State entities.¹⁹² Nevertheless, some entities,

¹⁹⁰ CONPES Documents No. 3.186 of 2002 and No. 3.249 of 2003.

¹⁹¹ Decree-Law No. 4.170 of 2011.

¹⁹² The general regime applies to ministries, departments, departmental governments, municipal authorities, special administrative units, public institutions, agencies, territorial partnership schemes and other government entities; the Senate of the Republic and the House of Representatives; the Higher Council of the

for example residential public utility service providers and other State-owned enterprises, are subject to special regimes, which generally reflect the rules of procurement under private law. Similarly, some types of procurement such as postal services, and television and radio broadcasting services, among others, are governed by special laws.

3.277. Decree No. 1.082 of 26 May 2015 compiles and regulates the legislation governing the general government procurement regime and also contains some provisions applicable to the special regimes.¹⁹³ The regulatory framework also comprises Laws No. 361 of 1997, No. 590 of 2000, No. 816 of 2003, No. 1.474 of 2011 and Decree-Law No. 19 of 2012, as well as the *Colombia Compra Eficiente* Circulars. The "Síntesis" application, created on the *Colombia Compra Eficiente* website, contains the regulations and jurisprudence relating to government procurement.¹⁹⁴ To identify and encourage best practices in government procurement, *Colombia Compra Eficiente* prepares manuals, guides and model documents (including the Guide for participation by foreign suppliers in procurement procedures, the Manual of incentives in procurement procedures, and model contracts).¹⁹⁵

3.278. To enter into contracts with the State, interested persons, whether natural or legal persons, Colombian or foreign with domicile in Colombia, must be enrolled in the Single Bidders Register (RUP). Branches of foreign companies must submit accounting and financial information pertaining to their parent company in order to enrol. Registration is possible through any Chamber of Commerce in the country. Once the Chamber concerned has verified that the interested party satisfies the eligibility requirements (experience, legal, financial and organizational standing), it issues a RUP certificate.¹⁹⁶ Registration must be renewed every year. Enrolment in the RUP is not required for single tendering, or if the contractor is a foreign natural or legal person without domicile in Colombia, among other cases.

3.279. The regulations provide for five procurement methods¹⁹⁷: (i) open tendering; (ii) abridged selection; (iii) merit-based competition; (iv) single tendering; and (v) minimum amount. As a general rule, contractors must be selected by open tender, except in those cases expressly stipulated by law in which the contractor is chosen using some other procurement method.¹⁹⁸ Abridged selection uses simplified procedures to ensure efficient contract management and applies mainly to the purchase of goods and services that have uniform technical characteristics and are commonly used by the entities.¹⁹⁹ The merit-based competition method is used to select consultants or projects in which technical criteria and professional qualifications are paramount.²⁰⁰

3.280. Single tendering, regarded under the law as an exception for situations where there is no viable competitive bidding procedure, is used in the following cases: manifest urgency; loan procurement; inter-administration contracts, procurement of goods and services in the defence and security sector, which require confidentiality; contracts for the development of scientific and technological activities; contracts for fiduciary services; where there is only one bidder; rental or purchase of real estate; and provision of professional and management support services. The minimum amount method is used for purchases that do not exceed 10% of the procuring entity's

Judiciary and the Office of the Public Prosecutor; the National Civil Status Registry and the National Electoral Council; State entities belonging to the supervisory bodies; the National Civil Service Commission; the Regional Autonomous Corporations; and any other government agency or department that is empowered by law to enter into contracts.

¹⁹³ Decree No. 1.082 of 2015 incorporates the provisions of Decree No. 1.510 of 2013 and repeals it.

¹⁹⁴ Online information from *Colombia Compra Eficiente*, viewed at:

<https://sintesis.colombiacompra.gov.co>.

¹⁹⁵ All manuals, guides and model documents are available on the *Colombia Compra Eficiente* website at: <https://www.colombiacompra.gov.co/manuales-guias-y-plegos-tipo/manuales-y-guias>.

¹⁹⁶ Article 2.2.1.1.1.5.1 et seq. of Decree No. 1.082 of 2015.

¹⁹⁷ Law No. 1.150 of 2007, Decree No. 2.474 of 2008 and Decree No. 1.082 of 2015.

¹⁹⁸ Article 2 of Law No 1.150 of 2007.

¹⁹⁹ Abridged selection is also used in the following cases: low-value contracts; contracts for the provision of health services; procurement where the open tendering procedure has been declared void; disposal of State property; purchase of products of agricultural origin or use; transactions and contracts having as their direct object the own activities of State-owned industrial and commercial enterprises and of semi-public companies; the contracts of entities responsible for the implementation of programmes for the protection of persons under threat, demobilization and reintegration, displaced people, protection of human rights and people with some degree of exclusion; and the procurement of goods and services for national defence and security.

²⁰⁰ Open competition or prequalification systems may be used in merit-based competitions.

low-value amount, determined on the basis of its annual budget; in such cases, an invitation to tender is published.

3.281. As shown in Table 3.33, although the total value of contracts awarded by open tendering increased steadily over the first four years of the review period, it declined appreciably as of 2016. The value of contracts awarded through single tendering held steady at a level significantly above that of contracts awarded through open tendering and other procurement methods. In 2017, the gap widened even further, as the value of contracts awarded through single tendering was fourfold that of contracts awarded through open tendering.

Table 3.33 Value of contracts awarded, by procurement method, 2012-2017

(Col\$ million)

Year	Open tendering	Abridged selection	Merit-based competition	Single tendering	Minimum amount
2012	11,458,570	6,818,757	1,162,318	23,387,375	1,812,103
2013	19,629,502	7,716,541	1,991,043	44,985,256	2,074,319
2014	22,738,614	9,830,543	2,153,304	42,094,794	2,237,695
2015	33,744,529	11,419,393	2,812,156	43,869,565	2,215,157
2016	12,655,064	7,714,534	1,269,535	32,643,483	2,085,383
2017	11,678,336	9,483,046	2,041,439	46,370,056	2,279,925

Source: WTO Secretariat, with information provided by the Colombian authorities.

3.282. In open tendering procedures, State entities may use the reverse auction mechanism for the submission of all or some of the bids, in which case this must be indicated in the tendering documents. In the case of abridged selection for the purchase of goods and services with uniform technical characteristics, State entities must use the reverse auction procedure or that of purchasing on commodity exchanges, or pricing framework agreements.²⁰¹ The requirement to use framework agreements applies to executive branch entities; on the other hand, it is optional for legislative branch entities and for territorial entities and autonomous agencies. *Colombia Compra Eficiente* has developed various pricing framework agreements on goods and services.

3.283. During the review period, the rules relating to the announcement of government procurement procedures were reinforced and standardized. Since 2013, State entities have been required to draw up an annual purchasing plan and to publish it on their website and in the SECOP. Likewise, they are required to publish all the administrative documents and decisions relating to their government procurement procedures within three days of their issuance. State entities must publish, in a timely manner, the call for tenders or the invitation to participate in minimum amount procurement procedures as well as the draft tendering documents, so that interested parties may submit comments or seek clarifications. Under the law, tendering documents are free of cost.

3.284. Article 3 of Law No. 1.150 2007 stipulates that the SECOP is the single portal for information regarding government procurement and must allow procurement procedures to be conducted online. Significant headway was made in this regard during the review period. The system now has three platforms: SECOP I, SECOP II and the Government's E-Store. Through SECOP I, State entities publish all documents relating to procurement procedures, and these may be viewed online by the general public. The authorities have indicated that in 2016, over 900,000 procurement procedures were published via SECOP I.

3.285. SECOP II, which came into operation in March 2015, is an e-procurement platform that enables State entities to conduct the entire procurement procedure online, from the planning through to the management and settlement stages of the contract; it also enables suppliers to submit their bids and comments and to obtain information regarding business opportunities. As at 31 December 2017, 1,698 State entities were registered in SECOP II and 24,054 procurement contracts had been awarded for a value of Col\$3,670.4 billion. The third platform is the Colombian Government's E-Store, which State entities can use to make purchases of goods and services based on pricing framework agreements and other mechanisms for aggregating demand, developed by *Colombia Compra Eficiente*.²⁰² Between October 2013 when the E-Store was created and 31 December 2017, State entities made appreciable savings on their purchases. The

²⁰¹ Article 2 of Law No 1.150 of 2007.

²⁰² The goods and services available in the Colombian Government's E-Store may be viewed at: <https://www.colombiacompra.gov.co/tienda-virtual-del-estado-colombiano>.

cumulative savings for that period were Col\$1,280.8 billion, according to information furnished by the authorities.

3.286. As regards the evaluation of bids, the regulations provide that the most favourable bid will be chosen, in accordance with the selection method. In bidding and abridged selection for low-value amounts, the most favourable bid can be determined in two ways: (a) by weighting the elements of quality and price based on points or formulas; or (b) by weighting the elements of quality and price that represent the best cost-benefit ratio. If the state entity opts for (b), it must indicate in the tendering documents: the minimum technical and economic conditions for the bid; the additional technical conditions that represent quality or operational advantages; the additional economic conditions representing advantages that can be valued in money terms; and the money value that the State entity assigns to each additional technical or economic advantage. The entity must then calculate the cost-benefit ratio for each bid by subtracting from the total tender price the money value assigned to each of the additional economic and technical conditions offered. The best cost-benefit ratio will be that of the bid that obtains the lowest result. In the case of procurement of commonly used goods and services with uniform technical characteristics, the price is the only determinant, whereas when consultants are being selected, technical factors are valued over price.²⁰³

3.3.6.3 National preferences

3.287. Colombia uses the government procurement regime as a tool for boosting domestic industry and employment, and for promoting the participation of Colombian micro, small and medium enterprises (MSMEs) in procurement procedures by applying preference margins and criteria for breaking tie bids.

3.288. Law No. 816 of 2003 establishes preference margins (or points) to promote domestic goods and services and incorporate Colombian components into foreign goods and services, and requires State entities (except residential public utility service providers) to set out the relevant preferences in the procurement documents. The preference margin is between 10% and 20% of the total score for tenders of Colombian goods and services, and between 5% and 15% for tenders for foreign goods and services incorporating Colombian goods and services components.²⁰⁴ These preference margins also apply to goods and services to which national treatment must be accorded under the Andean Community regulations or pursuant to trade agreements.²⁰⁵ In the case of countries with which Colombia has no trade agreements, national treatment is subject to the principle of reciprocity.²⁰⁶

3.289. For the purposes of applying the preferences, Colombian goods are deemed to be those recorded in the Register of Producers of Domestic Goods (RPBN), which is maintained by the MinCIT. Under Decree No. 2.680 of 2009, which regulates the RPBN, "domestic goods" are: products of nature wholly obtained on national territory; goods processed in Colombia using local materials; and goods that have undergone substantial transformation, whose domestic value added is 40% or higher. Colombian services are deemed to be those provided by Colombian natural persons or natural persons resident in Colombia or by legal persons incorporated under Colombian law, irrespective of the origin of their capital.

3.290. Colombian regulations also provide for the granting of preferences in the case of tie bids.²⁰⁷ Hence, when there is a tie between two or more bids in terms of the qualifying factors laid out in the tendering documents, the State entity must award the contract by successively applying the following criteria: to the offer of domestic goods and services or foreign goods and services with national treatment; to the bid submitted by a Colombian MSME, if the tie is not broken²⁰⁸, to

²⁰³ Article 5 of Law No 1.150 of 2007.

²⁰⁴ The points system does not apply in cases of: (i) direct selection; (ii) abridged selection for the purchase of goods and services with uniform technical characteristics; and (iii) the minimum amount selection procedure.

²⁰⁵ CCE, *Manual para el manejo de los Acuerdos Comerciales en Procesos de Contratación*. Viewed at: https://www.colombiacompra.gov.co/sites/cce_public/files/cce_documents/manual_acuerdos_comercialesr.pdf.

²⁰⁶ Paragraph of Article 1 of Law No. 816 of 2003, as amended by Article 51 of Decree No. 19 of 2012.

²⁰⁷ Law No. 816 of 2003, Law No. 590 of 2000 (MSMEs) and Law No. 361 of 1997 (Labour).

²⁰⁸ Preference cannot be given to a Colombian MSME under a trade agreement.

the bidder whose payroll includes at least 10% of persons with disabilities, if the tie persists²⁰⁹, or lastly, using a random method envisaged in the tendering documents.²¹⁰

3.291. There is also the possibility for State entities to restrict the invitation to participate in the procurement procedure, whether open tendering, abridged selection or merit-based competition, to local MSMEs only, when the value of the procurement is less than US\$125,000 (according to the exchange rate set by the MinCIT every two years), or when at least three Colombian MSMEs have requested the State entity to restrict the tendering to domestic MSMEs for at least one working day before the process begins. State entities may also organize bidding restricted to local MSMEs that are domiciled in the departments or municipalities where the contracts will be executed. No data are available regarding the degree of effective utilization of these preferences.

3.3.6.3.1 Procurement control

3.292. Procurement decisions by State entities may be challenged in various ways, depending on the type of decision and the contracting phase (Table 3.34). The decision to award a contract may not be the subject of an appeal for administrative review and, save for the exceptions mentioned in Table 3.34, is irrevocable. However, the decision may be contested through the courts. Indeed, once the administrative decision is final, any person that proves a legitimate interest may file an action before the competent court (administrative courts) for annulment, or annulment with restoration of rights, or may bring a contract dispute action.

Table 3.34 Control mechanisms for procurement procedures

Decision	Control	Period for filing	Regulatory framework
Contract award decision	Request for immediate revocation on account of disqualification, incompatibility or award obtained by unlawful means	From the notification of the decision but prior to the signing of the contract	Article 9 of Law No. 1150 of 2007
Contract award and other decisions issued during the contracting phase	Judicial action	Annulment	Article 137 of Law No. 1437 of 2011
		Annulment and restoration of rights	Article 138 of Law No. 1437 of 2011
		Contract dispute action	Article 141 of Law No. 1437 of 2011
Issued during the contracting phase. Such as: interpretation, amendment or unilateral termination	Application for reconsideration	5 days after notification	Articles 14 and 61 of Law No. 80 of 1993

Source: Information provided by the authorities.

3.293. The management of government procurement and the fight against corruption is controlled through various bodies. The Office of the Public Prosecutor exercises disciplinary control over purchasing officers who break the law. The Office of the Comptroller General of the Republic oversees the use of fiscal resources by State entities and may impose fines on officials who engage in corrupt practices. The Office of the Public Prosecutor investigates practices relating to criminal activities, including corruption and collusion in government procurement procedures on the part of civil servants and private sector agents, and its investigations can lead to terms of imprisonment. The Transparency Secretariat may sue civil servants and private sector agents for alleged corruption, but may not issue rulings or impose sanctions. The SIC oversees the markets in which government procurement takes place in order to prevent anti-competitive practices in procurement procedures and may initiate investigations *ex officio* or at the request of

²⁰⁹ Persons with a disability must be certified by the Ministry of Labour. Branches of foreign companies in Colombia that fulfil the requirement may also benefit from this preference.

²¹⁰ Decree No. 1.082 of 2015, Article 2.2.1.1.2.2.9 ("tie-breakers").

third parties.²¹¹ According to SIC data, 35 government procurement-related cases were investigated between 2012 and 2017.

3.294. Law No. 1.474 of 2011 provides for fines, terms of imprisonment and eight-year disqualification from contracting with State entities for persons engaging in practices of collusion in open tendering procedures, public auctions, abridged selection procedures or merit-based competitions. Disqualification from contracting with the State is for life in the case of natural persons who have been found guilty by the courts of offences against the public administration or patrimony of the State or of international bribery, among other things.²¹²

3.3.7 Intellectual property rights

3.3.7.1 Overview

3.295. During the review period, Colombia pursued a proactive policy for strengthening its intellectual property regime and adapting it to technological developments and new business practices, as well as to the commitments it has entered into under trade agreements. The changes focused primarily on: adjusting the rules; optimizing the administration of intellectual property rights (IPR); facilitating and streamlining registration procedures; consolidating interinstitutional coordination; and strengthening enforcement. As a result, Colombia's intellectual property legal system is today quite comprehensive and in some areas goes well beyond the TRIPS disciplines. Despite the progress made, challenges remain, such as creating greater awareness and use of intellectual property rights in the country, beefing up the fight against counterfeiting and piracy (including in the digital sphere) and building institutional capacity and cooperation in order to improve enforcement. Some Colombian policies on pharmaceutical products have also been called into question.

3.296. Colombia encourages the use of intellectual property as an instrument for generating value, economic growth and job creation, as well as for exploiting export market access by differentiating Colombian products. Thus, Law No. 1.834 of 2017 ("Ley Naranja", or Orange Law) was designed to support creators in publishing and marketing their works, while Law No. 1.676 of 2013 (Law on Secured Transactions) opened a new avenue for the use of intellectual property rights as a credit guarantee.

3.297. Colombia is currently party to 13 instruments administered by the World Intellectual Property Organization (WIPO), three of which it joined during the review period, namely: the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks; the Convention Relating to the Distribution of Program-Carrying Signals Transmitted by Satellite; and the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (Table 3.35).

Table 3.35 Participation in treaties administered by WIPO, 2017

Convention/treaty	Date of accession
WIPO Convention	4 February 1980 (Law No. 46 of 1979)
Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations	17 June 1976 (Law No. 48 of 1975)
Berne Convention for the Protection of Literary and Artistic Works (Colombia is party to the Paris Act)	4 December 1987 (Law No. 33 of 1987)
Geneva Convention for the Protection of Producers of Phonograms against Unauthorized Duplication of their Phonograms	14 February 1994 (Law No. 23 of 1992)
Paris Convention for the Protection of Industrial Property (Colombia is party to the Stockholm Act)	3 June 1996 (Law No. 178 of 1994)
International Convention for the Protection of New Varieties of Plants (UPOV)	13 August 1996 (Law No. 243 of 1995)
Patent Cooperation Treaty	29 November 2000 (Law No. 463 of 1998)

²¹¹ OECD, *Latin American Competition Forum, Improving Effective Public Procurement: Fighting Collusion and Corruption. Contribution by Colombia*, 18-19 September, Santo Domingo. DAF/COMP/LACF(2012)9.

²¹² Article 1 of Decree No. 1.474 of 2011, and Constitutional Court Ruling No. C-630/12 of 2012.

Convention/treaty	Date of accession
WIPO Copyright Treaty	29 November 2002 (Law No. 565 of 2000)
WIPO Performances and Phonograms Treaty	29 November 2002 (Law No. 545 of 1999)
Treaty on the Law of Trademarks and its Regulation	31 July 2009 (Law No. 1.343 of 2009)
Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks	29 May 2012 (Law No. 1.455 of 2011)
Brussels Convention relating to the Distribution of Program-Carrying Signals Transmitted by Satellite	20 December 2013 (Law No. 1.519 of 2012)
Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure	26 April 2016 (Law No. 1.515 of 2012)

Source: WTO Secretariat, on the basis of information from the Colombian authorities.

3.298. As a member of the Andean Community, Colombia directly applies the Decisions on intellectual property adopted by the Commission of the Cartagena Agreement. These Decisions deal with the following topics: copyright and related rights; industrial property; access to genetic resources; and protection of new plant varieties.²¹³ The main laws and decrees regulating these matters at the domestic level are described in the following subsections that deal with each type of intellectual property right, including the regulatory changes that have taken place during the review period. In addition, Table 3.38 provides an overview of the various intellectual property rights, including their scope, term of protection and exceptions.

3.299. Owing to its general scope, mention should be made here of the Law on Secured Transactions (Law No. 1.676 of 2013), which, among other changes, made it possible for economic rights vested in intellectual property to be used as security.²¹⁴ Supervisory Authority for Industry and Trade (SIC) Resolution No. 103.590 of 2015 regulates the procedure for registering security interests over industrial property rights. At August 2017, 277 such securities had been registered and 100 more were being processed. These figures show an emerging market in secured transactions that provides new financing options.²¹⁵

3.300. The institutions responsible for implementing the intellectual property regime have joined efforts to strengthen the sector. The Intersectoral Commission on Intellectual Property (CIPI), created by Decree No. 1.162 of 2010, is responsible for coordinating and directing the National Intellectual Property Administrative System, which consists of a set of policies, rules, programmes and institutions, both public and private, related with intellectual property. The CIPI is composed of 12 State entities with responsibilities relating to intellectual property, and is chaired by the Minister of Trade, Industry and Tourism. It meets at least once a year, and has six technical subcommissions.²¹⁶

3.301. The National Copyright Directorate (DNDA) is a special administrative unit of the Ministry of the Interior. It is responsible for designing, administering and implementing government policies on copyright and related rights, and administering the national register of literary and artistic works and acts or contracts linked with copyright and related rights. It is also responsible for inspecting and monitoring the collecting societies. Its powers include making recommendations on accession to international treaties in this field and seeing to their ratification and implementation, and establishing the necessary measures for compliance; it also provides training in and raises awareness of copyright and related rights.²¹⁷

3.302. The SIC administers the National Industrial Property System. The Industrial Property Office consists of: (i) the New Creations Directorate, responsible for handling applications for patents and utility models and registering industrial designs and layout-designs of integrated circuits; and (ii) the Distinctive Signs Directorate, which handles applications for trademarks and trade names,

²¹³ The CAN common regime on copyright and related rights was adopted by Decision No. 351 of 1993; the common regime on industrial property was established by means of Decision No. 486 of 2000, as amended by Decision No. 689; the common regime on access to genetic resources was established by Decision No. 391 of 1996; and the common regime on the protection of the rights of breeders of new plant varieties was established by Decision No. 345 of 1993. Viewed at: <http://www.comunidadandina.org/Seccion.aspx?id=83&tipo=TE&title=propiedad-intelectual>.

²¹⁴ Article 6 of Law No. 1.676 of 2013. Viewed at: http://www.secretariassenado.gov.co/senado/basedoc/ley_1676_2013.html.

²¹⁵ Information provided by the SIC.

²¹⁶ The subcommissions are: Copyright, Industrial Property, Plant Varieties, Genetic Resources and Traditional Knowledge, Education and Enforcement.

²¹⁷ The DNDA was established by Decree No. 2.014 of 1991.

slogans and logos, as well as appellations of origin. The Patents Bank promotes the use of new creations and patent documents as a source of technological information.²¹⁸

3.303. The Colombian Agricultural Institute (ICA) is the national authority responsible for applying the plant variety protection regime, and for granting breeder's certificates and administering the National Register of Protected Plant Varieties. The ICA is also responsible for protecting undisclosed information concerning test data on chemical pesticides for agricultural use.²¹⁹ The National Food and Drug Surveillance Institute (INVIMA) protects undisclosed information concerning test data submitted to obtain the sanitary registration of pharmaceutical products containing new chemical entities, pursuant to Decree No. 2.085 of 2002.²²⁰

3.304. Table 3.36 provides a summary of IPR protection in Colombia.

Table 3.36 Overview of intellectual property rights, 2017

Coverage	Term of protection	Exceptions
Copyright and related rights		
Literary and artistic works	Lifetime + 80 years (natural person) 50 years (legal person)	Legal provisions, judicial decisions, agreements and other regulations; right of quotation and reproduction for educational purposes
Artistic performances, phonographic productions and radio broadcasts	Lifetime + 80 years (natural person) 50 years (legal person)	Private use, current affairs, use for teaching purposes, right to quote and make ephemeral recordings
Patents		
Any invention, whether of products or of processes, in all areas of technology, provided that it is new, involves an inventive step and is susceptible of industrial application	20 years from date of filing of the application	Discoveries; living organisms, biological processes or biological material as found in nature; literary, artistic works; plans, rules and methods; games; computer programs; ways of presenting information; inventions whose exploitation must be prevented to protect public order or morality; health or life of persons or animals or to preserve plants or the environment; plants, animals; therapeutic or surgical methods; mathematical, financial or business methods, scientific theories
Trademarks		
A trademark is any sign serving to distinguish products or services in the market. Signs that are capable of graphic representation are eligible for registration as trademarks	10 years from being granted, renewable indefinitely for periods of 10 years	Generic or technical name of the product or service; that could mislead commercial circles or the public as to the nature, provenance, mode of manufacture or characteristics of the products in question; that consist of a geographical indication; that consist of the name of a protected plant variety; that are contrary to morality or public order or violate third-party rights
Appellations of origin		
Name of a country, region or specific locality, or name related with a specific geographical area, used to designate a product originating therein and whose quality, reputation or other characteristics are exclusively or essentially due to the geographical environment in which it is produced, including natural and human factors	Determined by the continued existence of the conditions that justified protection	Do not satisfy the definition; are a common or generic indication; are contrary to morality or public order; or could mislead the public as to the geographical provenance, nature, mode of manufacture, or the quality, reputation or other characteristics of the products in question
Industrial design		
Any particular new appearance of a product that results from any arrangement of lines or combination of colours, or any two-dimensional or three-dimensional outward shape, outline, form, texture or material, without the intended use or purpose of the said product being thereby changed.	10 years from date of filing of the application; non-renewable	Industrial designs whose commercial exploitation must be prevented in order to protect morality or public order; whose appearance was dictated entirely by technical considerations; and those that consist only of a form which is necessary in order to permit the mechanical assembly or connection of the product incorporating the design with another product of which it is a part

²¹⁸ Online information from the SIC, viewed at: <http://www.sic.gov.co/delegatura-para-la-propiedad-industrial>.

²¹⁹ Online information from the ICA, viewed at: <https://www.ica.gov.co/El-ICA/Funciones.aspx>.

²²⁰ Decree No. 2.085 of 2002. Viewed at: http://web.invima.gov.co/porta1/documents/porta1/documents/root//decreto_2085_2002.pdf.

Coverage	Term of protection	Exceptions
Plant varieties All cultivated varieties of botanical genera and species, provided that the growing, possession or use thereof is not prohibited for reasons of human, animal or plant health and that they are new, uniform, distinct and stable, and have been assigned a name that constitutes their generic designation	From the date when the plant breeder's right is granted, 25 years in the case of vines and forest and fruit trees; 20 years for all other species.	Plant varieties bred privately for non-commercial purposes; for experimental purposes; and, to obtain and exploit a new variety, unless it is one essentially derived from a protected variety. Whoever keeps and plants for his own use, or sells as raw material or food, the product obtained from the cultivation of the protected variety
Protection of test data with exclusivity		
Pharmaceuticals: undisclosed information concerning the safety and effectiveness of an active ingredient which has not been included in pharmacological standards in Colombia and which has involved a considerable effort	5 years from approval for marketing	When: the holder has authorized the use of the information; it is similar to another that has been authorized in Colombia and the term of protection has expired; it is necessary to protect the public interest; the new chemical entity has not been marketed in the country one year after the marketing permit was issued
Agrochemicals: undisclosed information contained in the test reports on a new chemical entity, and which has involved a considerable effort	10 years from approval for marketing	When: the holder has authorized the use of the information; it is necessary to protect the public interest; the new chemical entity registered has not been marketed in the country one year after registration was granted

Source: WTO Secretariat, on the basis of information provided by Colombia and viewed on several internet sites belonging to the respective authorities, which are included in the citations at the bottom of the page.

3.3.7.2 Copyright and related rights

3.305. Colombia's copyright and related rights regime is governed at the CAN level by Decision No. 351 of 1993, and at the domestic level by Law No. 23 of 28 January 1982 and amendments thereto.²²¹ Collecting societies in respect of copyright and related rights are regulated by Decree No. 3.942 of 2010.

3.306. A draft law currently before Congress regulates four matters: (1) rights of authors, performers, phonogram producers and broadcasting organizations, with an extension of the term of protection (from 50 to 70 years when the right holder is a legal person); (2) exceptions and limitations to these rights for educational, information and cultural purposes; (3) protection for technological measures and information on rights management; and (4) civil and criminal procedures. On 5 December 2017, the draft law was adopted in first debate (of the three required for adoption).

3.307. Under Article 2 of Law No. 23 of 1982, copyright protects scientific, literary and artistic works (including books, speeches, lectures and cinematographic works). Copyright protects works regardless of the means by which they are disseminated, including digital media. The right of reproduction, regulated by Decision 351 of 1993 (Articles 13 and 37), also covers acts performed in the digital environment. Accordingly, reproduction through digital media of a work or performance protected by a related right requires the prior and express authorization of the right holder; this also applies to the public communication of a work on the internet (Articles 13 and 15 of Decision 351 of 1993).

3.308. The term of protection for literary and artistic works is the author's lifetime plus 80 years for natural persons; and 50 years for legal persons as from the making, dissemination or publication of the work. Likewise, related rights are protected during the author's lifetime plus 80 years for natural persons; and for 50 years for legal persons. The law explicitly specifies the exceptions to copyright and related rights, seeking a balance between protection of the right holder and the public interest in access to information and education.

3.309. During the review period, some changes were made to the legal regime governing copyright. Law No. 1.450 of 16 June 2011 introduced amendments to Law No. 23 of 1982 (Articles 20 and 183) relating to the transfer of economic rights. The Law on Public Performances (No. 1.493 of 2011) introduced provisions to strengthen the DNDA's powers of inspection, supervision and control of collecting societies.

²²¹ Law No. 44 of 1993 and Decree No. 2.150 of 1995.

3.310. Law No. 1.680 of 20 November 2013 introduced an exception to copyright in order to allow access to protected works for the blind or visually impaired, through the reproduction, distribution, translation and conversion into Braille of such works without the right holder's permission, provided that such acts are not-for-profit and respect the author's moral rights. On 9 June 2017, Law No. 1.835 (the "Pepe Sánchez" Law) was adopted, recognizing the right of remuneration of authors of cinematographic works, including directors and scriptwriters, for the public communication of their audiovisual works.

3.311. Law No. 1.834 of 23 May 2017 ("Ley Naranja", or Orange Law) is aimed at encouraging the creative industries, i.e. industries that generate value through their goods and services based on intellectual property.²²² At the same time, the DNDA created a website known as "Red Naranja" (or Orange Network), to enable Colombian creators to publish fragments of works that they had already registered with the DNDA and promote their marketing. According to DNDA data, in 2016 there were 71,875 registered works, of which 52,799 were unpublished. In addition, the DNDA offers training courses to interested members of the public on the legal framework for copyright and related rights, and gave over 1,000 courses between 2012 and 2017.

3.312. Colombian legislation provides for both civil and criminal remedies against infringements of copyright and related rights. Right holders may apply to the civil courts under Law No. 23 of 1983, or institute proceedings for the offences defined in the Criminal Code (Articles 270 to 272). Infringement of moral rights can lead to a term of imprisonment of between 32 and 90 months and fines of between 26.6 and 300 current statutory minimum monthly wage units (SMLMVs). In the case of economic rights, violations can lead to a term of imprisonment of four to eight years and fines of 26.6 to 1,000 SMLMV. These penalties also apply in the case of infringement of the copyright and related rights protection mechanisms, such as circumvention of the technological measures restricting unauthorized use and the removal of or tampering with information for the electronic management of rights, as well as the importation, distribution and communication of copies in which the information has been removed or altered.²²³

3.313. In addition, since 2012 right holders and collecting societies have a space for airing and resolving disputes relating to the copyright and related rights regime through the "Fernando Hinestrosa" Conciliation and Arbitration Centre, set up by Resolution No. 0271 of 20 April 2012. According to information provided by the DNDA, the number of requests for conciliation submitted by users grew exponentially between 2012 and 2016 to reach a total of 976, of which almost a third were settled by mutual agreement.

3.3.7.3 Industrial property

3.314. Colombia applies the CAN common industrial property regime, governed by Decisions 486 of 2000 and 689 of 2008.²²⁴ Decision No. 486 contains substantive provisions on trademarks, appellations of origin, patents, industrial designs, layout-designs of integrated circuits, unfair competition and enforcement, and incorporates the national treatment and most-favoured-nation treatment principles of the TRIPS Agreement. It also establishes the regime of international exhaustion of industrial property rights. Decision 689 permits the development and expansion of industrial property rights through the domestic legislation of the member countries of the Andean Community. Accordingly, Colombia has issued laws and decrees regulating the CAN Decisions at the domestic level with regard to the protection of specific industrial property rights. The SIC periodically issues resolutions and circulars updating administrative procedures.

3.3.7.3.1 Patents

3.315. Under CAN Decision 486, protection is granted to patents, for both products and processes, in all branches of technology, provided that they are new, involve an inventive step and are susceptible of industrial application. In Colombia, the patent regime is primarily regulated by Decree No. 2.591 of 2000 and by the SIC Single Circular (2001), which is periodically updated.

3.316. The patent holder has the right to the exclusive and direct marketing of the patented product, or marketing through third parties under licence, or transferring the rights obtained by

²²² Law No. 1.834 of 2017. Viewed at: <http://derechodeautor.gov.co/leyes>.

²²³ Article 272 of Law No. 599 of 24 July 2000 (Criminal Code).

²²⁴ Online information from the CAN, viewed at: <http://www.comunidadandina.org/Seccion.aspx?id=83>.

selling them to a third party that exploits the invention.²²⁵ The term of protection for a patent is 20 years from the date on which the application is filed. The following are not patentable: discoveries; living organisms, or whatever exists as found in nature; scientific theories; mathematical methods; therapeutic and surgical methods; financial or business methods; the use of already existing products, whether or not patented; works of an artistic, literary or scientific nature; or computer programs as such.

3.317. The legislation provides for the grant of compulsory licences on the following grounds: (i) where the patent has not been worked (after three years from the grant of the patent or four years from the filing of the application, whichever is longer); (ii) public interest; (iii) abuse of dominant position; and (iv) dependent patents.²²⁶ Compulsory licences are subject to adequate remuneration and must be used predominantly for the supply of the domestic market.

3.318. The authorities have stated that in recent years there have been three requests for a declaration of public interest in order to obtain compulsory licences in the pharmaceutical sector; however, none had been granted at December 2017.²²⁷ One of these rulings concerned a cancer-treatment product patented by a transnational company.

3.319. In order to provide legal safety and certainty, and to address this concern, the Government modified the rules governing the procedure for the declaration of public interest (Decree No. 1.074 of 26 May 2015²²⁸), through Decree No. 670 of 25 April 2017. The procedure thus became more precise and systematic²²⁹, with the elimination of the link between the declaration of public interest and the control of medicine prices. Under the current procedure, the Ministry responsible for policy on the sector concerned may upon request declare that reasons of public interest exist. For that purpose, an Interinstitutional Technical Committee is set up, comprising the ministry concerned, the Ministry of Trade, Industry and Tourism (MinCIT) and the National Planning Department (DNP), which examines the situation and relevant information and makes a recommendation to the ministry concerned on the decision of whether or not to declare the existence of grounds of public interest. Interested third parties are given a ten-day period for submitting comments. The ministry in question issues the declaration by means of a resolution in which it must identify the situation that affects the general interest and establish the circumstances that led to the decision and the reasons for which the compulsory licence should be granted. The SIC is tasked with establishing the aspects concerning the specific scope of the licence.

3.320. Other regulatory developments during the review period include Decree No. 729 of 13 April 2012 regulating the description of the invention, correction of omissions in the patent application, the "Bolar Exemption", and the recording of assignments and liens²³⁰; as well as Decree No. 1.873 of 29 September 2014 governing compensation for patent holders for unreasonable delays by the SIC in issuing patents, except in the case of pharmaceutical products.²³¹ SIC Resolution No. 21.447 of 2012 simplified patent application procedures, allowing electronic transmission of documents and eliminating certain requirements such as legalization and authentication of the documents, which has speeded up the processing of applications: the average time for a decision has been cut from 52 months in 2012 to 20 months in 2017. Most patent applications are made through the Patent Cooperation Treaty (PCT); between 2012 and 2017, 79% of applications were submitted through the PCT.

²²⁵ Online information from the SIC, viewed at: <http://www.sic.gov.co/es/web/guest/patentes>.

²²⁶ Articles 61 et seq. of Decision 486 of 2000.

²²⁷ Pursuant to Article 70 of Law No. 1.753 of 2015, the Ministry of Health may apply to the SIC for the grant of compulsory licences under the procedure for the granting of such licences.

²²⁸ Decree No. 1.074 of 2015 (Chapter 24). Viewed at: <https://www.ecolex.org/details/legislation/decreto-no-1074-decreto-unico-reglamentario-del-sector-comercio-industria-y-turismo-lex-faac150000>.

²²⁹ Decree No. 670 of 2017. Viewed at: http://www.mincit.gov.co/loader.php?IServicio=Documentos&IFuncion=verPdf&id=80994&name=DECRETO_670_DEL_25_DE_ABRIL_DE_2017.pdf&prefijo=file.

²³⁰ Decree No. 729 of 2012. Viewed at: http://www.mincit.gov.co/loader.php?IServicio=Documentos&IFuncion=verPdf&id=4498&name=decreto729_2012.pdf.

²³¹ "Unreasonable delay" means more than five years from the filing of the application or three years after the request for the examination of the application was made, whichever is later. Decree No. 1.873 of 2014. Viewed at: <http://www.wipo.int/edocs/lexdocs/laws/es/co/co108es.pdf>.

3.321. Since July 2017, Colombia has been part of the Patent Prosecution Highway (PCT-PPH), formed by 22 countries of Europe, North America, Asia, Oceania and South America. Applicants who submit their applications in at least two of these countries and obtain a favourable decision in any of them may request accelerated processing in the other countries and through a simple procedure involving a single set of requirements.²³² This facilitates and speeds up patent applications, supporting Colombian inventors interested in patenting in the countries that belong to the PPH and vice versa.

3.322. Colombia accepted the Protocol Amending the TRIPS Agreement through Law No. 1.199 of 2008 in August 2009. At end 2017, Colombia had not yet enacted legislation for the domestic application of the Amended TRIPS Agreement.

3.3.7.3.2 Trademarks

3.323. The trademark regime in Colombia is governed by Decree No. 2.591 of 2000 regulating CAN Decision 486. Under the latter, trademarks include any sign capable of distinguishing products or services in the market. Colombia also accepts registration of collective marks and certification marks. The following may not be registered as marks: generic or technical names of products or services which could mislead trade circles or the public as to the nature, provenance, mode of manufacture or characteristics of the products concerned; consist of the name of a protected new plant variety; or are contrary to morality or public order or violate third-party rights. The SIC is the authority responsible for administering the trademark regime and keeping the register of trademarks and other distinctive signs (trade names, slogans and logos).

3.324. The term of protection for trademarks is ten years from the date on which they are awarded, renewable for further periods of ten years. In 2012, Colombia acceded to the Madrid Agreement Concerning the International Registration of Marks, under which trademark owners can receive protection for their trademark in several countries by filing a single application directly with the trademark office in their own country.

3.325. Decree No. 19 of 9 January 2012, aimed at eliminating unnecessary red tape in public administration, enables registration of a mark to distinguish products and/or services in different classes of the Nice International Classification through the filing of a single administrative application. Since then there have been no changes in the substantive rules governing trademarks, apart from some provisions on enforcement relating to trademark rights (paragraph 3.338 below).

3.3.7.3.3 Appellations of origin

3.326. In addition to CAN Decision 486, the appellation of origin regime is governed by Decree No. 3.081 of 2005 and Resolution No. 33.190 of 2007. SIC Resolution No. 57.530 of 2012 regulated the examination as to form, rights conferred, use by third parties, limits and exhaustion of the right.

3.327. An appellation of origin is considered to be the name of a country, region or specific locality, or a name which relates to a specific geographical area, used to designate a product originating therein and whose quality, reputation or other characteristics are exclusively or essentially attributable to the geographical environment in which it is produced, including natural and human factors. It is not possible to register as appellations of origin designations that are, *inter alia*, common or generic indications, or are capable of misleading the public as to the geographical provenance, nature, mode of manufacture, or quality, reputation or other characteristics of the products in question.

3.328. Applications for an appellation of origin to be declared protected may be filed by natural or legal persons directly engaged in the extraction, production or manufacture of the product or products it is sought to protect with the appellation of origin. However, where a collective right is concerned, the owner is the Colombian State represented by the SIC. Nevertheless, the SIC may delegate the power to authorize use of an appellation of origin to public or private entities that represent the persons engaged in the extraction, production or manufacture of the products

²³² Online information from the SIC, viewed at: <http://www.sic.gov.co/procedimiento-acelerado-de-patentes-global>.

identified with that appellation. Appellations of origin declared abroad are not protected in Colombia, and vice-versa.

3.329. The term of protection of an appellation of origin is determined by the continued existence of the conditions that give the product its recognized qualities. Nevertheless, the SIC may at any time, *ex officio* or at the request of a party, cancel the authorization to use an appellation of origin when: (i) it is shown that the conditions which justify the declaration of protection of the appellation have ceased to exist; and (ii) it is shown that the products covered by the appellation of origin regularly lack the guarantee or control of compliance with its conditions.²³³

3.330. There are currently 27 protected appellations of origin in Colombia, including agri-food products (various kinds of coffee, cheese, flowers and rice) and crafts (ceramics, hats, woven fabrics). Some of Colombia's trade agreements (with Mexico, EFTA and the United States) include disciplines on geographical indications. The agreement with the European Union also includes a list of geographical indications of the Parties which completed the internal protection procedure, including publication for opposition by third parties and the examination of the application by the competent authority.²³⁴

3.3.7.3.4 Industrial designs

3.331. Decree No. 2.591 of 2000 establishes the legal framework for the protection of industrial designs; no changes were made during the review period. An industrial design means any new special appearance of a product that results from some pattern of lines or combination of colours or some two-dimensional or three-dimensional external shape, contour, configuration, texture or material that does not change the intended use or purpose of the product. It is not possible to register industrial designs whose appearance is dictated entirely by considerations of a technical nature, or which consist solely of a shape necessary to enable the product that incorporates the design to be mechanically assembled or connected with another product of which it forms part, or whose exploitation would be contrary to morality or public order.

3.332. The term of protection runs for ten years, non-renewable, from the filing date. The owner of the design may license or transfer the registration, prevent other persons using or copying the design, and take legal action against persons who have done so.²³⁵

3.3.7.4 Protection of new plant varieties

3.333. CAN Decision 345 of 1993 establishes the common regime for the protection of the rights of breeders of plant varieties "that are new, uniform, distinct and stable, and have been assigned a name that constitutes their generic designation". In Colombia this protection is regulated by Decree No. 533 of 1994, as amended by Decree No. 2.468 of 1994, Decree No. 2.687 of 2002 and Law No. 1.032 of 2006.²³⁶ During the review period, no changes were made to the regime of rights for breeders of new plant varieties. At the international level, Colombia is party to the UPOV Convention (1978 Act) and is currently carrying out the procedures for accession to the 1991 Act.

3.334. The ICA is the authority responsible for granting breeder's certificates and keeping the National Register of Protected Plant Varieties.²³⁷ The term of the breeder's certificate is 25 years for varieties of grape vines, forest trees and fruit trees (including their rootstocks) and 20 years for other species, reckoned from the date on which the certificate was granted. The protection regime allows the "farmer's privilege", except for varieties of fruit, ornamental and forest species. Protection is territorial, so that the interested party will have to obtain a breeder's certificate in

²³³ Online information from the SIC, viewed at: <http://www.sic.gov.co/denominacion-de-origen>.

²³⁴ Online information provided by Colombia, viewed at: <http://www.colombia.co/negocia-con-colombia/exportacion/productos-colombianos-con-denominacion-de-origen>.

²³⁵ Online information from the SIC, viewed at: <http://www.sic.gov.co/disenos-industriales>.

²³⁶ These instruments may be viewed on the WIPO website at: http://www.wipo.int/wipolex/es/results.jsp?countries=CO&cat_id=10.

²³⁷ The Register and the procedure for obtaining a breeder's certificate were established by ICA Resolution No. 1.893 of 1995. Viewed at: <https://www.ica.gov.co/getattachment/09c2ee75-5cb6-49ba-afd2-e27bdc1dd930/1995R1893.aspx>.

Colombia regardless of whether the variety concerned has already been registered in another country.

3.335. According to ICA data, between 2012 and 2017 the applications for breeder's certificates received originated in: the Netherlands (57%); Colombia (10%); Germany (7%); United States (5%); United Kingdom (5%); Spain (4%); Israel (3%); Australia (2%); Italy (2%); Ecuador (1%); France (1%); New Zealand (1%); and Japan (1%). Of these requests, 80.7% were for varieties of ornamental plants; 6.7% for fruit species; 3.1% for coffee; 2% for rice; and the rest for other species. With respect to the Colombian applications, of the 73 received, 34.6% were for varieties of coffee, 17.9% for varieties of rice, 7.7% for varieties of soya bean, 6.4% for varieties of sugar cane, and the rest for other species.

3.3.7.5 Undisclosed information

3.336. In Colombia, the protection of test data with exclusivity is governed by Decree No. 2.085 of 2002 in the case of medicines and by Decree No. 502 of 2003 in the case of chemical pesticides for use in agriculture. The INVIMA is the authority responsible for the protection of test data concerning medicines and the ICA for test data relating to chemical pesticides.

3.337. In the period under review, Colombia issued Decree No. 733 of 2012 establishing the obligation to publish on the INVIMA website general information on requests for pharmacological assessment and sanitary registration submitted to the INVIMA.²³⁸ The term of protection is five years from the date on which marketing is approved in the case of test data for pharmaceutical products. Decree No. 727 of 2012 increased the term of protection for test data relating to chemical pesticides for use in agriculture from five to ten years from the date of registration and clarified the scope of Decree No. 502 of 2003 (Article 5).²³⁹

3.3.7.6 Enforcement

3.338. During the review period, Colombia stepped up its efforts to strengthen enforcement of IPRs. Most of the changes to the enforcement regime are aimed at the implementation of commitments entered into under the country's trade agreements. Despite the progress made, challenges remain, such as the strengthening of interinstitutional coordination, the lack of resources, and the need to increase training for judges and the competent authorities in IPR enforcement. Other challenges relate to the prevalence of counterfeiting and piracy, including digital piracy.

3.339. An important measure boosting enforcement was the enactment of Law No. 1.564 of 12 July 2012 establishing the General Code of Procedure, which granted jurisdictional powers to the SIC, DNDA and ICA in recognition of their specialization for dealing with IPR-related cases.²⁴⁰ These authorities may therefore handle first-instance civil proceedings relating to IPR infringements in the ordinary courts.

3.340. Tables 3.37 and 3.38 show the trend in proceedings before the SIC and the DNDA (the ICA has not yet made use of these powers). In both cases there has been an increase in the applications lodged, which may be explained by the gradual strengthening of the institutions' capacity to use their jurisdictional powers and the growing acceptance of those powers by users. In the realm of industrial property, the SIC authorities have indicated that most of the proceedings concern distinctive signs. In the case of copyright, the DNDA authorities have indicated that applications for the taking of extra-procedural evidence have predominated (63% of cases), followed by the hearing of actual claims (34%) and applications for extra-procedural precautionary measures (2%).

²³⁸ This information is available at: <https://www.invima.gov.co/tramites-y-servicios/2015-11-30-21-21-30/consultas-registros-y-documentos-asociados/213-tramites-y-servicios/consultas-registros-y-documentos-asociados/3001-informacion-decreto-transparencia-solicitudes-de-registros-sanitarios-nuevos-renovaciones-y-evaluaciones-farmacologicas-medicamentos.html>.

²³⁹ Decree No. 727 of 2012. Viewed at: http://www.icbf.gov.co/carques/avance/docs/decreto_0727_2012.htm.

²⁴⁰ Article 24 of Law No. 1.564 of 2012. Viewed at: http://www.secretariassenado.gov.co/senado/basedoc/ley_1564_2012.html.

Table 3.37 Applications for legal proceedings before the SIC and outcomes, 2012-2016

Year	Applications	Conclusion						
		Ruling	Conciliation	Withdrawal	Settlement	Rejection	Shelved	Other
2012	142	102	8	4	8	47	1	26
2013	108	34	10	11	10	18	0	25
2014	276	48	18	23	10	105	8	64
2015	363	38	36	92	7	192	46	0
2016	555	57	15	57	16	209	141	0

Source: Information provided by the SIC.

Table 3.38 Applications for legal proceedings before the DNDA and outcomes, 2013-2017

Year	Applications	Completed	% of cases settled
2013	17	16	94
2014	8	12 ^a	150
2015	14	12	86
2016	103	83	81
2017	123	102	83

a Includes cases brought in earlier years.

Source: Information provided by the DNDA.

3.341. Law No. 1.648 of 2013 establishing measures for the enforcement of industrial property rights provides for actions available to trademark right holders that may be enforced through judicial proceedings. Courts hearing trademark infringement cases are empowered to: (i) order the infringer to provide information on the persons involved and on the means or instruments of production or distribution channels used; and (ii) order the destruction of materials and implements used to manufacture counterfeit goods. For these purposes, the competent authority may order precautionary measures. Holders whose rights have been infringed may opt for a system of pre-established damages or by the general rules of evidence for damages.²⁴¹ Pursuant to Decree No. 2.264 of 11 November 2014, a right holder who chooses the pre-established damages system does not have to prove the amount of the damages, and the compensation received will be equivalent to a minimum of 3 SMLMVs and a maximum of 100 SMLMVs, which may be raised up to 200 SMLMVs in certain cases.²⁴²

3.342. In the framework of the Intersectoral Commission on Intellectual Property, and on the basis of the National Development Plan 2014–2018, a strategy to strengthen the intellectual property rights enforcement system was drafted and adopted in 2015. The strategy establishes the priority areas of work for enforcement, namely: institutional strengthening of the enforcement bodies; increasing society's awareness concerning observance and use of intellectual property rights; statistics; practices within the Government; alternative dispute settlement mechanisms (e.g. conciliation centres); and border measures.

3.343. The new Customs Statute (Decree No. 390 of 2016) empowers the National Tax and Customs Directorate (DIAN) to suspend the importation, exportation or transit of goods on grounds of infringement of copyright or trademark rights while the competent authority analyses and rules on the merits of the case. This is a major step for strengthening enforcement at the border.²⁴³

3.344. Law No. 1.801 of 29 July 2016 containing the National Police and Coexistence Code gives the Police Authority powers of enforcement with respect to copyright. Thus, the police may *ex officio* request commercial establishments where protected musical works are performed for proof of payment of the corresponding royalties and impose fines on establishments that cannot produce such proof.²⁴⁴

²⁴¹ Article 3 of Law No. 1.648 of 2013. Viewed at: <http://www.sic.gov.co/sites/default/files/normatividad/LEY%2B1648%2BDEL%2B12%2BDE%2BJULIO%2BDE%2B2013%2Bpropiedad%2BIndustrial.pdf>.

²⁴² Decree No. 2.264 of 2014. Viewed at: <http://extwprlegs1.fao.org/docs/pdf/col142208.pdf>.

²⁴³ Article 613 of Decree No. 390 of 2016.

²⁴⁴ Articles 87 (paragraph 5) and 92 of Law No. 1.801 of 2016. Viewed at: http://biblioteca.saludcapital.gov.co/img_upload/03d591f205ab80e521292987c313699c/ley_1801_2016.pdf.

3.345. Law No. 1.826 of 12 January 2017 ("Small Claims Law") seeks to streamline judicial proceedings for a number of offences, including infringements of IPRs. The law provides for an accelerated criminal procedure designed to speed up and reduce the time needed for the proceedings, and introduces the notion of private prosecution, whereby the prosecutor's office may relinquish its investigative powers to a private party to expedite the proceedings and conduct the investigation.²⁴⁵

²⁴⁵ Law No. 1.801 of 2016. Viewed at: <http://es.presidencia.gov.co/normativa/normativa/LEY%201826%20DEL%2012%20DE%20ENERO%20DE%202017.pdf>.

4 TRADE POLICIES BY SECTOR

4.1 Agriculture, forestry and fisheries

4.1.1 General characteristics and policies of the sector

4.1. Agriculture is considered as a strategic sector, on account of its contribution to GDP and employment, and being an important source of foreign currency for Colombia. Its share in GDP increased in the period under review, rising from 5.8% in 2012 to 6.5% in 2016. The sector is, moreover, a key source of employment, providing jobs for 3.5 million people and absorbing 14.5% of the labour force in 2016. The rural unemployment rate in 2016 stood at 5.3%. Agriculture also contributes substantially to the generation of foreign exchange: agriculture exports represented 21.8% of total exports in 2016 (Table 4.1). The principal export products are coffee (8.0% of total exports in 2016), flowers (4.3%) and fruit (3.3%), especially bananas. Other significant products are sugar, palm oil and vegetables.

Table 4.1 Main agricultural sector indicators, 2012-2017

	2012	2013	2014	2015	2016	2017 ^a
Contribution to current GDP (%)	5.8%	5.6%	5.7%	6.0%	6.5%	6.4%
Real growth rate (%)	2.5%	6.5%	2.7%	2.5%	0.5%	6.3%
Employment (% of total employment)	15.7%	15.2%	14.9%	14.6%	14.5%	14.5%
Share of agricultural value added (%)						
Coffee products/production in tonnes	8.2%	10.6%	11.7%	13.2%	13.1%	12.6%
Other agricultural products	45.7%	45.2%	44.8%	43.6%	43.6%	44.9%
Live animals and animal products	40.2%	38.6%	37.7%	37.6%	37.8%	37.4%
Forestry, logging and related activities	5.8%	5.6%	5.7%	5.6%	5.5%	5.1%
Exports	56,618	59,644	58,821	54,890	36,018	31,757
Agricultural products (US\$ million)	6,644	6,688	7,350	6,944	6,860	6,815
Agricultural products (% of exports)	11.1%	11.4%	13.4%	19.3%	21.6%	20.2%
Agricultural products (rate of growth, %)	-6.23	0.7%	9.9%	-5.5%	-1.2%	-0.7%
Most important products (% of exports)	77.4%	73.8%	78.2%	81.5%	81.0%	81.2%
Coffee, not roasted, whether or not decaffeinated; coffee husks and skins, etc.	29.4%	28.7%	34.2%	37.1%	35.9%	34.9%
Cut flowers and foliage	19.1%	20%	18.7%	18.7%	19.1%	19.2%
Bananas (including plantains), fresh or dried	12.4%	11.4%	11.4%	11.6%	13.3%	12.7%
Beet or cane sugar, not refined, in solid form	7.3%	4.9%	5.3%	5.0%	4.0%	5.1%
Palm oil or fractions thereof	2.8%	2.7%	3.2%	3.9%	3.6	5.2%
Food products, n.e.s.	5.2%	4.9%	4.1%	4.3%	4.3%	4.0%
Fish, frozen (excluding fillets and minced fish)	1.2%	1.2%	1.3%	0.9%	0.8%	0.1%
Imports	58,986	59,482	64,029	54,058	44,889	38,454
Agricultural products (US\$ millions)	6,326	6,202	6,318	5,862	6,157	5,145
Agricultural products (% of total import)	10.7%	10.4%	9.9%	10.8%	13.7%	13.4%
Agricultural products (rate of growth, %)	16.2%	-2%	1.9%	-7.2%	5.0%	-16.4%
Agricultural trade balance (US\$ million)	318	485	1,032	1,082	703	1,671

a The data for 2017 are for the first three quarters of the year

Source: National Tax and Customs Directorate (DIAN) - National Administrative Department of Statistics (DANE).

4.2. In 2016, agricultural production climbed to 29 million tonnes, up 6% on 2015. Of this, 68% is from permanent crops and 32% from seasonal crops. The short-cycle crops that registered the highest growth in production were rice (26%), modified maize (19%) and traditional maize (14%). Animal production is estimated at 4.0 million tonnes, down 6% on the previous year, chiefly reflecting the decline in poultry and livestock production.¹

4.3. The Ministry of Agriculture and Rural Development (MADR) is the body responsible for formulating, coordinating and assessing agricultural, fisheries, forestry and rural social development policies. The aim of these policies is to promote competitive, equitable and sustainable development of agricultural, forestry, fisheries and rural development processes, based on decentralization, consultation and participation, that will improve the level and quality of life of the population. The policies elaborated by the MADR are aligned with macroeconomic policy. Agricultural health and food safety policy falls under the responsibility of the Colombian Agricultural Institute (ICA).

¹ MADR (2017), *Memorias al Congreso de la República, 2016-2017*. Viewed at: [https://www.minagricultura.gov.co/planeacion-control-gestion/Gestin/MEMORIAS%20AL%20CONGRESO%20DE%20LA%20REPUBLICA/Memorias al Congreso de la Republica %202016 2017.pdf](https://www.minagricultura.gov.co/planeacion-control-gestion/Gestin/MEMORIAS%20AL%20CONGRESO%20DE%20LA%20REPUBLICA/Memorias%20al%20Congreso%20de%20la%20Republica%202016%202017.pdf).

4.4. Colombia boasts a relatively high degree of food sufficiency, an estimated 85% of internal demand for food being met by domestic production. Nonetheless, Colombia's agricultural export markets continue to be characterized by concentration, given that 68.3% of agricultural exports in 2016 were made up of three products: coffee, flowers and bananas. The first two, in particular, accounted for 55% of total agricultural exports in 2016. The principal import products are maize, wheat and soybean oilcake. In 2016, 68% of the volume of Colombia's foreign purchases in the sector came from the United States, the other countries of the Andean Community of Nations (CAN) and MERCOSOR.

4.5. The review period saw the implementation of the *Colombia Siembra* ("Colombia Sows") plan, a programme which forms part of the MADR's agricultural policy and focuses means of harnessing the country's agricultural development potential. Its objectives are to: boost agricultural supply in order to guarantee food security in the country; expand production area and yields and promote agricultural and agro-industry exports; stimulate the development of trade in agriculture in order to improve incomes for producers; and strengthen technological development and services in the agricultural sector. The plan's general goals include, furthermore, establishing an agricultural zoning map, so as to optimize land use; implementing a rural extension and technical assistance programme; implementing an agricultural risk-management programme; improving access to credit; and setting up rural entrepreneurship schools.²

4.6. In terms of boosting agricultural supply, *Colombia Siembra* sets annual targets for increasing the planted area for each crop, seeking to expand the area devoted to the production of, *inter alia*, modified maize and forestry products, rice, barley, rubber, soya, oil palm and cocoa. The authorities indicated that significant progress has been made towards achieving this goal, with 194,363 and 240,313 new hectares planted in 2015 and 2016, respectively. Crops covered by the *Colombia Siembra* plan also benefit from more favourable terms in the loans granted to farmers under the different lines of credit available for the sector (see *infra*).

4.7. The main legislation in the agricultural sector has been consolidated in Decree No. 1.071 of 26 May 2015 enacting the Single Regulatory Decree on administration of the agricultural, fisheries and rural development sector. Other important laws include: Law No. 1.731 of 2014, adopting financing measures for revival of the agricultural, fisheries, aquaculture, forestry and agro-industry sector; Law No. 139 of 1994, instituting the Forestry Incentive Certificate (CIF), along with other provisions; and Law No. 160 of 1994, creating the National System of Agrarian Reform and Rural Development for Small Farmers, along with other provisions. With respect to land, Decree No. 902 of 2017 was issued, adopting measures to facilitate implementation of the Comprehensive Rural Reform.

4.8. Colombia joined the OECD Committee for Agriculture in March 2015. It was given policy recommendations on a series of issues, for example: focus support for agriculture on long-term structural reform; improve the institutional framework of agricultural policy; reinforce the agricultural innovation system; and encourage further integration into international agro-food markets. The authorities indicated that the policies under *Colombia Siembra* have been tailored towards meeting those recommendations and that work is moreover under way on institutional reform of land agencies and rural development bodies. To this end, in 2015 Colombia split the duties of the now defunct Colombian Rural Development Institute (INCODER) among three specialized entities: the National Land Agency (ANT), the Rural Development Agency (ADR) and the Regional Revitalization Agency (ART), which will together execute the rural development policies formulated by the MADR.

4.9. In April 2016, Colombia joined the OECD Fisheries Committee, in which it undertook to strive to strengthen management for sustainable development of fishing and aquaculture. The MADR is in the process of implementing the recommendations made by the OECD regarding the collection of statistical and scientific information in the fisheries and aquaculture sector, showing progress in terms of coverage and use of the Colombian Fisheries Statistical System (SEPEC). It is also working on simplification of administrative procedures, education and qualification of fishermen and fish farmers and strengthening monitoring and surveillance. This will all be helped by the approval of the draft law on illegal fishing, which deters this type of activity with sanctions; and the formulation of a fishing and aquaculture policy geared to improving competitiveness, which the

² Information provided by the authorities, and online information from *Colombia Siembra*, viewed at: <https://www.minagricultura.gov.co/Colombia-Siembra/Paginas/default.aspx>.

MADR intends to achieve through: reducing operating costs for fishing vessels; diversifying fishing; modernizing the fishing fleet; promoting the consumption of fish; improving productivity and competitiveness in aquaculture; and diversifying and upgrading production systems.

4.1.2 Border measures

4.10. The tariff levels applied to the agricultural sector (WTO definition) are higher than those applied to non-agricultural goods. In 2017, agricultural products (WTO definition, excluding the Andean Price Band System (SAFP) for agricultural products) bore an average tariff of 15.4% (14.5% in 2011), higher than the average tariff applied to non-agricultural goods, which stood at 5.8% (4.9% in 2011). On average, the highest tariff duties by WTO category were applied to milk, animals and meat, and products of animal origin, with tariffs of 98%, 80% and 70%, respectively. The average tariff applied to fruit and vegetables was 14.1%; to coffee and tea, 12.7%; to cereals and cereal preparations, 14.4%; to oil seeds, fats and oils and their products, 13.2%; to sugar and confectionery, 13.9%; and to beverages, spirits and tobacco, 14.2%. The maximum tariff was 98%, applied to 13 lines under HS heading 04.02 (milk and cream, concentrated).

4.11. Colombia still applies the Andean Price Band System (SAFP) for agricultural products, instituted by Decision No. 371 of November 1994, with the aim of stabilizing import costs for a specific group of agricultural products characterized by highly unstable international prices. Stabilization is achieved by applying additional duties or tariff reductions to the Common External Tariff (CET), depending on the behaviour of international prices, on the basis of floor and ceiling prices set annually. The SAFB covers in principle a total of 181 products: 13 marker products and 168 related products. The marker products are those whose international prices are used to calculate the bands, while related products are those related to the production chain or substitute products similar to the marker product.

4.12. The price band makes the tariff a variable factor that is automatically adjusted to counteract external fluctuations in international prices.³ The floor price is the average of historical c.i.f. prices minus the adjustment factor for the standard deviation.⁴ The ceiling price is the floor price plus one standard deviation. The reference price is the fortnightly average of the price quotations observed on the international reference market. An additional duty is applied when the ceiling price is below the international reference market price, while a tariff reduction is applied when the floor price is above the international reference market price.⁵ If the international market price lies within the band, there is neither a tariff reduction nor additional duty: the common external tariff or fixed component of the SAFB applies. Additional duties are calculated for the marker product and then adjusted for the duties to be applied to related products when the tariff to which the latter are subject is different from that applied to the marker product.⁶

4.13. In 2017, the SAFB was applied to 162 tariff lines (2.1% of the tariff universe and 15.4% of the lines classified as agricultural products under the WTO definition). The products subject to the price band (marker products) are: rice, barley, yellow maize, white maize, yellow soya beans, wheat, unrefined soybean oil, unrefined palm oil, white sugar, raw sugar, whole milk, chicken cuts and pig meat. If the *ad valorem* equivalents of the average prices determined in the SAFB are included, the average tariff for agricultural products (WTO definition) goes up to 20.7%, with a range of between 0% and 174.3%. In terms of groups of products, the highest average tariff is applied on dairy products (63.8%), followed by animals and products of animal origin (42.7%),

³ Online information from the Andean Community, viewed at: <http://www.comunidadandina.org/Seccion.aspx?id=152>.

⁴ The historical price is calculated on the basis of 60-month observations up to the past October, taking the price quotations observed on the exchange and converting them into c.i.f. prices in constant dollars by including the freight costs corresponding to the marker product and a 0.5% insurance charge.

⁵ To calculate the tariff reductions, in the case of marker products, when the international or reference price (RP) is higher than the ceiling price (CP), the following equation is used: Reduction = (RP-CP) x (1+CET)/RP, where CET is the common external tariff. To calculate the additional duty (AD), when the RP is below the floor price (FP), the following equation is used: AD = (FP-RP) x (1+CET)/RP.

⁶ When there are differences between the CET for the marker and the CET for the related product, the following equations are used to calculate the additional duty (AD) for the related product: (a) if the CET for the related product (CET[r]) is greater than the CET for the marker product (CET[m]), then AD[r] = whichever is the greater of AD[m] x CET[m]/CET[r] and AD[m]-(CET[r]-CET[m]); or (b) if CET[r] is lower than CET[m], then AD[r] = whichever is the smaller of AD[m] x CET[m]/CET[r] and AD[m]-(CET[r]-CET[m]).

sugar and confectionery (22.6%), oil seeds, fats and oils (22.6%), and cereals and cereal preparations (20.2%).

4.14. During the period under review, Colombia notified to the WTO the total imports of products subject to tariff quotas during the period 2011-2014. These included, *inter alia*: meat, dairy products, grains and cereals, soya beans, oils and fats, and cotton.⁷ Colombia also indicated that the bound tariff quotas were not activated given that the bound intra-quota tariff was higher than the MFN tariff applied. The majority of products subject to tariff quotas are also subject to the SAFF.

4.15. Some non-tariff measures also apply to the import of agricultural products, for example a series of import requirements, including licensing, approval, import registration and plant and animal health permits. The most frequently used instruments are import licences and sanitary and phytosanitary certificates.

4.16. An OECD study carried out in 2015 reveals that Colombia's agricultural Producer Support Estimate (PSE) averaged 19% in 2011-2013. It stated that a major component of this support is the Market Price Support (MPS), accounting for 81% of the PSE and mainly generated by border measures (on import).⁸ Another recent study shows that, looking at the period 2012-2015, the majority of products in Colombia's agricultural sector that are subject to a high tariff in relation to the sector average also display a high level of coverage of non-tariff measures, one example being cereals.⁹

4.17. Colombia has reserved the right to apply the special safeguard clause in the WTO Agreement on Agriculture to 55 four-digit tariff headings, but has not yet used it.

4.18. Colombia also grants preferential quotas for imports from countries with which it has signed free trade agreements. Thus, in 2017 Colombia granted preferential quotas in its agreements with Canada (38 eight-digit HS tariff headings), Republic of Korea (6), Costa Rica (2), the United States (64, subheadings included), Mexico (27) and the European Union (85, subheadings included) (Table A4.1).

4.1.3 Domestic support, subsidies and other support schemes

4.19. In November 2017, the Government of Colombia notified to the WTO that it did not apply any export subsidies or provide any food aid between 1 January and 31 December 2012, 2013, 2014 or 2015.¹⁰

4.20. In 2016, Colombia notified to the WTO domestic support programmes for agriculture for 2011, 2012 and 2013.¹¹ In 2017, it submitted the corresponding notification for 2014 and 2015.¹² Most of the support notified is aimed at contributing to the development of the agricultural sector, stimulating and strengthening the management skills of agricultural sector entities, and facilitating the transfer of information and research results to producers and consumers, as well as preventing and managing animal and plant diseases and supporting diagnostic centres and health laboratories. It also notified support for cotton growers.

4.21. Colombia makes use of price stabilization mechanisms in order to deal with fluctuations in world prices for certain agricultural products. The Price Stabilization Funds (FEPs), created by Law No. 101 of 1993, are intended to guarantee producers' incomes, regulate domestic production, and prevent price speculation, in addition to promoting agricultural exports. The resources for these funds come from parafiscal charges: these are charges levied on producers which remain outside

⁷ WTO document G/AG/N/COL/50 of 4 May 2016.

⁸ OECD (2015), *Review of Agricultural Policies: Colombia 2015*. Viewed at: https://read.oecd-ilibrary.org/agriculture-and-food/oecd-review-of-agricultural-policies-colombia-2015_9789264227644-en.

⁹ Fedesarrollo – Universidad EAFIT (2017), *Política comercial agrícola: nivel, costos y efectos de la protección en Colombia*, Bogotá, August 2017. Viewed at: http://www.repository.fedesarrollo.org.co/bitstream/handle/11445/3443/Repor_Agosto_2017_Perfetti_et_al.pdf?sequence=1.

¹⁰ WTO document G/AG/N/COL/55 of 22 November 2017.

¹¹ WTO document G/AG/N/COL/51 of 29 July 2016.

¹² WTO document G/AG/N/COL/54 of 9 November 2017.

the national budget and are reinvested by the private sector in programmes of benefit to the activity from which they are sourced. In 2017, there were FEPs for cotton, sugar, cocoa, meat, milk and products thereof; and palm oil.¹³ Each FEP has a Steering Committee, composed of producers and officials from the National Government, which establishes the methodology for calculating a reference price based on the most representative international market quotation for each product. Producers and/or exporters make "transfers" to the respective FEP when the market price falls below the reference price, or receive compensation from the FEP when the price is above the reference price.

4.22. The coffee contribution is a parafiscal tax paid by the producer for each pound of coffee exported. The resulting resources are administered by the National Coffee Fund, a parafiscal account to which Colombian coffee growers contribute in order to manage "common coffee facilities", such as coffee research and expansion, and a purchase guarantee mechanism for coffee producers to ensure that they receive the best possible price for their crop. The Fund is administered by the Colombian Coffee Growers Federation (FNC), which is a private entity, and the authorities do not consider it as a domestic support mechanism as such. A total of Col\$294,249 million was paid into the Fund in 2016. The levy is 6 centavos of a Colombian peso per pound of coffee exported.

4.23. Coffee growers may take advantage of the Coffee Growers' Income Protection (PIC) scheme, which guarantees adequate remuneration for the producer, who signs a Price Protection Contract (CPP). Between October 2012 and December 2014, coffee growers were guaranteed a good price, under the PIC, that would cover the producer's production cost. The PIC applied whenever the reference price published by the FNC at the date of the sale was not above Col\$700,000 per load.¹⁴ This support operated until December 2014.

4.24. Pursuant to Article 7 of Law No. 101 of 1993, the Government may provide selective and temporary incentives or support to producers, for agricultural production, protecting rural income and maintaining peace. In this context, the *Guaranteed Minimum Price* (PMG) scheme for cotton protects Colombian farmers' incomes from fluctuations in international prices by offering compensation for the price differential between market prices (New York Exchange) and a minimum guaranteed price per tonne of lint. In 2016, the MADR allocated Col\$8,920 million of resources to protect growers' incomes by granting indemnities to cotton farmers in respect of the two harvests in 2016, for a total of 12,968 tonnes of lint marketed. The PMG policy agreed with the Government expired in 2017 and the scheme ceased to operate. Through the *Rice Storage Incentive* scheme, the Government seeks to prevent a fall in producer prices due to the surpluses that normally occur in the second half of each year. In the second half of 2016, an incentive scheme was introduced for the storage of dried paddy or its equivalent in white rice. The total volume supported under this incentive came to 401,449 tonnes of dry paddy rice, for a fiscal cost of Col\$30,786 million.¹⁵ Under the *Specific Programme for Milk*, the price of milk is regulated by means of a reference price, on which producers receive an increase or a reduction depending on the hygiene quality and the composition of the milk.¹⁶

4.25. By MADR Resolution No. 169 of 15 July 2016, a *Price and exchange-rate coverage incentive programme for producers of modified maize* was put in place. The programme enabled producers

¹³ The FEP for cotton, which is managed by the Colombian Cotton Confederation (CONALGODON); the FEP for centrifugal sugars, molasses obtained by extracting or refining sugar, and sugar syrups, managed by the Colombian Sugar Cane Growers' Association (ASOCAÑA); the FEP for cocoa, managed by the National Federation of Cocoa Growers (FEDECACAO); the FEP for promoting the export of meat, milk and products thereof, managed by the Colombian Cattle Breeders' Federation (FEDEGAN); and the FEP for palm kernel oil, palm oil and fractions thereof, managed by the National Federation of Palm Oil Producers (FEDEPALMA).

¹⁴ The support was set at Col\$145,000 per 125kg load of dry, parchment coffee, or its equivalent in wet processed or cherry coffee. If the reference price fell below Col\$480,000 per load, the PIC was increased by Col\$20,000. Coffee growers who purchased insurance for their crops were entitled to a subsidy of 60% of the cost of the premium, as well as a lower interest rate on loans for the preservation and renovation of coffee plantations, under the "Coffee without Risk" special line of credit offered by the Agrarian Bank. Online information from the FNC, viewed at: <https://www.federaciondecafeteros.org/static/files/Infobienes.pdf>.

¹⁵ MADR (2017), *Memorias al Congreso de la República, 2016-2017*. Viewed at: [https://www.minagricultura.gov.co/planeacion-control-gestion/Gestin/MEMORIAS%20AL%20CONGRESO%20DE%20LA%20REPUBLICA/Memorias al Congreso de la Republica %202016 2017.pdf](https://www.minagricultura.gov.co/planeacion-control-gestion/Gestin/MEMORIAS%20AL%20CONGRESO%20DE%20LA%20REPUBLICA/Memorias%20al%20Congreso%20de%20la%20Republica%202016%202017.pdf).

¹⁶ MADR, Resolutions No. 051 of 2003 and No. 012 of 2007. National Dairy Council, Decision No. 007 of 2002.

to protect themselves against a fall in international prices and exchange-rate variations, with the aim of fostering stability in production and earnings. In 2016-2017, the programme cost Col\$3,243 million and covered a volume of 56,896 tonnes, with an average compensation of Col\$65,000 per tonne for producers of yellow maize and Col\$75,000 for white maize.

4.26. The prices of agricultural inputs, specifically fertilizers and pesticides for agricultural use, are subject to the "monitored freedom regime", under which prices may be freely determined throughout the distribution chain, although they must be communicated to the MADR. The MADR has the option to intervene in the inputs market and set maximum selling prices for inputs where justified by the state of the market. If the maximum selling price is not respected, the MADR may then place the product under the "direct price control regime", setting the price at all levels of the marketing chain by means of a resolution until such time as it has been determined that the conditions that led to its intervention have ceased to exist.¹⁷ In 2013, a mechanism was put in place for gathering information from participants in the inputs market on sales, prices and costs of the major agricultural inputs and for closely tracking prices.

4.27. In order to promote forestry, the MADR grants the Forestry Incentive Certificate (CIF), created by Law No. 139 of 1994. Beneficiaries of the CIF receive a monetary contribution of up to 50% of the costs of sowing new plantations for commercial purposes on land suitable for forestry owned or rented by natural or legal persons. In addition, from the second to the fifth year after sowing they can claim up to 50% of upkeep costs. The tree species entitled to benefit from the CIF include pine, eucalyptus, acacia, teak, gmelina, walnut, oak, guadua, rubber and ceiba. In 2016, funds were granted under the CIF of around Col\$17 billion for new projects and Col\$8 billion for upkeep of existing projects.¹⁸

4.28. The MADR also implements modernization, development and innovation programmes to improve the competitiveness of fisheries and aquaculture at the national level. One of these is the *Implementation of new technologies for aquaculture production* scheme. Under this programme, Col\$7,345 million worth of investments were made in 2016. The *Quality and traceability for aquaculture* scheme seeks to promote the application of Good Production Practices for Aquaculture (BPPA), with a view to improving the quality and safety of aquaculture products. The programme is implemented under an agreement between the MADR and the Colombian Federation of Aquaculture Producers (FEDEACUA), with funding of Col\$554 million. A *Capacity-building programme to help fisheries and aquaculture producers gain access to differentiated national and international markets* is also being implemented, to which Col\$2 billion was devoted in 2016, for the purchase and delivery of inputs, elements and equipment as well as adequate infrastructure. Industrial fishing boats and aquaculture enjoy a fuel price subsidy.

4.29. The Rural Development with Equity (DRE) programme, which was in place between 2010 and 2014, pursued the objective of supporting small and medium-sized producers to make them more competitive and help lessen rural inequalities and strengthen national food security. The main components of the DRE programme were the Special Line of Credit (LEC); the Rural Capitalization Incentive (ICR); the Technical Assistance Incentive (IAT); rural micro-loans; and support for irrigation and drainage projects.

4.30. The Rural Development Agency (ADR) implements comprehensive agricultural and rural development plans and projects, focusing on local areas or associations. The services provided under these plans include technical assistance, financing for production projects, building common facilities (in particular infrastructure for irrigation and drainage) and marketing of agricultural products. The National Rural Land Formalization Programme, set up by MADR Resolution No. 452/2012 and amended by MADR Resolution No. 181/2013, aims to promote access to ownership of rural properties and improve the quality of life of farmers. In 2015, the programme was transferred to the ANT, which has been moving forward with its implementation since August 2016.

¹⁷ Resolutions No. 387 of 22 December 2011, No. 389 of 26 December 2011 and No. 390 of 26 December 2011, and Decree No. 625 of 2014.

¹⁸ MADR (2017), *Memorias al Congreso de la República, 2016-2017*. Viewed at: [https://www.minagricultura.gov.co/planeacion-control-gestion/Gestin/MEMORIAS%20AL%20CONGRESO%20DE%20LA%20REPUBLICA/Memorias al Congreso de la Republica %202016 2017.pdf](https://www.minagricultura.gov.co/planeacion-control-gestion/Gestin/MEMORIAS%20AL%20CONGRESO%20DE%20LA%20REPUBLICA/Memorias%20al%20Congreso%20de%20la%20Republica%202016%202017.pdf).

4.31. The *Colombia Siembra* programme, introduced in 2015, seeks to enhance agricultural supply for domestic consumption while at the same time improving the competitiveness of products with export potential. Its aim is to succeed in leveraging Col\$8 trillion of loans under the terms granted by the Fund for Financing the Agricultural Sector (FINAGRO), especially through the ICR and the resources under the LEC (see *infra*). The total amount of financing and credit incentives granted through these tools and within the framework of *Colombia Siembra* in 2017 came to Col\$121,109 million, and Col\$1.04 trillion worth of investments were leveraged, benefiting 30,539 producers.

4.1.4 Financing and insurance

4.32. The agricultural sector may also benefit from support through loans; some of these lending instruments, such as the LEC and the ICR, are part of the *Colombia Siembra* plan. The National Agricultural Credit Commission, set up by Law No. 16 of 1990, is the lead entity of the National Agricultural Credit System. *Colombia Siembra*, being an MADR policy document, guides financing policy, while instruments such as the ICR and the LEC support its implementation.

4.1.4.1 Special Line of Credit (LEC)

4.33. The Special Line of Credit (LEC) is an instrument designed to improve the financing conditions for agricultural projects involving the planting and upkeep of short-cycle crops that are part of the basic food basket or are of export interest.¹⁹ Resources from the National Budget assigned to the LEC are channelled through FINAGRO to support interest-rate reductions for producers; the subsidy is given by FINAGRO and varies according to the size of the producer (Table 4.2).

Table 4.2 Special Line of Credit, conditions for different users

Category of producer	LEC interest rate (<i>Colombia Siembra</i> envelope)	Regular interest rate
Small producer ^a	DTF ^d	Fixed-term deposit (DTF) rate +1%
Medium-sized producer ^b	DTF + 1%	DTF + 2%
Large producer ^c	DTF + 2%	Not applicable
Association	DTF	DTF + 1%
Activities/products	Yellow maize, soya beans, passiflora spp. (granadilla, yellow and purple passion fruit), banana, Cape gooseberries, pineapple, rice, barley, retention of breeding bovine and bubaline animals	Other short- and medium-cycle crops (tubers, vegetables, fruit, pulses, and others)

- a Producers with total assets of up to the equivalent of 145 current statutory minimum monthly wage units (SMMLVs). At least 75% of these total assets must be invested in the agricultural sector, or two thirds of the producer's income must stem from the agricultural sector.
- b Producers with total assets of more than 145 SMMLVs and up to 5,000 SMMLVs.
- c Producers with assets in excess of 5,000 SMMLV.
- d Average deposit-taking interest rate in Colombia for fixed-term deposits, which is used as the reference rate. Calculated weekly by the Central Bank.

Source: FINAGRO.

4.34. The *Colombia Siembra* LEC offers loans at preferential rates, in order to boost domestic supply and promote exports. The crops given priority by the programme are: modified yellow maize, soya beans, passiflora spp. (granadilla, yellow and purple passion fruit), bananas, Cape gooseberries, pineapple, rice and barley, as well as financing the retention of breeding bovine and bubaline animals, aquaculture and shrimp. All categories of producer (large, medium-sized or small) have access to these loans; however, no more than 20% of the interest rate subsidy budget may go to large producers. In 2017, Col\$30,836 million were assigned to the *Colombia Siembra* LEC, of which Col\$22,822 million were disbursed. Of the total LEC resources disbursed in 2017, large producers received Col\$5,516 million, i.e. 15.7%.

¹⁹ For example, achira, sesame, cotton, irrigated rice, rainfed rice, oats, barley, beans, short-cycle fruit, vegetables, maize, groundnuts, potatoes, plantains, sorghum, soya beans, dark tobacco, light tobacco, wheat and cassava.

4.35. The General LEC is a special line of credit for subsidized loans, which consists in granting a subsidy on the interest rate on loans taken out with financial intermediaries that can rediscount transactions with FINAGRO. Its purpose is to enable producers to obtain lower interest rates than those offered on the market under normal conditions. The General LEC is subdivided into two headings or purposes: coffee renovation by means of the "zoca" cutting process, and general. In 2017, Col\$14,599 million were assigned for the General LEC, of which Col\$13,591 million were earmarked for the General LEC as such, and Col\$968 million for coffee renovation by means of the zoca process. Of these resources, Col\$12,198 million were used, of which Col\$11,304 million were expended in the General LEC and Col\$894 million for coffee renovation using the zoca process. The execution ratio of the overall credit line was 83.8% of the total allocated resources.

4.1.4.2 Rural Capitalization Incentive (ICR)

4.36. The Rural Capitalization Incentive (ICR) is an economic benefit granted by the Government with the aim of stimulating capital investment in rural areas and thereby improving the productivity and competitiveness of agricultural producers. The amount of the incentive corresponds to a percentage of the total value of the investment, determined according to a classification by category of producer. The ICR is a payment towards the balance of the principal of the loan taken out by the producer in order to carry out new investment projects intended to upgrade infrastructure for production, for agricultural and fisheries marketing, and to finance the sowing of medium-yield crops.²⁰ Small producers (up to 284 SMMLVs) can obtain up to 40% of the amount invested, as can an association in which small producers account for at least 50% of the project. Medium-sized producers (from 285 to 5,000 SMMLVs) can obtain up to 30% (*Colombia Siembra* segment) or 20% (General segment) of the amount invested. Producer associations, cooperatives and ventures in which a share of the capital is held by small producers can also receive the ICR, in the amount of a percentage determined according to the level of participation of this category of producer. The ICR is channelled, according to the category of producer, through a financial intermediary.

4.37. Support provided by the ICR in 2016 amounted to Col\$246,683 million, which leveraged investments worth Col\$1.1 trillion. This represents a 63% growth in the amount of the ICR paid out and 77% in the amount of investment made in relation to 2015.²¹ The budget assigned to the ICR in 2017 was Col\$88,162 million, and Col\$86,088 million (97.6%) was disbursed, leveraging investments of Col\$448,624 million. The *Colombia Siembra* ICR received Col\$60,422 million and the General segment ICR Col\$27,738 million.

4.1.4.3 Fund for Financing the Agricultural Sector (FINAGRO)

4.38. The Fund for Financing the Agricultural Sector (FINAGRO), created by Law No. 16 of 1990, is a national semi-public company, set up as a credit institution, linked to the MADR and overseen by the Colombian Financial Supervisory Authority (SFC). FINAGRO specializes in managing agricultural and rural loans, and finances the working capital and investment required for production, marketing and primary processing, as well as loan restructuring.²²

4.39. The FINAGRO acts as a second-tier institution. Production, marketing, processing and support services for agricultural, livestock, fisheries, fish-farming and forestry and rural activities can be financed through FINAGRO, for example: handicrafts, rural tourism, processing of precious metals and stones and mining. Loans can go to all producers that are natural or legal persons classified and defined by FINAGRO as small, medium-sized or large producers, low-income rural women or MSMEs. The interest and discount rates on the loans depend on the category of producer requesting the loan, in accordance with FINAGRO's classification (Table 4.3). The terms and grace periods for FINAGRO loans depend on the production cycle of the activity to be financed.

²⁰ The ICR may only be used for the following activities: planting and upkeep of late-yield crops; preparing land and managing water resources; purchasing machinery and equipment for agricultural and aquaculture production; production infrastructure; primary processing and marketing of goods; development of biotechnology and its incorporation into production processes; and silvopastoral production systems.

²¹ MADR (2017), *Memorias al Congreso de la República, 2016-2017*. Viewed at: [https://www.minagricultura.gov.co/planeacion-control-gestion/Gestin/MEMORIAS%20AL%20CONGRESO%20DE%20LA%20REPUBLICA/Memorias al Congreso de la Republica %202016 2017.pdf](https://www.minagricultura.gov.co/planeacion-control-gestion/Gestin/MEMORIAS%20AL%20CONGRESO%20DE%20LA%20REPUBLICA/Memorias%20al%20Congreso%20de%20la%20Republica%202016%202017.pdf).

²² Online information from FINAGRO, viewed at: <https://www.finagro.com.co/qui%C3%A9nes-somos/informaci%C3%B3n-institucional#1765>.

To be entitled to FINAGRO loans, 75% of the applicant's total assets must be invested in the agricultural sector, or two thirds of their income must stem from the sector.

4.40. The financing provided through FINAGRO may reach up to 100% in all cases. However, pursuant to the National Agricultural Credit Commission's Resolution No. 1 of 2016, the maximum amount of the loan for small producers, rural youth and rural women is set at no more than 70% of the assets used as a basis for defining the category (284 SMMLVs, equivalent in 2018 to Col\$781,242). For other loans, the limit is determined according to the project. FINAGRO credit lines bring the farmer a number of benefits, since they give access to a loan at a capped interest rate, which is lower for smaller or vulnerable producers. Furthermore, FINAGRO encourages financial intermediaries to grant loans to farmers. This incentive is based on the differential between the maximum interest rate for each category of producer and the rediscount rate granted by FINAGRO to the financial intermediary. This interest spread, or intermediation margin, varies between 7.5 and 12 percentage points, depending on the category of producer (Table 4.3).

Table 4.3 FINAGRO lines of credit, conditions by category of user

Programme	Coverage	Term	Category of producer	Rediscount rate	Maximum ordinary interest rate
Investment	Long-term investments: purchase of machinery and equipment, purchase of animals, infrastructure, late-yield crops, business capitalization, etc.	Term and grace period freely agreed according to the project's cash flow	Small producer ^a	DTF - 2.5% ^e	DTF + 7% ^e
			Medium-sized producer ^b	DTF + 1%	DTF + 10%
			Large producer ^c	DTF + 2%	DTF + 10%
			Association ^f	DTF - 3.5%	DTF + 5%
			Rural youth/Rural women ^d	DTF - 2.5%	DTF + 5%
			Integration ^g	DTF - 1%	DTF + 7%
Working capital	Short-term finance costs of a project (up to 24 months)	Up to 24 months. For a producer, single repayment <i>in fine</i> , including interest; for a marketer, periodical, maximum every 6 months	Small producer ^a	DTF - 2.5%	DTF + 7% ^e
			Medium-sized producer ^b	DTF + 1%	DTF + 10%
			Large producer ^c	DTF + 2%	DTF + 10%
			Association ^f	DTF - 3.5%	DTF + 5%
			Rural youth/Rural women ^d	DTF - 2.5%	DTF + 5%
			Integration ^g	DTF - 1%	DTF + 7%
Restructuring	Allows debt restructuring so as to be able to settle other outstanding loans	Term and grace period freely agreed	Small producer ^a	DTF - 2.5%	DTF + 7% ^e
			Medium-sized producer ^b	DTF + 1%	DTF + 10%
			Large producer ^c	DTF + 2%	DTF + 10%
			Association ^f	DTF - 3.5%	DTF + 5%
			Rural youth/Rural women ^d	DTF - 2.5%	DTF + 5%
			Integration ^g	DTF - 1%	DTF + 7%
			MSMEs ^h	DTF + 2%	DTF + 10%

a With total assets of up to 284 SMMLVs.

b With total assets between 285 and 5,000 SMMLVs.

c With total assets in excess of 5,000 SMMLVs.

d Rural youth: Natural persons between 18 and 28 years of age, with assets not exceeding 70% of 284 SMMLVs. Rural women: Assets must not exceed 70% of 284 SMMLVs.

e Average annual effective deposit-taking interest rate in Colombia for fixed-term deposits, which is used as the reference rate. Calculated weekly by the Central Bank.

f Grouping together small producers, who must account for at least 50% of the area to be planted using the loan or 50% of the number of association members.

g Assets according to category of producer. The borrower must be a legal person that provides technical assistance and handles marketing of the production of its members.

h Applicable for rural activities, with total assets of up to Col\$22,131,510,000.

Source: Resolution No. 1 of 2016 of the National Agricultural Credit Commission, and FINAGRO's portfolio of services.

4.41. FINAGRO also offers instruments such as *Microcrédito Rural* (rural micro-loans) for activities entailing small amounts.²³ Pursuant to Resolution No. 1 of 2016, any rural activities may be

²³ FINAGRO (2017), *Portafolio de Servicios*, August 2017. Viewed at: https://www.finagro.com.co/sites/default/files/portafolio_finagro_agosto_2017_2.pdf.

financed through the *Microcrédito* credit line. This type of loan is open to any rural dweller, at an interest rate defined as the "maximum permitted": the rediscount rate equivalent to the fixed-term deposit (DTF) rate + 2.5%. With a view to fostering access to credit in the rural sector, Law No. 1.731 of 2014 set up the Rural Micro-Finance Fund as a fund without legal personality, administered by FINAGRO and governed by Decree No. 1.449 of 2015.²⁴ In accordance with National Economic and Social Policy Council (CONPES) Document No. 3.866 of 2016 (National Productive Development Policy), capitalization of the Rural Micro-Finance Fund is managed by the MADR, together with FINAGRO.²⁵ Using resources granted through eligible financial institutions, cooperatives and associations operating in rural areas of Colombia, the Fund provides loans on favourable conditions to a segment of the population that has no access to financing through other channels. In 2016, the Fund placed a total of Col\$6.5 billion in resources.

4.42. In 2016, placements made with FINAGRO resources came to Col\$10.38 trillion, corresponding to 310,970 operations, benefiting 288,112 small, medium-sized and large agricultural producers. Of the total funds placed, Col\$2.01 trillion, or 19.3% of the total, representing 234,235 operations, served to finance small producers' projects.²⁶ Appropriations assigned to medium-sized and large producers' projects totalled Col\$8.38 million in 2016, or 80.7%, representing 76,735 operations.²⁷ In 2017, placements made with FINAGRO resources came to Col\$14.77 trillion, for 445,437 operations, benefiting 8,172 large, 164,189 medium-sized and 273,076 small agricultural producers. Of the total funds placed, Col\$2.34 trillion, or 15% of the total, representing 273,076 operations, served to finance small producers' projects. Placements for micro-loans in 2017 accounted for 104,755 operations worth Col\$196,145 million, benefiting 100,213 micro-enterprises. Looking at a breakdown of placements for small producers by credit line, 15.5% were for working capital, 74.7% for investment and 9.8% for debt restructuring. The appropriations assigned to medium-sized and large producers' projects came to Col\$12.42 trillion in 2017, or 84.1% of the total, representing 172,361 operations, i.e. 38.7% of the total number of operations. By line of credit, 49.9% of the appropriations were for working capital, 35.8% for investment and 14.3% for portfolio restructuring.

4.43. Within the total agricultural credit granted in 2017, FINAGRO allocated Col\$2.07 trillion to livestock farming and meat, Col\$1.3 trillion to sugar cane, Col\$1.66 trillion to rice, Col\$1.13 trillion to poultry farming, Col\$1.05 trillion to coffee and Col\$134,321 million to the fisheries and aquaculture sector.

4.1.4.4 Agricultural Guarantee Fund (FAG)

4.44. The purpose of the Agricultural Guarantee Fund (FAG) is to support loans and micro-loans granted under FINAGRO conditions and serving to finance projects in the agricultural and rural sector, including operations carried out through exchanges for commodities and agricultural and agro-industrial goods. The FAG underwrites obligations assumed *vis-à-vis* banking entities when a FINAGRO agricultural loan is requested without any other collateral, or if the latter is insufficient or unsuitable. For small enterprises, the FAG guarantee may cover up to 100% of the loan. For other producers, coverage ranges between 50% and 80% of the loan, depending on its purpose. In the case of associations, coverage can reach 80%, whereas the maximum coverage for integration projects is 70%, and 50% for micro-loans.²⁸

²⁴ MADR (2017), *Memorias al Congreso de la República 2016-2017*. Viewed at: https://www.minagricultura.gov.co/planeacion-control-gestion/Gestin/MEMORIAS%20AL%20CONGRESO%20DE%20LA%20REPUBLICA/Memorias_al_Congreso_de_la_Republica_%202016_2017.pdf.

²⁵ For the purposes of Law No. 1.731 of 2014, rural micro-finance is understood to mean financial services, such as micro-loans, micro-insurance, micro-leasing, micro-factoring, micro-guarantees and micro-savings, provided using micro-finance technology and in favour of small producers and MSMEs operating in the rural sector.

²⁶ Online information from FINAGRO, viewed at: https://www.finagro.com.co/sites/default/files/por_linea_a_octubre_2017.pdf.

²⁷ MADR (2017), *Memorias al Congreso de la República, 2016-2017*. Viewed at: https://www.minagricultura.gov.co/planeacion-control-gestion/Gestin/MEMORIAS%20AL%20CONGRESO%20DE%20LA%20REPUBLICA/Memorias_al_Congreso_de_la_Republica_%202016_2017.pdf.

²⁸ Online information from FINAGRO, viewed at <https://www.finagro.com.co/productos-y-servicios/FAG>.

4.45. In 2016, the FAG backed 240,441 loans worth Col\$2.3 trillion, representing 23% of total disbursements for the sector under FINAGRO lines of credit. The value of FAG guarantees during that period came to Col\$1.7 trillion, or 75% of the loans guaranteed (Table 4.4). In 2017, the FAG backed 283,593 loans worth Col\$2.77 trillion, representing 18.8% of total loan placements. The value of FAG guarantees during that period came to Col\$2.1 trillion, or 75.9% of the loans guaranteed (Table 4.4). The Fund endorsed 63.66% of the operations recorded in 2017 and 18.8% of the total value of the loans recorded. During the period 2012-2017, loans totalling Col\$55.2 trillion were placed in the agricultural sector, of which 24.7% (Col\$13.7 trillion) were backed by the FAG, representing a total of 1,512,812 guarantees issued for an amount of Col\$10.3 trillion.

Table 4.4 Guarantees granted by the FAG, 2012-2016

	2012	2013	2014	2015	2016	2017	Cumulative 2012-2017
Number of certificates	245,412	272,928	250,559	219,879	240,441	283,593	1,512,812
	(millions of pesos)						
Value of loans granted	6,472,143	6,961,236	8,113,152	8,486,607	10,384,869	14,775,406	55,193,413
Value of loans guaranteed	2,081,714	2,251,235	2,214,325	1,970,676	2,363,907	2,771,430	13,653,287
Value guaranteed	1,571,253	1,709,746	1,665,414	1,502,104	1,762,611	2,102,174	10,313,302

Source: FINAGRO.

4.1.4.5 Other financing schemes

4.46. In addition to the loan programmes implemented by FINAGRO and the support given by the FAG, the sector is supported by other schemes, too, such as the Agricultural Development Fund and the Agricultural Solidarity Fund (FONSA).

4.47. FONSA, created by Law No. 302 of 1996, partially amended by Law No. 1.731 of 2014, is an MADR fund, administered by FINAGRO, whose purpose is to provide economic support to small-scale agricultural producers and fishermen to tackle and partially or fully alleviate their debts when in the course of their activities they encounter crisis situations which severely affect crops or the quality, volume and marketing of agricultural products. Law No. 1.694 of 2013 and its regulations in Decree No. 355 of 2014 expanded the scope of the Fund to encompass instances of significant and sustained variations in prices of agricultural products or inputs that cause severe and sustained falls in income for producers. Up to 2017, producers of cotton, cocoa, coffee, sugar cane, bulb onion, beans, milk, maize, oil palm and potatoes benefited from FONSA on account of falling prices.²⁹

4.48. In order to protect producers' incomes against currency fluctuations, the MADR rolled out a Programme to protect the incomes of producers of exportable agricultural goods, which operated until 2014. Through this programme, it supported the purchase of instruments to reduce exposure to exchange-rate losses. Currently, the MADR no longer has any income protection programme of this type.

4.1.4.6 Agricultural insurance

4.49. Agricultural insurance is a tool to promote and protect production in the agricultural sector, with the aim of safeguarding agricultural investments financed with appropriations provided by the national agricultural credit system or producers' own funds. Agricultural insurance safeguards against losses caused by natural risks of climatic, geological and biological origin beyond the control of the insured party that affect agricultural activities, such as for example: excess or shortage of rainfall, strong winds, floods, freezing weather, hailstorms, landslides, avalanches,

²⁹ Under Law No. 1.731 of 2014, for the purposes of FONSA small producers are considered to be natural persons: (a) whose total assets do not exceed 250 SMLMVs; (b) no less than two thirds of whose income stems from agricultural and/or fishing activity or who have at least 75% of their assets invested in the agricultural sector. Medium-sized producers for FONSA purposes are natural persons with total assets not exceeding 700 SMLMVs. MADR (2017), *Memorias al Congreso de la República, 2016-2017*. Viewed at: [https://www.minagricultura.gov.co/planeacion-control-gestion/Gestin/MEMORIAS%20AL%20CONGRESO%20DE%20LA%20REPUBLICA/Memorias al Congreso de la Republica %202016 2017.pdf](https://www.minagricultura.gov.co/planeacion-control-gestion/Gestin/MEMORIAS%20AL%20CONGRESO%20DE%20LA%20REPUBLICA/Memorias%20al%20Congreso%20de%20la%20Republica%202016%202017.pdf).

infestations and disease.³⁰ The agricultural insurance programme is drawn up annually in a resolution of the National Agricultural Credit Commission, and funded through the National Agricultural Risk Fund (Table 4.5).

Table 4.5 Agricultural insurance

Product	Maximum value to be insured by hectare (Col\$ millions)
Short-cycle crops	20.0
Medium-yield and late-yield crops	25.5
Forestry plantations and silvopastoral systems	8.5
Crops in controlled environments	156.5

Source: Resolution No. 140 of 2017 issued by the Ministry of Agriculture and Rural Development.

4.50. Through FINAGRO, support is provided to producers who take out insurance by means of the Agricultural Insurance Incentives (ISA) scheme. In 2017, the Government subsidized agricultural insurance, covering between 60% and 80% of the policy value. The baseline incentive is 60% for all agricultural producers, which may rise to 80% if any of the following conditions are met: (a) the crop is a priority product under the *Colombia Siembra* programme³¹; (b) the producer has a loan duly registered with FINAGRO, under FINAGRO conditions, serving to finance the insured activity; (c) the insured agricultural activity is on the list of products with export potential.³² The percentage rate of the incentive depends on the category of producer (Table 4.6). The Commission, in accordance with the provisions of Decree No. 2.371 of 2015, determines annually the agricultural insurance premium subsidy, the insurance eligibility conditions, the budget and other actions geared to promoting agricultural risk management in the country.

Table 4.6 Percentage rate of the Agricultural Insurance Incentives granted to producers, by category of producer, 2017

Segment	Category of producer	Premium subsidy
General	Small, medium-sized and large	60%
Priority crop under the <i>Colombia Siembra</i> programme	Small	80%
	Medium-sized and large	70%
Insured crop or activity that has been financed by the producer by way of an agricultural loan granted with rediscount or own funds from a financial intermediary under FINAGRO conditions and duly registered with FINAGRO	Small	80%
	Medium-sized and large	70%
Products subject to export quotas, tariff elimination or tariff reductions on the part of third countries in favour of Colombia	Small	80%
	Medium-sized and large	70%

Source: MADR Resolution No. 140.

4.2 Mining and energy

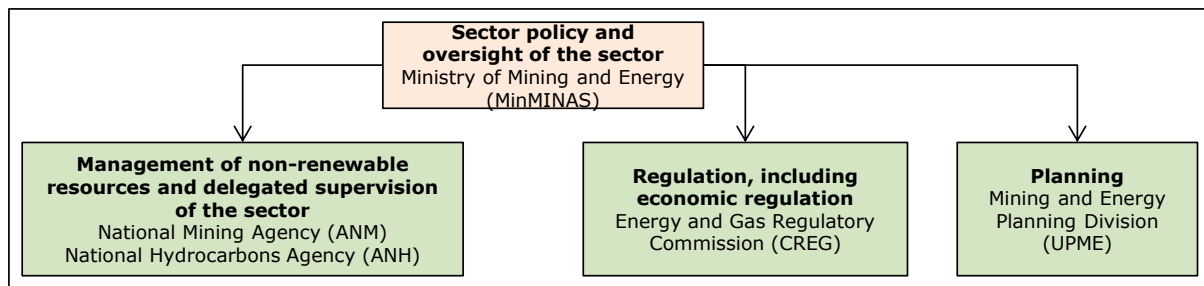
4.51. Various public entities attached to the Ministry of Mining and Energy (MinMINAS) participate in the mining and energy sector (Chart 4.1). Overall, the sector's institutional framework has not undergone any major changes since Colombia's last review in 2012. The only entity whose structure and duties changed was the Energy and Gas Regulatory Commission (CREG), which since 2013 has regulated the prices of certain petroleum-based liquid fuels.³³

³⁰ The Agricultural insurance was instituted in 1993 by Law No. 69, managed by the National Agricultural Credit Commission.

³¹ Priority products under the *Colombia Siembra* programme are: modified maize, soya beans, commercial forestry plantations, rubber, silvopastoral systems, rice, barley, oil palm, cocoa, avocado, mango, pineapple, yellow passion fruit, purple passion fruit and granadilla.

³² The products included in the priority basket of crops with positive and negative export potential are: avocado, bananas, coffee, sugar cane, oil palm, plantains, Cape gooseberries, bananito, cocoa, flowers, granadilla, Tahitian lime, mango, pineapple, pitahaya, purple passion fruit, oranges, mandarins, lemons, yellow passion fruit, lettuce, papaya, tobacco, tree tomatoes, panela cane and strawberries.

³³ Decrees No. 1.260 of 14 June 2013 and No. 1.617 of 30 July 2013, and online information from the CREG, viewed at: <http://www.creg.gov.co/index.php/es/sectores/2015-02-04-20-43-06/estructura-combustibles>.

Chart 4.1 Institutions in the energy sector

Source: WTO Secretariat.

4.52. MinMINAS formulates national energy policy (Box 4.1), but its duties are not confined to the policy domain; it also supervises the sector, a responsibility it then delegates to the National Mining Agency (ANM) and National Hydrocarbons Agency (ANH) (Chart 4.1).

Box 4.1 Objectives of energy policy

The objectives of Colombia's energy policy are contained in a specific document, but are identified in successive national development plans. The current National Development Plan (2014-2018) strives to guarantee a reliable and universal energy supply, through the rational, efficient and diversified use of energy sources. Objectives are set such as: responsible use of hydrocarbon resources, greater use of natural gas, ensuring the constant supply of liquid fuels and biofuels, greater access to the electricity grid, and a better-quality electricity supply.

Source: WTO Secretariat.

4.53. Foreign investors require prior authorization from MinMINAS to invest in the mining and hydrocarbons sector (Section 2.4).

4.54. In Colombia, energy is produced from conventional sources (water, coal, natural gas and oil), in which Colombia is self-sufficient as things stand today. Nevertheless, the depletion of mineral and hydrocarbon deposits in parallel with continually growing demand for energy constitutes a challenge for energy production. The Mining and Energy Planning Division (UPME) estimates that there may very soon be a need to have recourse to imports for energy production.³⁴ Measures have thus been taken to stimulate investment in the exploration and extraction of fossil fuels. To this end, in 2017, the authorities adopted and regulated the Tax Reimbursement Certificate (CERT), the value of which, determined as a percentage of the amount invested, may be used to pay national taxes.³⁵ Similarly, the authorities state that companies undertaking offshore exploration projects may deduct the VAT paid on imports and purchases of goods and services.

4.55. Incentives are also being offered to promote the use of non-conventional sources (solar, wind, geothermal and biomass), through measures such as: (a) 50% of the amount invested deductible from the tax base for income tax, for a period of five years; (b) exemption from the payment of tariffs (imports of machinery and equipment); and (c) exemption from VAT (imports and purchases of machinery and equipment as well as services supplied in relation to the project, e.g. topographic survey, etc.).³⁶ To be entitled to these incentives, projects must obtain the UPME's endorsement and the Environmental Benefit Certificate issued by the National Environmental Licensing Agency (ANLA). Only projects rolled out as from 2015 can benefit from these incentives.³⁷

³⁴ UMPE (2015), *Integración de las energías renovables no convencionales en Colombia*. Viewed at: http://www.upme.gov.co/Estudios/2015/Integracion_Energias_Renovables/INTEGRACION_ENERGIAS_RENOVA_NLES_WEB.pdf and UMPE (2015), *Plan Energético Nacional – Colombia: ideario energético 2050*. Viewed at: http://www.upme.gov.co/docs/pen/pen_idearioenergetico2050.pdf.

³⁵ Article 365 of Law No. 1.819 of 29 December 2016 and Decree No. 2.253 of 29 December 2017.

³⁶ The UPME publishes the list of goods and services exempted from tariffs and VAT, which may be revised at the request of companies. UPME Press Release No. 003-2016. Viewed at: http://www.upme.gov.co/Comunicados/2016/Comunicado_UPME_No03-2016.pdf.

³⁷ Law No. 1.715 of 13 May 2014 and Decree No. 2.143 of 4 November 2015.

4.56. Since 2012, a new system has been put in place to administer and distribute royalties received by the State more equitably, namely the General Royalties Scheme (SGR), replacing the National Royalties Fund.³⁸

4.2.1 Mining

4.57. Mining is governed by the Constitution, the Mining Code (Law No. 685 of 11 August 2001) and Single Regulatory Decree No. 1.073 of 26 May 2015. In 2016, the National Mining Policy was adopted with the aim of creating a more transparent legal framework and fostering business competitiveness in order to attract more investment flows, especially considering that foreign direct investment in the sector declined significantly as from 2015 (Section 1.3.2).³⁹ Most mining activity focuses on coal extraction. In addition to coal, there is some mining of other minerals (sulphur, copper, iron ore, nickel and salt), precious metals (gold, silver and platinum) and precious stones (emeralds).⁴⁰

4.58. Operators in the mining sector comprise private enterprises (including multinationals) and mining associations (including mining cooperatives).⁴¹ Pursuant to the Mining Code, to be able to operate in the mining sector foreign companies must be legally incorporated in Colombia, through subsidiaries or branches. A mining concession is required to prospect for and extract metals and minerals. Concessions are granted in so-called "free" areas, i.e. where there is no ban or restriction on exploitation and it is not reserved for specific mining communities. Among these free areas there are so-called "strategic" free areas that contain minerals and metals considered as being of strategic importance (coal, copper, coltan, phosphate ores, iron ore, magnesium ores, gold, platinum, potassium ores and uranium).⁴²

4.59. The ANM uses two methods of awarding concessions. In the case of "strategic" free areas, concession contracts are awarded through an objective selection procedure. For the other free areas, concessions are awarded to applicants on a "first-come, first-served" basis, applications being submitted through a single window ("Radicador Web") introduced by the ANM in 2013.⁴³ The term of a concession is 30 years, renewable for a further 30 years. At the end of the second term, the company that has been operating the concession shall have preference over the other candidates to reapply. Concession rights are transferable.⁴⁴

4.60. The royalty rate still ranges from 1% to 12%, according to the type of metal or mineral concerned. For coal, there are two rates, depending on the annual volume of production. Royalties are paid on the base price at the pithead, which is set periodically by the Central Bank of Colombia (BRC) for precious metals and by the UMPE for other metals and minerals.⁴⁵ The base price is the same for metals and minerals exported and those sold on the domestic market, except in the case of coal. Although in principle the base price of exported coal may be higher, but never lower, than the base price of coal for the domestic market, in 2015 the base price for exported coal was allowed to fall below the base price set for the domestic market. This measure was taken to offset

³⁸ Online information from the SGR, viewed at: <https://www.sgr.gov.co/Inicio.aspx>.

³⁹ MinMINAS Resolution No. 40391 of 20 April 2016 and Ministry of Mining and Energy (2017), *Memorias al Congreso de la República 2016-2017*. Viewed at: <https://www.minminas.gov.co/memorias-al-congreso>.

⁴⁰ UPME (2017), *Boletín estadístico de minas y energía 2012-2016*. Viewed at: http://www1.upme.gov.co/PromocionSector/SeccionesInteres/Documents/Boletines/Boletin_Estadistico_2012_2016.pdf.

⁴¹ Online information from the ANM, viewed at: [https://www.anm.gov.co/?q=Quienes son los dueños de los títulos mineros en Colombia](https://www.anm.gov.co/?q=Quienes%20son%20los%20due%C3%B1os%20de%20los%20t%C3%ADtulos%20mineros%20en%20Colombia).

⁴² Articles 31-32 of the Mining Code, MinMINAS Resolution No. 180102 of 30 June 2012 and ANM Resolution No. 045 of 20 June 2012.

⁴³ To access the single window, see: <https://www.anm.gov.co/?q=content/radicador-web>. Although the application process has been streamlined with the introduction of the single window, supporting documents still have to be submitted to one of the ANM's regional service points. Online information from the ANM, viewed at: <https://www.anm.gov.co/sites/default/files/Documentos/abeceradicadorweb-v04092013.pdf>.

⁴⁴ Mining Code, and online information from the ANM, viewed at: https://www.anm.gov.co/sites/default/files/DocumentosAnm/titulo_minero.pdf.

⁴⁵ Article 16 of Law No. 756 of 23 July 2002. See the base prices at: <http://www.banrep.gov.co/es/precios-explotacion-oro-plata-platino> and <http://www1.upme.gov.co/simco/PromocionSector/Normatividad/Paginas/Resoluciones-de-Liquidacion-de-regalias.aspx>.

the higher export costs of coal mined in the department of Norte de Santander. The authorities stress that the measure will be maintained for as long as the underlying circumstances persist.⁴⁶

4.61. A surface tax is payable per hectare occupied by the mining concession. Its amount ranges between one and three current statutory minimum daily wage units. The surface tax is paid only during the exploration and building and assembly stages.⁴⁷

4.62. Sales, imports and exports of gold and platinum are subject to a tax levied on the base price set by the BRC (the same base price as is used for the payment of royalties); the tax rate is 4% for gold and 5% for platinum.⁴⁸ There is also a parafiscal contribution on emeralds, at a rate of 1% of the value of exports, to finance projects implemented by the National Emeralds Fund.⁴⁹

4.2.2 Hydrocarbons

4.63. The hydrocarbons sector is governed by the Political Constitution and Single Regulatory Decree No. 1.073 of 26 May 2015. Operators in the sector comprise both public and private enterprises. The Colombia Oil Company, Ecopetrol, which is a semi-public corporation with a majority State holding, is the largest company in the sector. Ecopetrol participates in all the sector's activities: exploration, exploitation, refining, transport, distribution and marketing. The private sector is also allowed to engage in all activities, although refining is still operated exclusively by Ecopetrol.⁵⁰ Foreign private companies have to be legally incorporated in Colombia, through branches, in order to operate in the sector (Section 2.4).

4.64. Exploration and production (E&P) of hydrocarbons requires an E&P contract awarded by the ANH by means of the procedures laid down in the Regulations on Contracts for Areas for Exploration and Production. In 2017, new regulations were adopted, superseding those that had been in place since 2012.⁵¹ The new Regulations reaffirm that E&P contracts must be awarded through a competitive process, but may exceptionally be awarded directly. In addition, a new method of awarding contracts was established in order to stimulate investment, the "permanent competition" process, under which the ANH offers and assigns new areas throughout the year (Table 4.7), unlike in the open and closed competition processes, which take place in rounds organized every two years (the last round was convened in 2014).⁵² The authorities report, however, that the permanent competition process has not yet been employed, on account of a lack of regulation. The maximum term of an E&P contract is 39 years, extendable until the deposit is exhausted. According to the authorities, 445 E&P contracts were in progress in 2017, of which 117 were being executed by Ecopetrol.

Table 4.7 Methods of awarding E&P contracts

Method	Description
Direct award	The ANH employs this method to assign areas when there are grounds to do so for reasons of: (a) location of the area; (b) its geological characteristics; (c) environmental and social constraints; (d) lack of technical information on the subsoil; (e) public interest and national security; and (f) economic or energy policy.
Open competition	The ANH convenes the competition, which is open to an unlimited number of bidders.

⁴⁶ Coal export costs increased in 2015 as a result of the closure of the border with the Bolivarian Republic of Venezuela, which caused the export of coal mined in the department of Norte de Santander from Venezuelan ports to be suspended. The coal had to be exported from Colombian ports further away, thus driving up export costs on account of higher transport costs and port fees. ANM Resolution No. 0887 of 26 December 2014, as amended by ANM Resolution No. 801 of 23 November 2015.

⁴⁷ Article 230 of the Mining Code, as amended by Article 27 of Law No. 1.753 of 9 June 2015, and online information from the ANM, viewed at:

<https://www.anm.gov.co/sites/default/files/DocumentosAnm/exploracion.pdf>.

⁴⁸ Decree No. 2.173 of 30 December 1992, and online information from the BRC, viewed at:

<http://www.banrep.gov.co/es/precios-explotacion-oro-plata-platino>.

⁴⁹ Decree No. 2.407 of 2000.

⁵⁰ Online information from Ecopetrol, viewed at: <http://www.ecopetrol.com.co/wps/portal/es/ecopetrol-web/nuestra-empresa/quienes-somos/lo-que-hacemos>; and UPME (2013), *Cadena del petróleo*. Viewed at: http://www.upme.gov.co/Docs/CadenadelPetroleo_sp.pdf.

⁵¹ The Regulations are contained in ANH Agreement No. 2 of 2017. Viewed at: <http://www.sinusanjacinto2017.com/wp-content/uploads/2017/09/Acuerdo%202%20de%202017.pdf>.

⁵² To participate in the permanent competition process, companies register on the ANH Register of Interested Parties.

Method	Description
Closed competition	A specified number of bidders possessing the necessary capabilities (financial, technical and other) to execute the contract are invited by the ANH to participate in the competition.
Permanent competition	The ANH publishes the map of available areas. Companies submit their bids, on the basis of a minimum investment specified by the ANH. Bids are published to enable other interested parties to submit counterbids. The first bidder has the right to match the best bid.

Source: Articles 36 and 38 of the Regulations on Contracts for Areas for Exploration and Production.

4.65. Royalties continue to be set at 8%, 20% or 25%, depending on the level of production. Royalties are paid on the base production price at the wellhead.⁵³ The production price of natural gas at the wellhead may be regulated by the CREG.⁵⁴ The authorities report that regulation is typically employed at small, new sites where a higher price is necessary to make them economically viable. Petroleum production prices at the wellhead are not regulated. In addition to royalties, contractors pay the State for some economic rights in respect of: (a) use of the subsurface; (b) training, institutional strengthening and technology transfer; (c) production share; (d) additional production share; and (e) high prices.⁵⁵

4.66. Besides E&P contracts, technical evaluation agreements (TEA) may be signed to assess an area's "prospects" in terms of hydrocarbons. The duration of a TEA contract is between 24 and 36 months, according to the area's location (onshore or offshore). If the area is found to have "prospects", the contractor has right of preference to sign an E&P contract. TEA contractors are required to pay for the economic right to use the subsurface.⁵⁶

4.67. An authorization from MinMINAS is required to engage in refining, transport, storage, distribution and marketing activities, and to act as an importer.⁵⁷ The authorization is granted for an indefinite period. Refiners, importers, distributors and major consumers of liquid fuels must be registered in the MinMINAS information system for liquid fuels (SICOM) in order to undertake transactions involving liquid fuels.⁵⁸ To be able to transport hydrocarbons and liquid fuels, capacity must be contracted with the owner and/or operator of the transport system, who is obliged to allow free access to the system, without discriminating between applicants.⁵⁹ Transport via oil and gas pipelines is subject to the transport tax, at a rate of 2% or 6% (depending on the provenance of the hydrocarbons) of the transport cost.⁶⁰

4.68. During the period under review, price regulation was maintained on the domestic market (Table 4.8). The CREG publishes the methodology and tariffs in resolutions. Since 2013, the selling prices of petroleum-based liquid fuels have been regulated by the CREG and MinMINAS; prior to that, they were regulated by MinMINAS alone. The CREG sets the prices of all petroleum-based liquid fuels, except petrol for motor vehicles and engine fuel oil (diesel), whose selling prices to the public continue to be regulated by MinMINAS.⁶¹

⁵³ Article 16 of Law No. 756 of 23 July 2002, and online information from the ANH, viewed at: <http://www.anh.gov.co/Operaciones-Regalias-y-Participaciones/Regalias/Paginas/default.aspx>.

⁵⁴ UPME (2012), *Proyecciones de precios de gas natural y combustibles líquidos para generación eléctrica febrero de 2012*. Viewed at: http://www.sipg.gov.co/sipg/documentos/precios_combustibles/Termicas_Marzo_2012.pdf.

⁵⁵ Articles 81-88 of ANH Decision No. 02 of 2017.

⁵⁶ Article 35 of ANH Decision No. 02 of 2017.

⁵⁷ Single Regulatory Decree No. 1.073 of 26 May 2015.

⁵⁸ SICOM (2016), *Boletín estadístico 2011-2015*. Viewed at: http://www.sicom.gov.co/apc-aa-files/495052435f5052454445465f30303231/Boletin_Sicom_Quinquenal_publico.pdf; and Asociación Colombiana de Petróleo (2016), *ACP Hidrocarburos*. Viewed at: <https://acp.com.co/web2017/es/archivo-revista-acp/54-revista-acp-edici%C3%B3n-no-16/file.html>.

⁵⁹ MinMINAS Resolution No. 72145 of 7 May 2014 (regulating the transport of crude oils); CREG Resolutions No. 071 of 3 December 1999 (regulating the transport of natural gas) and No. 092 of 22 September 2009 (regulating the transport of LPG).

⁶⁰ MinMINAS Resolution No. 72.537 of 5 November 2013.

⁶¹ Decree No. 1.260 of 14 July 2013 and Single Regulatory Decree No. 1.073 of 26 May 2015.

Table 4.8 Price control in the hydrocarbons sector

(Responsible regulatory body)

	Natural gas	Crude oil	LPG	Petroleum-based liquid fuels
Transport by pipeline	Yes (CREG)	Yes (MinMINAS)	Yes (CREG)	Yes (CREG)
Storage	No	No	No	No
Marketing	Yes (CREG)	No	Yes (CREG)	Yes (CREG)
Sale	Yes ^a (CREG)	No	Yes (CREG)	Yes (CREG and MinMINAS)

a Regulated for sales to regulated users, i.e. small-scale users. CREG Resolution No. 137 of 10 October 2013.

Source: WTO Secretariat and information provided by the authorities.

4.69. National legislation allows the export of natural gas to be suspended when domestic production is insufficient to meet demand.⁶² The authorities emphasize that no suspensions of natural gas exports occurred during the review period.

4.70. The authorities reported that 854 thousand barrels per day (kbpd) of petroleum and 907 million cubic feet per day (mmcf) of natural gas were extracted in Colombia in 2017. Around 80% of total production was extracted by Ecopetrol. Colombia has a pipeline system that is capable of transporting 265 kbpd and a storage capacity of 2.5 million barrels. There are around 5,000 service stations in Colombia.

4.2.3 Electricity

4.71. Activities in the electricity sector in Colombia are regulated by Law No. 143 of 11 July 1994 and Single Regulatory Decree No. 1.073 of 26 May 2015. Law No. 142 of 11 July 1994 guarantees the coverage, continuity and quality of the public electricity service. The CREG, which issues the regulations governing the sector, is in the course of drafting a single resolution to facilitate consultation of the regulations of a general nature (which does not include specific regulations approving tariffs).⁶³

4.72. Both private and public companies operate in the sector. The State owns ISA (Interconexión Eléctrica), which operates the high-voltage transmission network and international interconnections with Ecuador, Peru and the Bolivarian Republic of Venezuela.⁶⁴ The authorities also report that the State has a stake in the generating company EMGESA, which is a semi-public company. At the local level, the generating company EPM belongs to the municipality of Medellín. The generating company Isagen was privatized in 2016.

4.73. A concession contract is required for the generation, transmission and distribution of electrical energy (Table 4.9). Concessions are granted for an initial period of up to 30 years, renewable for a further term of up to 20 years.⁶⁵ No vertical integration is permitted in the sector, which means that the same enterprise cannot simultaneously engage in generating, transmission and distribution activities.⁶⁶ Nor can transmission companies sell electricity, although generating and distribution companies may do so.⁶⁷ In practice, there are companies that are involved in all the sector's activities, because they were set up before this constraint was introduced in 1994 and have been allowed to continue operating.⁶⁸

⁶² Single Regulatory Decree No. 1.073 of 26 May 2015.

⁶³ Online information from the CREG, viewed at:

<http://www.creg.gov.co/index.php/es/regulacion/resolucion-unica-energia>.

⁶⁴ Online information from ISA, viewed at: <http://www.isa.co/en/Pages/default.aspx>.

⁶⁵ Article 62 of Law No. 143 of 11 July 1994.

⁶⁶ A generating company can have a stake of up to 25% in a distribution company (and vice versa), and up to 15% in a transmission company, or more if the latter earns less than 2% of total income from the National Interconnected System. CREG Resolutions No. 128 of 17 December 1996 and No. 095 of 21 November 2007.

⁶⁷ Article 74 of Law No. 143 of 11 July 1994.

⁶⁸ Nieves Zárate M.T. and A. Hernández Vidal (2016), *Colombia Energy Investment Report*, International Energy Charter. Viewed at: https://energycharter.org/fileadmin/DocumentsMedia/Other_Publications/20160729-Colombia_Energy_Investment_Report.pdf.

Table 4.9 Concession contracts in the electricity sector

Entity	Activity
MinMINAS	Generation
	Operation of the national transmission network (high voltage)
	Operation of the interregional transmission network (high voltage)
Governorate	Operation of the regional transmission network (high voltage)
Municipality	Operation of the distribution network (low voltage)

Source: Article 57 of Law No. 143 of 11 July 1994.

4.74. Electricity is bought/sold on the wholesale electricity market (MEM), in three ways: (a) hourly transactions on the spot market; (b) bilateral financial contracts on energy; and (c) auctions for the purpose of allocating firm energy commitments.⁶⁹ Power plants and electricity suppliers are part of the MEM. According to the authorities, unregulated users may not participate directly in the MEM. Plants with small generating capacities (i.e. less than 20 MW) may sell electricity on the MEM or directly to suppliers. The MEM is run by the XM Group (*Compañía de Expertos en Mercados*).

4.75. End users are categorized as regulated or unregulated. Regulated users are small consumers, who pay for electricity in accordance with the tariff formula established by the CREG.⁷⁰ Suppliers selling electricity to regulated users must buy the electricity through bilateral financial contracts, at the lowest price resulting from sealed-bid auctions.⁷¹ Unregulated users are large consumers whose monthly demand for power (MW) or monthly consumption (MWh) exceeds the threshold levels set by the CREG. Currently, to be considered as unregulated, a user has to have a monthly demand of more than 0.1 MW or a monthly consumption of more than 55 MWh.⁷² Unregulated users are free to agree on the price of electricity with the suppliers.

4.76. A differentiated tariff mechanism was temporarily employed in 2016 to encourage regulated users to save energy. Discounts were granted to users that saved electricity, while an additional charge was introduced for users consuming an excessive amount of electricity.⁷³

4.77. Competition regulation forbids any one company from generating more than 30% of the total firm energy produced in Colombia. Even though the generating market is highly concentrated, since 70% of electrical energy is generated by four companies, none of them has more than a 30% share.⁷⁴

4.78. The authorities reported that electricity production in Colombia grew steadily between 2012 and 2017, climbing from 59,890 to 64,142 GWh. Electricity is chiefly generated in hydroelectric power stations, which accounted for 86% of total production in 2017. Most of the rest comes from thermal power plants, fired by gas and coal. Use of non-conventional sources remains rare. Colombia trades electricity with Ecuador and the Bolivarian Republic of Venezuela. Foreign trade in electricity with Ecuador is governed by the CAN rules, and the Colombia-Ecuador interconnection is one of the components of the Andean electrical interconnection system (SINEA).⁷⁵

⁶⁹ For more details, see WTO document WT/TPR/S/265/Rev.2 of 1 August 2012.

⁷⁰ CREG Resolution No. 119 of 21 December 2007.

⁷¹ Aktiva Servicios Financieros (2016), *Estudios sectoriales: sector de comercialización de energía eléctrica 2014-2015*. Viewed at: http://aktiva.com.co/blog/Estudios%20sectoriales/2016/Sector%20comercializaci%C3%B3n%20de%20energ%C3%per centADa_junio_2016.pdf.

⁷² Article 11 of Law No. 143 of 11 July 1994 and CREG Resolution No. 131 of 31 December 1999.

⁷³ CREG Resolutions No. 029 of 7 March 2016, No. 039 of 15 March 2016 and No. 049 of 6 April 2016. For more information, see online information from EDEQ, viewed at: <http://www.edeq.com.co/clientes/Resoluci%C3%B3n-CREG-039>.

⁷⁴ SIC PowerPoint presentation, October 2015. Viewed at: http://www.sic.gov.co/recursos_user/presentaciones_competencia/juan_garcia.pdf.

⁷⁵ CAN Decision No. 757 of 22 August 2011, online information from the CAN, viewed at: <http://www.comunidadandina.org/Seccion.aspx?id=71&tipo=TE&title=energia> and CAN Press Release. Viewed at: <http://www.comunidadandina.org/Prensa.aspx?id=3625&accion=detalle&>.

4.3 Manufacturing

4.79. The manufacturing sector's share in GDP has continued to decline since the last review in 2012, from 12.2% of GDP in 2012 to 11.0% as at the third quarter of 2017. The principal manufacturing industries are chemicals, petroleum refining, beverages, non-metallic products and textiles.

4.80. Manufacturing sector policy is coordinated by the Directorate of Productivity and Competition in the Ministry of Trade, Industry and Tourism (MinCIT), structuring joint action by the public, private and academic sectors. The main strands of Colombia's industrial policy are set out in CONPES Document 3866, the National Productive Development Policy, of 8 August 2016.⁷⁶

4.81. CONPES Document 3866 seeks to boost competitiveness and contains a productive development policy for the country, with a set of sectoral and cross-cutting tools to address market, governance and structural failings that impede growth in productivity or make it difficult to modernize and upgrade Colombia's production system. The Productive Development Policy puts forward three strategies. The first seeks to enhance the capacity of production units to innovate and adopt an entrepreneurial approach and to absorb and transfer knowledge and technology. The second seeks to increase efficiency and effectiveness in access to finance, primarily for innovation and entrepreneurship. The third promotes compliance with quality standards on the part of domestic producers. The manufacturing sector is endeavouring to promote innovative businesses and achieve a broader regional distribution of added value in manufacturing, which at present is concentrated in six departments.⁷⁷

4.82. Colombia's manufacturing sector enjoys relatively low tariffs, with the exception of clothing textiles, for which tariff protection can be as high as 40%. Based on the ISIC definition⁷⁸, the average MFN tariff applied by Colombia to manufactures stood at 7% in 2017, as compared with 6.2% in August 2011.

4.83. As was the case in the previous review, Colombia still applies a number of trade protection measures (Section 3.1.6) on manufacturing sector imports. It also applies some non-automatic licences, which are imposed irrespective of the product's origin.

4.84. In accordance with Decree No. 1.786 of 2 November 2017, a tariff of 40% is applied, which is higher than the MFN, for imports of articles of apparel classified under Chapters 61 and 62 of the HS entering the country with a value equal to or less than US\$10 per kilo (threshold). When the declared price exceeds this threshold, the tariff will be 15%, which is the MFN tariff. For footwear imports, a tariff of 35% will be applied when the goods enter with values less than or equal to a threshold of between US\$6 and US\$10 per pair, depending on the product. A 35% tariff is applied to imports under subheading 6406.10.00.00 when the declared price is below US\$5. The measures were adopted for one year and extend, with some changes, the measures contained in Decree No. 1.744 of 2016. Decree No. 2.218 of 27 December 2017 set price thresholds for a number of products in order to prevent possible customs fraud involving imports of apparel and footwear, textiles, yarn and fabric, irrespective of the country of origin and/or provenance (Section 3.1.3.1).

4.85. The manufacturing sector is eligible for various export support programmes available in Colombia, under which users are given tax concessions and benefit from streamlined customs procedures. One such scheme is the free zone programme (Section 3.2.4.1.1). Exporters of manufactured goods may also take advantage of the Plan Vallejo, which grants full exemption from tariffs and VAT for temporary import of inputs, raw materials, intermediate goods, capital goods and spare parts, provided that they are used to produce goods for export. They may also benefit from loans provided by the Foreign Trade Bank of Colombia (Bancoldex). Various programmes also exist for promoting the activity of MSMEs (Section 3.3.1).

⁷⁶ Available at: <http://www.colombiacompetitiva.gov.co/prensa/informes/Conpes-3866-de-2016-Politica-desarrollo-productivo.pdf>.

⁷⁷ CONPES 3866, National Productive Development Policy, of 8 August 2016. Viewed at: <http://www.colombiacompetitiva.gov.co/prensa/informes/Conpes-3866-de-2016-Politica-desarrollo-productivo.pdf>.

⁷⁸ ISIC Rev.3, Divisions 15 to 37.

4.4 Services

4.4.1 Financial services

4.4.1.1 Regulation and general characteristics

4.86. The provision of financial services is governed primarily by: the Political Constitution, the Basic Statute of the Financial System (Decree No. 663 of 2 April 1993), Law No. 964 of 8 July 2005, Single Decree No. 2.555 of 15 July 2010, the Basic Legal Circular and the Basic Accounting and Financial Circular (Table 4.10). Since 2012, these texts have been frequently updated. For example, the Basic Legal Circular, initially issued in 1996, was reissued, updating its content to align it with the current regulations and incorporate best international practices in regard to prudential oversight and regulation.

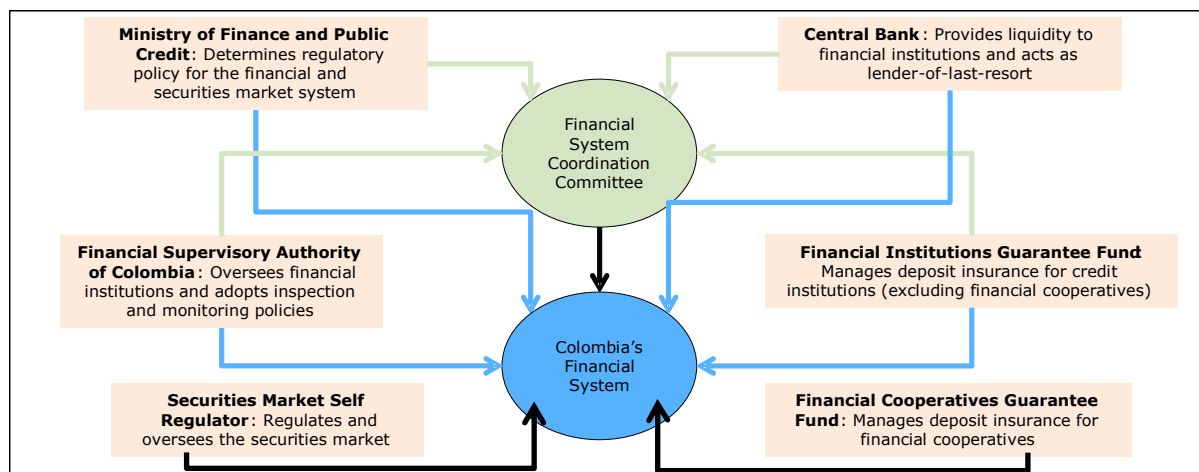
Table 4.10 Regulatory texts governing financial services

Legislation	Brief description
Constitution (Article 335)	Financial activities are a matter of public interest. Accordingly, they may only be carried out with prior authorization from the State, and the Government can intervene in financial activities
Basic Statute of the Financial System (Decree No. 663 of 1993)	Establishes the structure of the financial system (i.e. types of institutions and their responsibilities); the procedures for constituting financial institutions and other rules governing their operations
Law No. 964 of 2005	Establishes the objectives and criteria to which the Government shall adhere in regulating financial activities
Single Decree No. 2555 of 2010	Consolidates rules governing the financial sector (e.g. levels of solvency or indebtedness)
Basic Legal Circular (External Circular No. 029/14 of 3 October 2014)	Sets out general and specific requirements for the operation of financial institutions and the provision of financial services (e.g. the establishment of representative offices of foreign institutions). Recognizes the rights of users of financial services
Basic Accounting and Financial Circular (External Circular No. 100/95 and amendments thereto)	Determines accounting and financial requirements and information reporting requirements for financial institutions

Source: WTO Secretariat.

4.87. The task of guaranteeing the smooth functioning of the Colombian financial system lies in the hands of a number of entities. These are: the Central Bank of Colombia (BRC), the Ministry of Finance and Public Credit (MinHacienda), the Colombian Financial Supervisory Authority ("Superfinanciera"), the Securities Market Self-Regulator (AMV), the Financial Institutions Guarantee Fund (FOGAFIN) and the Financial Cooperatives Guarantee Fund (FOGACOOP) (Chart 4.2). These institutions make up the Financial System Security Network, in which they participate in order to coordinate action in the event of failures in the system. Some of them also take part in the Financial System Coordination Committee (FSCC), which guards against potential risks to the stability of the financial system (Chart 4.2).⁷⁹ The Supervisory Authority for Economic Solidarity ("Supersolidaria") is the entity responsible for supervising savings and credit cooperatives, which also engage in financial intermediation operations, although they are not classified as financial institutions as such.

⁷⁹ Banco de la República (2013), *El sistema financiero colombiano: estructura y evolución reciente*, Revista del Banco de la República. Viewed at: <http://www.banrep.gov.co/es/revista-1023>.

Chart 4.2 Functioning of Colombia's financial system

Source: BRC (2013), *Revista N° 1023*. Viewed at: <http://www.banrep.gov.co/es/revista-1023>.

4.88. There are no restrictions on private participation, whether national or foreign, in the financial sector in Colombia.⁸⁰ Foreigners require prior authorization from Superfinanciera to be able to invest in the sector.

4.89. Colombia's financial system is composed of credit institutions, financial services companies and other financial institutions, which may be, for example, special official institutions (or second-tier banks), insurance companies and companies specializing in electronic deposits and payments (Table 4.11).⁸¹ In 2017, there were 61 credit institutions, of which 36% were foreign entities.

4.90. Companies specializing in electronic deposits and payments (SEDPEs) are a new type of financial institution, created in 2014 to boost financial inclusion. Although electronic deposits had already existed as a financial product on the Colombian market since 2011, they were only provided by credit institutions.⁸² Unlike the latter, SEDPEs do not grant loans; their operations are restricted to payment, transfer and giro transactions. An SEDPE must be constituted by Colombian natural or legal persons, and comply with the rules under the Basic Statute of the Financial System. Its operations have to fulfil prudential requirements, for example in regard to leverage.⁸³ As at end 2017, one SEDPE had been set up (Table 4.11).

Table 4.11 Structure of Colombia's financial system, December 2012 and 2017

Type of institution	Number of institutions	
	Dec.-2012	Dec.-2017
Credit institutions	58	61
Banks	23	25
Commercial financing companies	24	15
Financial cooperatives	7	5
Investment banks	4	5
Financial services companies	45	34
General bonded warehouses	4	3
Pension fund and severance fund managers	12	4
Specialized foreign exchange intermediation and financial services companies	2	1
Trust companies	27	26
Other	103	101
Insurance and reinsurance companies	54	63
Special official institutions (second-tier banks)	11	11

⁸⁰ Article 91 of the Basic Statute of the Financial System.

⁸¹ Basic Statute of the Financial System (updated). Viewed at: http://www.secretariasenado.gov.co/senado/basedoc/estatuto_organico_sistema_financiero_pr002.html#53.

⁸² BBVA Research (2015), "E-money regulation in Colombia", *Digital Economy Outlook*, September 2015. Viewed at: https://www.bbva.com/wp-content/uploads/2015/09/Digital_Economy_Outlook_sep15-Cap4.pdf.

⁸³ Law No. 1.735 of 21 October 2014 and Decree No. 1491 of 13 July 2015.

Type of institution	Number of institutions	
	Dec.-2012	Dec.-2017
Investment management companies	10	2
Stockbrokers	55	21
Capitalization companies	5	3
Companies specializing in electronic deposits and payments	n.a.	1
Total	238	185

n.a. Not applicable: This type of company was created in 2014.

Source: Information provided by the authorities.

4.91. In addition to financial sector institutions, there are 181 savings and credit cooperatives, overseen by Supersolidaria, which, although not classified as credit institutions, provide financial intermediation services, albeit only to their members. In June 2017, these cooperatives had assets valued at Col\$12.4 trillion and their loan portfolio stood at Col\$10.1 trillion.

4.92. To be able to operate in the Colombian financial sector, they have to meet a number of conditions and requirements. In particular, there is a minimum capital requirement, which is updated annually in line with the consumer price index (Table 4.12). In the case of financial cooperatives and savings and credit cooperatives, the minimum capital is known as "minimum social contributions", also updated annually.

Table 4.12 Minimum capital requirement by type of institution, 2012-2017

(Col\$ million)

Minimum capital	2012	2013	2014	2015	2016	2017
Credit institutions						
Banks	73,750	75,550	77,016	79,835	85,240	90,142
Commercial financing companies	19,001	19,465	19,843	20,570	21,963	23,226
Financial cooperatives ^a	3,267	3,340	3,437	3,591	3,591	3,714
Financial corporations	26,823	27,478	28,012	29,038	31,004	32,787
Financial services companies						
Pension fund and severance fund managers	16,768	17,178	17,512	18,153	19,382	20,497
Severance fund managers	5,597	5,734	5,846	6,060	6,471	6,844
Pension fund managers	11,179	11,452	11,675	12,103	12,923	13,667
Specialized foreign exchange intermediation and financial services companies	8,842	9,058	9,234	9,572	10,221	10,809
Trust companies	5,597	5,734	5,846	6,060	6,471	6,844
Other institutions						
Reinsurance companies	33,639	34,460	35,129	36,415	38,881	41,117
Insurance companies	8,414	8,620	8,788	9,110	9,727	10,287
Insurance companies providing only insurance on export loans	7,499	7,682	7,832	8,119	8,669	9,168
Savings and credit cooperatives ^a	1,095	1,120	1,153	1,205	1,205	1,246
Other financial institutions	4,475	4,585	4,674	4,846	5,175	5,473
Capitalization companies	4,475	4,585	4,674	4,846	5,175	5,473
Companies specializing in electronic deposits and payments	n.a.	n.a.	5,846	6,060	6,471	6,844

a The minimum capital (social contributions) is set by fiscal year.

n.a. Not applicable: This type of company was created in 2014.

Source: Online information from Superfinanciera, viewed at:

<https://www.superfinanciera.gov.co/jsp/loader.jsf?!Servicio=Publicaciones&Tipo=publicaciones&IFuncion=loadContenidoPublicacion&id=61318>.

4.93. Colombia currently has 12 financial groups (conglomerates) operating in 25 markets and bringing together 44.5% of the institutions in Colombia's financial system. Colombian financial conglomerates have embarked on an ambitious expansion process, especially in Central America.⁸⁴ This expansion was particularly strong between 2012 and 2017, as reflected in the growth in their

⁸⁴ Colombian financial conglomerates have a particularly big presence in El Salvador, where they hold 53% of total banking assets, and in Nicaragua and Panama, with over 20%.

assets (from US\$41 million in 2012 to US\$80 million in 2017) and number of subsidiaries (from 163 in 2012 to 236 in 2017) abroad.⁸⁵

4.94. In 2017, the Law on Financial Conglomerates and Mechanisms for the Resolution of Financial Institutions was promulgated, which lays down the scope of supervision and regulation of financial conglomerates and their holding companies.⁸⁶ This Law introduces regulation that is in line with international best practices, following IMF and OECD recommendations. Among other relevant aspects, it introduces prudential requirements for holding companies and special supervisory powers granted to Superfinanciera, which can order changes in a financial conglomerate's structure where necessary to maintain its stability.⁸⁷

4.95. Superfinanciera participates in various initiatives for cross-border supervision of financial conglomerates: the organization of cross-border panels of supervisors; participation in the Central American Council of Superintendents of Banks, Insurance and Other Financial Institutions (CCSBSO); signing memoranda of understanding with supervisory authorities in countries in which Colombian financial conglomerates are present; and visits to subsidiaries of Colombian financial conglomerates abroad.⁸⁸

4.96. Between 2012 and 2017, Colombia continued to implement the Basel III rules, not only for the banking sector but also for other financial institutions. For example, the prudential framework was revised to increase the capital requirement for credit institutions, pension and severance fund managers and second-tier banks.⁸⁹ In particular, a new measure of solvency was introduced for credit institutions and second-tier banks. As from 2013, they have to comply with a basic solvency ratio of 4.5%, while the total solvency ratio remains at 9%, a stricter level than that foreseen under Basel II (8%). Furthermore, the system for managing stockbrokers' liquidity risks was strengthened.⁹⁰ Other measures introduced to strengthen the prudential framework include: (a) strengthening capital with higher-quality instruments based on Basel III; (b) unifying the prudential capital framework for credit institutions, special official institutions and cooperatives; and (c) strengthening liquidity risk indicators. In 2017, the IMF welcomed Colombia's efforts to bring financial sector regulation and supervision closer to Basel III.⁹¹

4.97. Financial institutions (except financial corporations) may hold a stake in the capital of general bonded warehouses and trust companies, pension and severance managers, stockbrokers and, as from 2014, companies specializing in electronic deposits and payments.⁹² Their holdings in such companies may not be less than 51%, except in the case of general bonded warehouses, for which there is no limit. Total investment by an institution in another shall not exceed 100% of its capital, capital reserves and capital revaluation account.⁹³

⁸⁵ Explanatory memorandum on Draft Law No. 119 of 2016 and Superfinanciera PowerPoint presentation of 5 October 2015. Viewed at: <https://www.superfinanciera.gov.co/jsp/loader.jsf?iServicio=Publicaciones&iTipo=publicaciones&iFuncion=loadContenidoPublicacion&iid=10085945>.

⁸⁶ Law No. 1.870 of 21 September 2017.

⁸⁷ MinHacienda Press Release No. 119. Viewed at: http://www.minhacienda.gov.co/HomeMinhacienda/ShowProperty;jsessionid=nSOyZd9ECE1wcoZ-te6ZncRcnBtJeVcXjTv_Gce55RoMsC49W7hkl-87823345?nodeId=%2FOCS%2FP_MHCP_WCC-074866%2F%2FidcPrimaryFile&revision=latestreleased.

⁸⁸ Superfinanciera PowerPoint presentation of 8 October 2014. Viewed at: <https://www.superfinanciera.gov.co/jsp/loader.jsf?iServicio=Publicaciones&iTipo=publicaciones&iFuncion=loadContenidoPublicacion&iid=10084137>.

⁸⁹ Decree No. 2.255 of 15 July 2010, as amended by Decrees No. 1.771 of 23 August 2012 and No. 1.548 of 19 July 2012; MinHacienda Press Release of 24 August 2012. Viewed at: http://www.minhacienda.gov.co/HomeMinhacienda/ShowProperty;jsessionid=UA_6XanxjAGokJsVNVPtasR4sotdJIO_wZZbf6n3gNCQWxXbO7On!-16024601?nodeId=%2FOCS%2FMIG_5942624.PDF%2F%2FidcPrimaryFile&revision=latestreleased

⁹⁰ Superfinanciera Press Release of 23 April 2014.

⁹¹ Online information from the IMF, viewed at: <https://www.imf.org/es/News/Articles/2017/03/17/mcs31717-colombia-staff-concluding-statement-of-the-2017-article-iv-mission>.

⁹² Article 119 of the Basic Statute of the Financial System, amended by Article 4 of Law No. 1735 of 21 October 2014.

⁹³ Chapter VII (paragraph 2.2) of Title I of the Basic Legal Circular (External Circular No. 029/14 of 3 October 2014).

4.98. Mergers of financial institutions and takeovers have to be authorized by Superfinanciera. It may raise objections when it considers that the merger or takeover may harm competition or affect the stability of the financial system. It is deemed that competition is degraded when the institution resulting from the merger covers 25% of the market. Superfinanciera's objections have to be endorsed by MinHacienda. Any purchase of 10% or more of the equity of a financial institution by a (domestic or foreign) investor has to be approved by Superfinanciera.⁹⁴

4.99. Deposits are insured through FOGAFIN or FOGACOOP (Table 4.13). There is a ceiling on the deposit insurance, by account holder and institution, which was increased from Col\$20 million to Col\$50 million in 2017. In this regard, Colombia has decided to align on international best practices, which recommend periodical review of the maximum deposit insurance value; Colombia will carry out such a review every three years.⁹⁵ FOGAFIN deposit insurance is funded from the premiums paid by participating institutions, at a rate of 0.3% of the amount of the liabilities.⁹⁶

4.100. Colombia maintains a levy on financial movements, payable by users and institutions of the financial system. The tax is paid each time a transaction is effected, although there may be exemptions. During the period under review, the rate of the levy has been modified by successive tax reforms; it currently stands at 0.4%.⁹⁷

Table 4.13 Deposit insurance, 2017

	Participating institutions	Deposit insurance ceiling in 2017	Resolution
FOGAFIN	Banks, financial corporations, commercial financing companies and specialized companies in electronic deposits and payments	Col\$50 million	FOGAFIN Resolution No. 002 of 18 April 2017
FOGACOOP	Financial cooperatives Savings and credit cooperatives	Col\$20 million Col\$12 million	FOGACOOP Resolution No. 031 of 2010, as amended by Resolution No. 16 of 29 July 2015

Source: WTO Secretariat.

4.101. The financial sector continues to be one of the most dynamic sectors of the economy. The ongoing increase in total assets and loan portfolios since 2012 has allowed the sector to achieve higher financial deepening indices in relation to GDP (Table 4.14).

Table 4.14 Colombian financial system indicators, December 2012 to 2017

	Dec-2012	Dec -2013	Dec -2014	Dec -2015	Dec -2016	Dec -2017
Total assets (Col\$ trillion)	867.2	963.1	1,099.3	1,229.1	1,400.9	1,556.2
Credit institutions	372.8	427.8	480.9	550.4	574.6	608.7
Financial services companies	396.1	429.7	501.0	551.8	648.7	737.4
Other	98.3	105.6	117.4	126.9	177.6	210.1
Assets/GDP (%)	130.3	136.2	145.4	150.6	162.4	172.0
Total credit (Col\$ trillion)	247.6	281.8	310.2	360.8	386.7	405.8
Banks	231.0	263.0	290.6	336.1	375.4	393.7
Financial corporations	-	0.1	0.3	0.4	0.2	-
Commercial financing companies	14.6	16.4	17.4	22.2	8.7	9.6
Financial cooperatives	2.1	2.3	1.8	2.1	2.3	2.6
Credit/GDP (%)	37.2	39.8	41.0	45.1	44.8	44.9

Source: Information provided by the authorities.

⁹⁴ Articles 58, 64 and 88 of the Basic Statute of the Financial System.

⁹⁵ Online information from the Office of the President of the Republic, viewed at: <http://es.presidencia.gov.co/noticia/170419-Gobierno-aumenta-de-20-millones-a-50-millones-cobertura-del-seguro-de-depositos>.

⁹⁶ Article 323 of the Basic Statute of the Financial System, and online information from FOGAFIN, viewed at: <https://www.fogafin.gov.co>.

⁹⁷ Articles 870-872 of the Tax Statute (Decree No. 624 of 30 March 1989), Article 45 of Law No. 1.735 of 23 December 2014 and Article 214 of Law No. 1.819 of 29 December 2016.

4.4.1.2 Banking

4.102. Foreign banks must be legally incorporated in Colombia in order to operate. Commercial presence is achieved through subsidiaries and, as from 2013, branches may also be established.⁹⁸ There are no restrictions on the operations of subsidiaries and branches, which may provide the same services and sell the same financial products as Colombian banks. Foreign banks may also open representative offices in Colombia; they are required to have a legal representative in the country.

4.103. To operate in the banking sector, it is necessary to obtain an authorization certificate (or operating permit) from Superfinanciera. Where subsidiaries and branches are established, the parent institution must be subject to consolidated supervision in its home location and be domiciled in a country/territory that allows exchange of information. The authorization certificate is issued for an indefinite period and is not transferable. Banks, including subsidiaries, must be set up in the form of commercial public limited companies or cooperative associations. Branches may, however, operate as such. The minimum capital requirement for setting up a bank was Col\$90,142 million in 2017 (Table 4.12). There is no limit on the number of banks that may operate in the Colombian market, nor on the number of bank offices; authorization from Superfinanciera must be obtained in order to open or close an office.

4.104. Colombian residents are free to make deposits in banks domiciled abroad; when they wish to take out a loan, however, they have to first register with the Central Bank (BRC).⁹⁹ There are no limits on the amount of transactions with foreign banks.

4.105. The Colombian banking market comprised 25 banks in 2017, of which eight were subsidiaries of foreign banks; there were no branches of foreign banks. Furthermore, 12 banks belonged to a financial conglomerate. Five new banks were authorized between 2012 and 2017. In December 2017, banking sector assets stood at Col\$580.9 trillion, made up chiefly of the loan portfolio (67.8%) and investments (17.8%). The banking market continues to display a high degree of concentration, insofar as the three main banks account for 52.9% of total assets.

4.106. The breakdown of bank loans, by type or sector, remained largely unchanged during the period under review (Table 4.15). The loan portfolio grew only moderately after 2016, which may be explained by a contraction in production activity, higher interest rates and a slackening in domestic demand.¹⁰⁰ While the quality of the portfolio was maintained by risk management on the part of the banks, the default rate rose to 4.5% in December 2017, its highest level since December 2012 (Table 4.15).¹⁰¹

Table 4.15 Loan portfolio and default rate trends, 2012-2017

Loan portfolio	Dec-2012	Dec-2013	Dec-2014	Dec-2015	Dec-2016	Dec-2017
Total (Col\$ trillion) ^a	251.9	286.3	329.6	381.6	410.7	430.3
	(% of the total)					
Commercial	60.0	59.3	59.8	58.6	56.5	55.5
Agriculture	3.3	3.1	3.0	2.7	2.6	2.5
Trade	11.5	10.6	10.8	11.0	10.3	10.5
Construction	7.4	8.0	7.6	8.2	8.2	8.3
Industry	10.6	10.0	10.3	9.7	9.6	9.5
Mining and electricity supply	5.2	4.5	5.2	5.3	4.8	4.5
Services	5.8	5.7	5.6	5.3	5.1	4.9
Other	16.2	17.4	17.3	16.4	15.9	15.1
Consumption	28.0	27.6	27.1	26.2	27.5	28.1
Micro-loans	2.8	2.9	2.8	2.8	2.7	2.8
Housing	9.2	10.2	10.3	12.5	13.3	13.7

⁹⁸ Article 53 of the Basic Statute of the Financial System.

⁹⁹ Articles 25 and 55 of BRC External Resolution No. 8 of 5 May 2000 (updated). Viewed at: http://www.banrep.gov.co/sites/default/files/reglamentacion/archivos/re_8_2000_compendio.pdf.

¹⁰⁰ BRC (2017), *Financial Stability Report*, March 2017. Viewed at: http://www.banrep.gov.co/sites/default/files/publicaciones/archivos/fsr_march_2017.pdf.

¹⁰¹ Online information from Asobancaria, viewed at: <http://www.asobancaria.com/2017/02/06/edicion-1076-balance-del-sector-bancario-en-2016-y-perspectiva-credita-2017>.

Default rate (%)	Dec-2012	Dec-2013	Dec-2014	Dec-2015	Dec-2016	Dec-2017
Total portfolio	2.9	2.9	3.0	2.9	3.2	4.5
By type of loan:						
Commercial	1.9	2.0	2.2	2.2	2.3	3.9
Consumption	4.9	4.5	4.4	4.5	5.0	6.1
Micro-loans	6.1	6.4	7.5	6.5	7.2	7.7
Housing	2.9	2.7	2.7	2.4	2.6	3.1

a Does not include loans to employees.

Source: Data provided by the authorities.

4.107. The interest rates that banks charge on loans and loan arrears may not exceed one and a half times the current monthly bank interest rate, which is set by Superfinanciera.¹⁰² The interest rates charged for housing loans are subject to ceilings, which are set by the Central Bank.¹⁰³

4.108. The development of banking activities since 2012 has been underpinned by solid prudential indicators (Table 4.16). In particular, the total and basic solvency ratios always remained above the respective minimum levels of 9% and 4.5%. Banks also displayed good profitability, albeit with some fluctuations.

Table 4.16 Some prudential indicators for the banking sector, December 2012-December 2017

(%)

Indicators	Dec-2012	Dec-2013	Dec-2014	Dec-2015	Dec-2016	Dec-2017
Total solvency	16.0	15.2	15.6	15.4	15.9	16.7
Basic solvency	n.a.	10.1	10.4	10.1	10.3	11.0
Liquidity risk	2.1	1.8	1.8	1.9	2.2	1.2
Return on assets (ROA)	15.1	13.1	13.3	13.9	15.6	9.0
Return on equity (ROE)	16.0	15.2	15.6	15.4	15.9	16.7

n.a. Not applicable.

Source: Data provided by the authorities.

4.4.1.3 Insurance

4.109. The conditions under which a foreign insurance (or reinsurance) company can be set up and operate on the Colombian market are the same as those that have to be met by foreign banks (Section 4.4.1.2). An authorization certificate (or operating permit) from Superfinanciera is required. The company may establish subsidiaries and, since 2013, also branches. It can also establish representative offices.¹⁰⁴ As with banks, there are no limitations on the operations of subsidiaries and branches, which can operate in the same insurance segments as Colombian insurance companies.

4.110. In general, cross-border trade in insurance is not permitted. However, since 2013 it has been allowed in some cases. Thus, insurance companies abroad are able to provide insurance coverage in Colombia only for international transport (maritime and air) and international transit risks. In such cases, Superfinanciera may request the foreign insurance companies to register in Colombia. The consumption of foreign insurance is allowed. Colombian residents are entitled to take out any type of insurance abroad, with the exception of insurance policies in respect of disability/death, occupational risks, mandatory insurances and annuities.¹⁰⁵ The authorization certificate for providing insurance services in Colombia is granted for individual insurance

¹⁰² The current bank interest rate is set on the basis of the information supplied by the financial institutions for the previous month. Bank interest rates are posted at: <https://www.superfinanciera.gov.co/jsp/loader.jsf?Servicio=Publicaciones&ITipo=publicaciones&IFuncion=loadContenidoPublicacion&id=10829>. Article 884 of the Commercial Code, Single Decree No. 2.555 of 15 July 2010, and online information from Superfinanciera, viewed at: <https://www.superfinanciera.gov.co/jsp/loader.jsf?Servicio=Publicaciones&ITipo=publicaciones&IFuncion=loadContenidoPublicacion&id=10082008&reAncha=1>.

¹⁰³ Law No. 546 of 23 December 1999.

¹⁰⁴ Article 53 of the Basic Statute of the Financial System.

¹⁰⁵ Articles 39-40 of the Basic Statute of the Financial System, as amended by Law No. 1.328 of 15 July 2009. The amendments introduced by Law No. 1.328 of 2009 entered into force in 2013.

segments, i.e.: (1) general; (2) life and personal; and (3) social security.¹⁰⁶ Although insurance companies may operate in one or more segments, those that provide individual life insurance may not operate in another segment, unless the insurance operations in question are complementary to its activity. Similarly, reinsurance companies can only engage in reinsurance operations.

4.111. Insurance companies, including subsidiaries, must be set up in the form of commercial public limited companies or cooperative associations. Branches of foreign insurance companies can operate in their existing legal form. In 2017, the minimum capital required to establish an insurance company was Col\$10,287 million, except for insurance companies that only supported export credit, for which the minimum capital requirement was Col\$9,168 million (Table 4.12). To this minimum capital must be added the technical capital required to operate in each of the segments, which ranges from Col\$1,839 million (educational insurance) to Col\$3,374 million (motor vehicle insurance).¹⁰⁷ There is no limit on the number of insurance companies that may operate in the Colombian market, nor on the number of agencies; Superfinanciera authorization must be obtained to open or close an agency. Prior authorization of policies and tariffs from Superfinanciera is only necessary when the company is starting up its activities in Colombia, changing segment or beginning to operate in a new segment. Models of policies must be filed with the SFC before being put into use.¹⁰⁸

4.112. Contracts may be signed with reinsurers located abroad which are listed in the corresponding Superfinanciera register. Companies are registered if they obtain adequate accreditation from an international agency. In 2017, 222 foreign reinsurers were registered in Colombia.¹⁰⁹

4.113. Superfinanciera also authorizes and supervises insurance and reinsurance intermediaries. Insurance and reinsurance brokers require a certificate of authorization from Superfinanciera and must attest to minimum capital adequacy (respectively, Col\$409 million and Col\$163 million in 2017).¹¹⁰ Insurance agents must be listed in the corresponding Superfinanciera register and prove at least one year's residence in Colombia.

4.114. In 2017, there were 45 insurance companies in Colombia, 26 of which were subsidiaries of foreign companies (there were no branches of foreign insurers). Twelve insurance companies belonged to a financial conglomerate with a bank incorporated in Colombia. Four new insurance companies started up between 2012 and 2017. Twenty-six insurance companies were operating in the damage insurance segment and 19 in life insurance.

4.115. Since 2012, the nominal value of premiums has increased by 12% per year on average, to around Col\$23.9 trillion in 2017, yet the insurance penetration rate remains very weak, at under 3% of GDP (Table 4.17). The low penetration ratio is explained by the lack of an "insurance culture" in Colombia (the only mandatory insurances are life insurance for mortgages and traffic accident insurance) and by the income levels which do not enable everyone to take out insurance, but is also an indication of the considerable potential for developing the market.¹¹¹ Average per capita expenditure on insurance (density indicator) stood at Col\$484,471 in 2017.

¹⁰⁶ Online information from the Colombian Federation of Insurers (FASECOLDA), viewed at: <http://www.fasecolda.com>.

¹⁰⁷ Online information from Superfinanciera, viewed at: <https://www.superfinanciera.gov.co/jsp/loader.jsf?Servicio=Publicaciones&ITipo=publicaciones&IFuncion=loadContenidoPublicacion&id=61318>.

¹⁰⁸ Article 184 of the Basic Statute of the Financial System. The provisions on insurance contracts and policies are contained in the Commercial Code (Articles 1045 and 1047 of the Commercial Code – Decree No. 410 of 27 March 1971).

¹⁰⁹ Chapter V of Title II of the Basic Legal Circular, and online information from Superfinanciera, viewed at: <https://www.superfinanciera.gov.co/jsp/loader.jsf?Servicio=Publicaciones&ITipo=publicaciones&IFuncion=loadContenidoPublicacion&id=15499>.

¹¹⁰ Articles 1348-1349 of the Commercial Code (Decree No. 410 of 27 March 1971). Online information from Superfinanciera, viewed at: <https://www.superfinanciera.gov.co/jsp/loader.jsf?Servicio=Publicaciones&ITipo=publicaciones&IFuncion=loadContenidoPublicacion&id=61318>.

¹¹¹ Online information from FASECOLDA, viewed at: <http://www.fasecolda.com/index.php?cID=2040>.

Table 4.17 Insurance sector indicators, December 2012 to November 2017

	Dec-2012	Dec-2013	Dec-2014	Dec-2015	Dec-2016	Nov-2017
Total premiums (Col\$ trillion)	16.1	19.1	19.4	21.9	24.6	23.9
	(% of total premiums)					
General	54.1	49.0	52.5	53.4	51.8	48.7
Life and personal	45.9	51.0	47.5	46.6	48.2	51.3
Social security (Col\$ trillion)	3.9	5.8	4.8	5.2	6.4	6.7
Vehicle insurance ^a (Col\$ trillion)	1.3	1.5	1.7	1.9	2.1	2.0
Premiums/GDP (%)	2.4	2.7	2.6	2.7	2.8	2.8

a Mandatory third-party insurance for physical injury caused by traffic accidents.

Source: Information provided by the authorities.

4.4.1.4 Securities market

4.116. The legal framework regulating securities market operations in Colombia comprises: (i) Law No. 964 of 8 July 2005¹¹², establishing the general rules and identifying the objectives and criteria to be followed by the Government in regulating the handling, utilization or investment of resources deposited by the public in the form of securities issued locally or abroad; (ii) Law No. 1.328 of 2009, which sets out the principles and rules governing the protection of financial consumers in their dealings with institutions supervised by Superfinanciera; (iii) Decree No. 2.555 of 2010 (as amended by Decree No. 1.827 of 2012), regulating the list of foreign securities in the foreign securities listing systems, incorporates these securities in the definition of intermediation and authorizes both private investors and professional investors to participate in this market; and Resolution No. 8 of 2000, Decree No. 2.080 of 2000 and External Circular DCIN-83 of 2009, which contain the currency regulations applicable to the purchase/sale of foreign securities.

4.117. The Colombian Securities Exchange (BVC) is a private company that manages the trading and recording systems for the equity, fixed-income, derivatives, currency, over-the-counter (OTC) and issuer services markets. Additionally, it participates along the whole of the securities industry value chain through holdings in the Central Securities Depository (Deceval S.A.), the Central Counterparty Clearing House (CRCC) and the Foreign Exchange Clearing House (CCCD). The value of BVC transactions on the fixed-income and equity markets at 31 December 2017 stood at Col\$1.32 trillion. At the same date, there were 69 listed issuers. Ecopetrol stands out as the issuer with the largest market capitalization, having a stock market value of Col\$90.9 trillion at 31 December 2017, followed by: Banco de Bogotá, Col\$22.3 trillion; Aval Group holding company, Col\$19.7 trillion; Grupo de Inversiones Suramericana, Col\$18.9 trillion. The largest foreign issuer with equity quoted on the BVC is CEMEX LATAM Holding, with Col\$6.1 trillion.

4.118. In accordance with Law No. 964 of 2005, securities market activities in Colombia comprise: issuance and offer of securities; intermediation of securities; management of securities funds, investment funds, mutual investment funds, ordinary and special trust funds; securities deposit and management; management of trading or recording systems for securities, futures, options and other derivatives; clearing and settlement of securities; risk rating; and self-regulation.

4.119. Law No. 1.328 of 2009 (Article 89) provides for regulation, by the Government, of cross-border trade in financial services. The Law stipulates that, in performing this function, the Government may authorize foreign agents to have direct access to the Colombian securities market and give approval or recognition that they fulfil the necessary requirements to access the services of Colombian securities market infrastructure providers.

4.120. Responsibility for regulation of the securities market currently lies with Superfinanciera, which in 2014 took over the role previously discharged by the Securities Supervisory Authority, which was merged with the Banking Supervisory Authority.¹¹³ Superfinanciera is responsible for

¹¹² Amended by Law No. 1450 of 2011 and Law No. 1328 of 2009; amplified by Decree No. 3960 of 2010 and by Decree No. 3886 of 2009, partially abrogated by Law No. 1094 of 2006, partially regulated by Decree No. 2555 of 2008 and by Decree No. 4759 of 2005.

¹¹³ The entities supervised are: securities markets; agricultural and agro-industry goods and product markets; futures and options markets; securities trading system managers; companies engaged in clearing and settlement of securities, futures, options, etc.; central counterparty clearing houses; currency trading and recording system managers; currency clearing and settlement system managers; centralized securities deposit

ongoing inspection, control and monitoring of compliance with the provisions regulating the securities market, setting the technical and legal criteria for compliance with those rules and specifying the procedures for their proper implementation. It is also charged with: monitoring compliance with the Central Bank's rules in regard to persons subject to its ongoing inspection and supervision; trading and recording of securities or securities issuers in the National Securities and Issuer Register (RNVE); registration in the National Register of Securities Market Agents (RNAMEV); registration in National Register of Securities Market Professionals (RNPMV); and enforcing the prudential measures laid down in the Code of Civil Procedure and other preventive measures laid down in Law No. 964 of 2005 and its amplifying regulations.¹¹⁴

4.121. Superfinanciera facilitates the delivery of information to the market through the Comprehensive Securities Market Information System (SIMEV). The SIMEV is composed of the following registers: the RNVE, the RNAMEV and the RNPMV. The RNVE registers all categories and types of securities, as well as securities issuers and the issuances they make; public offerings of securities must be preceded by registration in the RNVE.¹¹⁵ The RNAMEV registers securities market entities which are subject to permanent inspection and monitoring by Superfinanciera, except issuers of securities in respect of their securities issuance activities; listing on this register is a prerequisite for operating in the securities market. The RNPMV registers natural persons who discharge treasury duties or functions, carry out transactions on money desks, manage securities funds, investment funds and mutual investment funds, or perform duties relating to transactions carried out on money desks; listing on this register is a prerequisite for operating in the securities market.¹¹⁶

4.122. MinHacienda Decree No. 1.523 of 29 September 2016 broadens the range of entities that can have securities registered temporarily in the RNVE and stipulates that temporary registration in the RNVE does not imply automatic listing of the securities in question in the BVC.

4.123. Decree No. 2.555 of 2010 created the secondary market to generate financing for MSMEs. The secondary market is only for transactions carried out by professional investors, except in the case of the trading of shares or of bonds convertible into shares among the shareholders of an issuer company, subscription of shares or bonds convertible into shares involving right of preference, or repurchases of shares, which can be effected by the general public.¹¹⁷ Securities that have been on the secondary market can be transferred to the primary market, with prior authorization from Superfinanciera. Decree No. 1.019 of 2014 seeks to stimulate and revive the secondary market, ensuring that MSMEs enter the securities market. To this end, it provides that securities on the secondary market will not need to be cleared for listing in the RNVE, but will be considered as automatically listed therein, whenever certain required information is submitted to Superfinanciera.

managers; stockbrokers; independent securities brokers; mutual investment funds with assets of 4,000 SMMLVs or more; guarantee funds; investment managers; securitization companies; and securities rating companies.

¹¹⁴ These measures include ensuring timely delivery of the respective assets to a professional administrator, under similar conditions to those prevailing on the market.

¹¹⁵ In accordance with the provisions of Decree No. 2.555 of 2010, issuers of securities shall ensure the RNVE is kept permanently up to date by submitting periodical information to Superfinanciera; this information shall also be sent to the trading systems on which the securities in question are being traded.

¹¹⁶ Securities Supervisory Authority (2013), *Guía del Mercado de Valores*. Viewed at: http://www.bvc.com.co/pps/tibco/portalbvc/Home/Empresas/Guia_Mercado_Valores?com.tibco.ps.pagesvc.action=updateRenderState&rp.currentDocumentID=-7ca0c036_147b6b20b27_5e970a0a600b&rp.revisionNumber=1&rp.attachmentPropertyName=Attachment&com.tibco.ps.pagesvc.targetPage=1f9a1c33_132040fa022_-78750a0a600b&com.tibco.ps.pagesvc.mode=resource&rp.redirectPage=1f9a1c33_132040fa022_-787e0a0a600b.

¹¹⁷ A professional investor is understood to mean any person who has the necessary experience and knowledge to properly understand, assess and manage the risks inherent in any investment decision. To be so classified, the investor shall be required to certify to the intermediary, at the time of their classification, possession of assets worth 10,000 SMMLVs or more, and fulfil at least one of the following conditions: (a) hold a securities investment portfolio worth 5,000 SMMLVs or more; (b) have effected directly or indirectly 15 or more sale or purchase operations, over a period of 60 calendar days, going back no more than two years before the time of their classification. The aggregate value of these operations must be equal to or greater than the equivalent of 35,000 SMMLVs.

4.124. Derivatives markets also operate in Colombia, which are divided into OTC (outside the stock market) markets and organized markets. The participants in OTC markets are chiefly large financial institutions, companies in the real sector, the Central Bank and foreign institutions that comply with the requirements set forth in BRC External Regulatory Circular DODM-144. On the OTC market, transactions tend to involve big amounts. It is subject to only light regulation, especially in regard to the characteristics and regulation of the various contracts that may be structured and transacted. Only agents supervised by Superfinanciera (or natural or legal) persons through the intermediary of authorized agents supervised by Superfinanciera may operate directly in the organized markets. They have a relatively high "retail" component and the amount of each transaction tends to be smaller than for transactions on the OTC market. Regulation of the organized market is founded on Law No. 964 of 2005, which sets out the general framework for standardizing derivative financial instruments, treating them as "securities", as well as on the various rules issued by the BVC, such as the BVC General Regulation on the Derivatives Market or the Regulation on the Centralized Trade and Registration Operations System – Colombian Electronic Market (MEC). This regulation has achieved some standardization of derivative contracts currently transacted in the BVC.¹¹⁸

4.4.2 Telecommunications

4.125. The information and communication technologies sector (ICT sector) is regulated by Law No. 1.341 (ICT Law) of 30 July 2009 and Single Regulatory Decree No. 1.078 of 26 May 2015, which contains a compilation of various regulatory decrees relating to Law No. 1.341.¹¹⁹ The provision of television services is governed by Law No. 182 of 20 January 1995.

4.126. The main entities in the ICT sector are the Ministry of Information and Communication Technologies (MinTIC) and the Communications Regulatory Commission (CRC). Other institutions involved in ICTs include the National Spectrum Agency (ANE), the National Television Authority (ANTV), the Supervisory Authority for Industry and Trade (Superindustria, or SIC) and, since 2017, the National Planning Department (DNP).

4.127. MinTIC formulates and implements ICT policy and oversees the sector's activities. During the period under review, ICT policy was set forth in the Vive Digital ("Go Digital") plans (Box 4.2). The authorities reported that MinTIC, with the support of the CRC, also shaped a comprehensive strategy for development of the digital economy, to support the ongoing transformation of the economic sectors. This strategy was accompanied in 2017 by an institutional reform, whereby the Vice-Ministry for the Digital Economy was created within MinTIC and the Directorate of Digital Development within the DNP.¹²⁰ The authorities indicated that they believe it would also be necessary to establish a multisectoral committee to coordinate actions on developing the digital economy.

¹¹⁸ Securities Supervisory Authority (2013), *Guía del Mercado de Valores*. Viewed at: http://www.bvc.com.co/pps/tibco/portalbvc/Home/Empresas/Guia_Mercado_Valores?com.tibco.ps.pagesvc.action=updateRenderState&rp.currentDocumentID=-7ca0c036_147b6b20b27_5e970a0a600b&rp.revisionNumber=1&rp.attachmentPropertyName=Attachment&com.tibco.ps.pagesvc.targetPage=1f9a1c33_132040fa022_-78750a0a600b&com.tibco.ps.pagesvc.mode=resource&rp.redirectPage=1f9a1c33_132040fa022_-787e0a0a600b.

¹¹⁹ For example, the decrees regulating: the granting and renewal of permits for use of the radio-frequency spectrum (Decrees No. 4.392 of 23 November 2010 and No. 2.044 of 19 September 2013); economic consideration for use of the radio-frequency spectrum and periodic payments into the Information and Communication Technologies Fund (Decree No. 542 of 13 March 2014); and the Register of telecommunication network and service providers (Decree No. 2.433 of 17 December 2015).

¹²⁰ Decrees No. 1.414 of 25 August 2017 and No. 2189 of 23 December 2017.

Box 4.2 Telecommunication sector policy

The aim of the ICT policy, which is set forth in successive Vive Digital plans, is to strengthen the ICT sector in order to create employment and achieve more transparent and efficient governance (e-government). With this in mind, the Vive Digital plan for the People (2014-2018) proposes to usher in widespread use of Internet services, building on four initiatives: (1) infrastructure; (2) service; (3) applications; and (4) users. The authorities report that, in regard to infrastructure: 100% of municipalities have access to high-speed connections; there are 4,500 community Internet access centres and 1,100 Wi-Fi areas nationwide; and ten submarine cables are in operation. Initiatives have also been launched to promote the digital economy: for example, through the Apps.co programme more than 100,000 users have been provided with advice on establishing and consolidating their businesses.

Source: WTO Secretariat and information provided by the authorities.

4.128. The CRC, chaired by the Minister of ICTs, is the regulatory body for the ICT sector. Providers pay the CRC an annual fee for its regulatory services, which in 2017 was equivalent to 0.1% of gross income received in 2016. An OECD study in 2014 questioned the CRC's independence from the Government.¹²¹ It was pointed out that the participation of two members of the Government on the CRC's (five-member) board could influence decision-making. In line with the OECD's recommendations, the CRC's independence has been reinforced: with effect from 2015, the board can convene meetings and adopt resolutions without the presence of the Minister of ICTs, whereas previously the board could not meet without the Minister.¹²² While the OECD's study exposes certain weaknesses in terms of independence, it points to the fact that the CRC "delivers effective regulation, informed by a comprehensive stocktaking of international best practices". The OECD study also advocates giving the CRC more sanctioning powers, insofar as it has no power to supervise activities and impose sanctions.

4.129. The authorities reported that the State has announced it is selling its stake (30%) in Colombia Telecomunicaciones. Some public telecommunication companies exist at the local level, for example ETB (which provides services in Bogotá), EPM (in Medellín) and Metrotel (in Barranquilla).

4.130. There are no restrictions on foreign holdings in companies in the telecommunication sector. To operate on the Colombian market, foreign providers have to be incorporated in Colombia. The provision of telecommunication networks and services is governed by a general approval regime which requires Colombian and foreign providers to be listed in the ICT register held by MinTIC.¹²³ Registration is free of charge. The registration certificate authorizes the operator to provide the service.¹²⁴

4.131. Apart from "approved" providers, there are providers still operating under a licence to supply telecommunication services. These are providers which did not join the general approval regime instituted in 2009 and continue to operate under the licensing regime that governed the sector prior to 2009. The ICT Law allows both regimes to coexist, so the licences can be kept until they expire; thereafter, the providers will have to adhere to the general approval regime to continue operating.¹²⁵ In 2017, only one operator (Colombia Móvil) had a licence, which is due to expire in 2023; according to the authorities, this operator may join the approval regime at any time.

4.132. Use of the radio-frequency spectrum requires a permit granted by MinTIC through an objective selection process, for example an auction.¹²⁶ During the review period, 4G frequencies were auctioned, in 2013. The spectrum usage permit is granted for an initial term of up to ten years, renewable at the request of the holder for the same or a shorter period.¹²⁷ Frequencies

¹²¹ OECD (2014), *OECD Review of Telecommunication Policy and Regulation in Colombia*. Viewed at: https://www.oecd-ilibrary.org/science-and-technology/oecd-review-of-telecommunication-policy-and-regulation-in-colombia_9789264208131-en.

¹²² Article 207 of Law No. 1.753 of 9 June 2015.

¹²³ See the MinTIC Single Window for formalities and services at: <http://www.mintic.gov.co/portal/604/w3-propertyvalue-6157.html>.

¹²⁴ Article 10 of Law No. 1.341 of 2009 and Single Regulatory Decree No. 1.078 of 2015.

¹²⁵ Transition regime provided for in Article 68 of Law No. 1.341 of 2009.

¹²⁶ The ANTV assigns frequencies allocated for the operation of television services.

¹²⁷ The period may be shortened for reasons of public interest, spectrum refarming or compliance with international rules.

can be assigned directly, when service continuity so requires, but only for a certain time, until the objective selection process is convened.¹²⁸

4.133. In regard to competition, it is the CRC's role to: (i) define relevant markets, at the national and local level; (ii) identify operators with a dominant position; and (iii) enact regulatory measures (e.g. tariff regulation).¹²⁹

4.134. Tariffs in the telecommunication sector may be freely set. Nevertheless, some markets are subject to tariff caps (Table 4.18). The tariff regulation in the mobile voice market is explained by the presence of an operator (Claro) that holds a dominant position. To determine whether a dominant position is occupied in a relevant market, the CRC analyses a number of criteria, such as market share (expressed in terms of number of users and volume of traffic and income) or market concentration. According to the authorities, there is no threshold above which an operator is deemed to hold a dominant position.¹³⁰

Table 4.18 Tariff regulation in 2017

Relevant market	Outgoing mobile voice	Fixed-mobile call termination
Grounds for regulation	Existence of an operator with a dominant position in the relevant market	Existence of market failure in the relevant market
Regulated operator	Claro	Colombia Móvil
Tariff cap	Maximum <i>Off Net</i> tariff per minute < ½ the <i>On Net</i> tariff per minute + access charge ^a	Maximum termination charge per minute: Col\$92.9 (incl. tax)
CRC Resolution	No. 2066 of 2009 (ex-CRT), amended by No. 4.002 of 2012	No. 4.900 of 2016

a *Off Net* tariff: Tariff for calls originating on the Claro network and terminated on the network of another provider. *On Net* tariff: Tariff for calls originated and terminated on Claro's network.

Source: WTO Secretariat and online information from the CRC, viewed at: <https://www.crcom.gov.co/es/pagina/an-lisis-del-mercado-de-terminaci-n-de-llamadas-fijo-m-vil>.

4.135. During the review period, tariffs on the fixed-mobile call termination market were regulated for all operators until 2016, the year when the CRC decided that the market could operate on the basis of free competition. Nevertheless, at the same time, it decided to maintain the tariff regulation for Colombia Móvil, which has a licence to provide mobile services. In this case, the CRC considered that there was a market failure justifying regulation on account of the coexistence of the general approval and licence regimes. Under the general approval regime, fixed-service operators set the tariffs for calls originating on their network and terminating on the mobile network, whereas under the licence regime it is stipulated that the mobile service operator sets the tariffs for calls originating on the fixed network and terminating on its network.

4.136. The CRC also regulates access (or interconnection) charges, which fell during the period under review.¹³¹ In Colombia, it is the caller that pays the access charge.¹³² The charges, which the operators have to publish, are adjusted annually, using a tariff updating index.¹³³ All operators pay the same access charges. However, a regulatory measure was introduced between 2013 and 2017 to minimize the impact of Claro's dominant position on the mobile voice market, whereby Claro received a lower access fee from its competitors than it paid to them.¹³⁴ Tariffs for the provision of the national roaming service are also regulated.¹³⁵

¹²⁸ Single Regulatory Decree No. 1.078 of 2015 which is a compilation of Decrees No. 4.392 of 23 November 2010 and No. 2044 of 19 September 2013.

¹²⁹ Title III of CRC Resolution No. 5.050 of 10 November 2016. This resolution is a compilation of the regulations (in force) of a general nature issued by the CRC.

¹³⁰ CRC Resolution No. 5.050 of 10 November 2016.

¹³¹ Online information from the CRC, viewed at: <https://www.crcom.gov.co/es/noticia/crc-promueve-reducci-n-de-tarifas-en-servicios-de-telecomunicaciones-celulares>.

¹³² Title IV of CRC Resolution No. 5.050 of 10 November 2016.

¹³³ The access charges may be viewed at: <https://www.crcom.gov.co/es/pagina/valores-regulados>. The tariff updating index may be viewed at: <https://www.crcom.gov.co/es/pagina/valores-regulados>.

¹³⁴ CRC Resolution No. 4.002 of 9 November 2012 and FEDESARROLLO (2013), *Estudio de la regulación de cargos de acceso en telefonía móvil y una propuesta para Colombia*. Viewed at: http://www.fedesarrollo.org.co/wp-content/uploads/2014/01/Informe-final-Avantel_pagina-web.pdf.

¹³⁵ CRC Resolution No. 4.112 of 28 February 2013, as amended by CRC Resolution No. 4.660 of 30 December 2014 and CRC Resolution No. 5.107 of 23 February 2017.

4.137. During the period under review, the CRC adopted measures to promote greater competition and a better offering on the mobile services market. In particular, the operating conditions for virtual mobile operators (VMOs) were streamlined¹³⁶, and conditions governing the provision of the national roaming service were introduced in 2013, enabling operators and users to enjoy coverage at all times.¹³⁷ In addition, minimum duration (one year) clauses are prohibited in mobile service contracts. Such clauses can still be agreed in fixed-service contracts when the user is granted a discount on installation of the service.¹³⁸ Number portability is in place for the mobile telephone service.

4.138. A provider must grant unrestricted access to its infrastructure, without discriminating among its competitors. Lease contracts may include minimum duration clauses (in general, one year). The CRC regulates the maximum amount of monthly consideration payable for the lease of ducts and poles; the tariff caps are adjusted annually on the basis of the producer price index.¹³⁹ The amount of consideration payable for the rest of the infrastructure is not regulated.

4.139. All providers pay a periodic consideration for the provision of telecommunication networks and services. For approved providers, the periodic consideration is 2.2% of their gross quarterly income and for licensed providers it is 3% of their net quarterly income. Consideration is also payable for use of the radio-frequency spectrum, in an amount calculated according to the formula established by MinTIC.¹⁴⁰

4.140. The periodic financial considerations were used to finance the subsidies granted to low-income users between 2010 and 2015. The authorities stated that, although no subsidies have been granted since 2015, low-income users benefit from preferential tariffs for Internet access. The considerations also finance universal access projects implemented by the Information and Communication Technologies Fund (FONTIC).

4.141. In 2012, the import tariff on computers and mobile devices was reduced to 0%, and it has been kept at that level since. Purchases of computers with a sale price under Col\$860,000 are exempt from VAT. On the other hand, mobile telephone services have been subject to excise tax (4%) since 2013 for the mobile voice service and since 2017 for the mobile data service.¹⁴¹ The excise tax was already levied on fixed voice and data services in 2012.

4.142. The penetration index, which measures the number of subscriptions per 100 inhabitants, rose during the review period, except in respect of fixed voice services. The biggest growth was recorded in data services, both fixed and mobile. The authorities report that Colombia reached 28.4 million broadband Internet connections at the end of the third quarter of 2017.

4.143. According to the authorities, in 2017 Colombia had 30 fixed telephone service operators, 60 fixed data service operators, eight mobile service operators and more than 60 pay-TV operators. There are three large operators in the mobile services market: Claro (COMCEL brand), Colombia Telecomunicaciones (Movistar brand) and Colombia Móvil (Tigo brand), which served 90% of users in 2017 (Chart 4.3). The remainder of mobile service users are shared among five operators, including three VMOs, namely Virgin (the fourth-biggest operator), Almacenes Éxito

¹³⁶ CRC Resolution No. 4.807 of 6 October 2015 allows VMOs to request the CRC directly to assign telephone numbers. Previously, these were assigned by the mobile network operators from which the MNOs lease the infrastructure. Furthermore, CRC Resolution No. 5.108 of 24 February 2017 obliges MNOs to grant access to VMOs, prohibits a series of clauses in the lease contracts and lays down the procedure for setting the value of services provided by MNOs to VMOs in the event of dispute.

¹³⁷ CRC Resolution No. 4.112 of 28 February 2013, amended by CRC Resolution No. 4.660 of 30 December 2014 and CRC Resolution No. 5107 of 23 February 2017.

¹³⁸ Article 41 of Law No. 1.480 of 12 October 2011, CRC Resolutions No. 4.444 of 25 March 2014 and No. 4.930 of 28 April 2016, and online information from the CRC, viewed at: <https://www.crcom.gov.co/pagina/cl-usulas-de-permanencia-para-servicios-de-comunicaciones>.

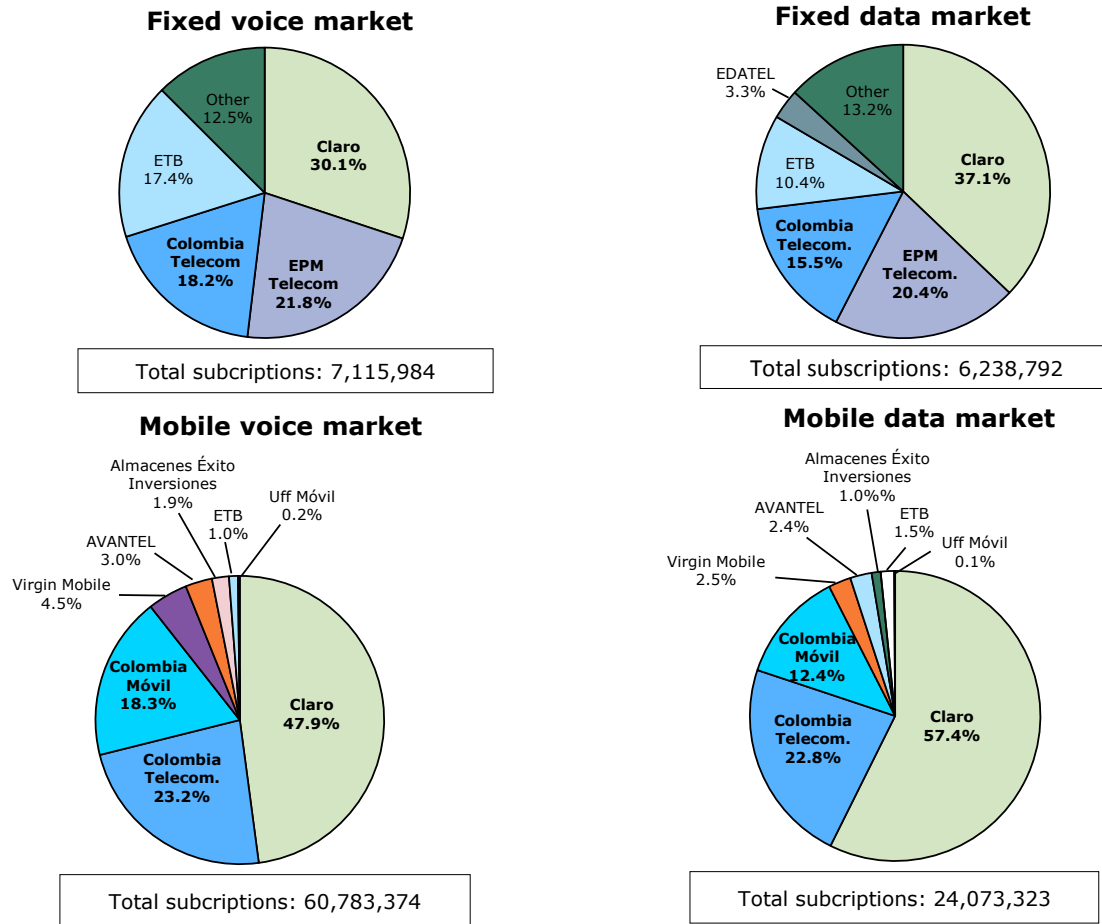
¹³⁹ Chapter 10 of CRC Resolution No. 5.050 of 10 November 2016.

¹⁴⁰ Single Regulatory Decree No. 1.078 of 2015, MinTIC Resolution No. 290 of 26 March 2010, Decree No. 1.972 of 13 July 2003, and online information from the National Spectrum Agency, viewed at: <http://www.ane.gov.co/index.php/2015-12-08-19-09-44/13-preguntas-y-respuestas-frecuentes/136-clasificacion-tematica-cnabf>.

¹⁴¹ Tax Reform 2017 (Law No. 1.819 of 29 December 2016); online information from the CRC, viewed at: https://normograma.com/crc/docs/concepto_crc_0030014_2015.htm; and online information from the Colombian Association of Systems Engineers (ACIS), viewed at: <http://www.acis.org.co/portal/content/el-impacto-de-la-reforma-tributaria-en-el-servicio-de-telecomunicaciones>.

Inversiones (Móvil Éxito brand) and Uff Móvil. Claro (Telmex brand) and Colombia Telecomunicaciones were also present in the fixed services market, and together with EPM Telecomunicaciones (UNE brand) held 70% of the fixed voice market and 93% of the fixed data market in 2017 (Chart 4.3).

Chart 4.3 Fixed and mobile services market, 2017 Q3



Source: Information provided by the authorities.

4.4.3 Transport

4.4.3.1 Air transport and airports

4.4.3.1.1 Air transport

4.144. The provision of air transport services is regulated by: the Commercial Code (Book Five)¹⁴²; Law No. 105 of 30 December 1993 (Title IV) and its regulatory decrees; Law No. 336 of 20 December 1996 (which confers on the air transport service the status of essential public service); Single Regulatory Decree No. 1.079 of 26 May 2015¹⁴³; Law No. 12 of 1947 approving the Chicago Convention; and the agreements on air services. Likewise, the Colombian Aviation Regulations (RAC), issued by the Special Administrative Unit for Civil Aviation (Aerocivil), are rules governing the provision, safety and quality of aeronautical and airport services.¹⁴⁴ The RACs are amended as necessary to reflect new provisions adopted by the International Civil Aviation Organization (ICAO).

¹⁴² Decree No. 401 of 27 March 1971.

¹⁴³ This DUR's compilation includes Decree No. 1.647 of 1994 regulating Article 48 of Law No. 105 of 1993, on airport classification.

¹⁴⁴ See the list of RACs at: <http://www.aerocivil.gov.co/normatividad>.

4.145. The main entities in the sector are the Ministry of Transport (MinTransporte) and Aerocivil. MinTransporte formulates and implements air transport policy (Box 4.3). Aerocivil is the aeronautical authority, regulating and supervising aeronautical and airport activities; its duties also encompass coordinating the determination of air policy with MinTransporte and conducting negotiations on agreements on air services. Furthermore, Aerocivil is the exclusive provider of air traffic control and aeronautical telecommunication services.¹⁴⁵

Box 4.3 Air transport sector policy

As at 2017, Colombia had signed 45 bilateral agreements. A total of 13 new bilateral agreements have been signed since 2012 (Canada, Costa Rica, El Salvador, Israel, Jordan, Luxembourg, Netherlands, New Zealand, Paraguay, Portugal, Spain, Switzerland and United Arab Emirates). Furthermore, 15 agreements were revised to introduce a greater degree of operational flexibility.

The prime objective of Colombia's commercial aviation policy is to achieve increasing liberalization in the provision of air transport services, i.e. without restrictions for operations under the third and fourth air freedoms. In the Latin American and Caribbean region, Colombia grants traffic rights up to the fifth air freedom; outside this area, fifth freedom rights are negotiated on the basis of the principle of reciprocity and equivalent markets. The authorities report that 18 of the agreements signed by Colombia are open-skies agreements, including the agreement with the United States (which fully entered into force in 2013, after two years of transition) and the agreement with Brazil that was revised in 2016, which will offer an open-skies regime after five years of transition.

Source: Information provided by the authorities.

4.146. Competition in the air transport sector is governed by competition legislation (Section 3.3.4). Aerocivil continues to be responsible for authorizing agreements on: code sharing, joint operations, aircraft charter and interchange arrangements, and airspace closure. According to the authorities, Aerocivil has never refused these types of agreements. For its part, the Supervisory Authority for Industry and Trade (SIC) guards against anti-competitive practices in the sector. According to the authorities, to date there have not been any instances of economic concentration in the air transport sector, nor of any fines for anti-competitive practices.

4.147. Cabotage in air transport is restricted to Colombian aircraft.¹⁴⁶ There are no restrictions on foreign capital holdings in national airlines. Foreign airlines have to establish a branch in Colombia to be able to provide international transport services. Furthermore, the majority of their employees (90%) must be Colombians. This obligation is waived when the airline's country of origin does not impose such restrictions on Colombian airlines, or when it is lifted by Aerocivil on account of a lack of Colombian candidates. Similarly, 90% of the staff of a national airline have to be of Colombian nationality, as well as the captain of an aircraft registered in Colombia. Since the last review, access to the domestic air transport market has become more flexible, insofar as restrictions on the number of operators per route were eliminated in 2012. Previously, only three, five or six airlines were allowed to operate, according to the number of passengers transported, on each route.

4.148. The provision of scheduled air services from/to Colombia is governed by the content of agreements on air services or, where there are none, by the principle of reciprocity. An operating permit is required, issued by Aerocivil, to provide international scheduled air transport services. Colombian airlines also require an operating certificate guaranteeing that they comply with the technical requirements to be able to fly. Foreign airlines must apply for such a certificate, irrespective of whether there is an agreement on air services between their country/territory of origin and Colombia. Where there is no agreement, the operating permit is granted if there is reciprocity and the service is deemed to be needed and useful. Operating permits are granted (and renewed) for five years, and are not transferable.

4.149. Non-scheduled (charter) services have to be "formally" authorized by Aerocivil. The application for authorization must be submitted 72 hours in advance of the planned flight date (this time-frame may be shortened in high season). Non-scheduled air transport is subject to specific operating conditions, for example the number of charter flights on the same route may be

¹⁴⁵ Decree No. 260 of 28 January 2004, as amended by Decree No. 823 of 16 May 2017, RAC No. 4 (Airworthiness standards and aircraft operation) and Single Regulatory Decree No. 1079 of 2015.

¹⁴⁶ Article 1.785 of the Commercial Code.

limited.¹⁴⁷ The authorization to provide non-scheduled services is granted for the period covering provision of the service and is not transferable.

4.150. Colombian airlines may operate foreign aircraft, as long as their certificate of registration was issued by one of the member States of ICAO. When operating on domestic flights, foreign aircraft acquire Colombian nationality. Aerocivil approval is required to import aircraft; for the importation of certain types of aircraft, an import licence has to be obtained.

4.151. Colombia liberalized air transport tariffs in 2012. Airlines freely set their tariffs, which have to be communicated to Aerocivil.¹⁴⁸ The price of an air ticket includes: the basic airline price; VAT; airport taxes; and the administration fee for issue of the ticket. For international flights, the following are also included: tourism tax (Section 4.4.4); departure tax, payable by all passengers; and the domestic stamp duty, only payable by Colombian residents. However, some passengers may be exempted from paying the departure tax or domestic stamp duty. The ticket price may include a fuel charge. Since 2012, it is the airline that sets the amount of the fuel charge and decides whether or not to include it in the ticket price. Previously, Aerocivil used to set the amount of this charge and it had to be included in the price of the air ticket.¹⁴⁹ Airlines pay the parafiscal contribution for the promotion of tourism (Section 4.4.4).¹⁵⁰

4.152. A permit from Aerocivil is required to provide ancillary services, such as maintenance and repair in aeronautical workshops or ground handling services at airports. The permit is granted and (automatically) renewed for five years. However, both domestic and foreign airlines can handle the receipt, dispatch and maintenance of their own aircraft without having to obtain such a permit from Aerocivil, provided that these functions are covered in their operating permits.

4.153. Pursuant to the Commercial Code, subsidies may be granted to public enterprises in the air industry. The authorities reported that the semi-public company Servicios Aéreos Esenciales (Satena) receives subsidies as the sole air transport company providing service on "social routes", thus serving remote areas by air. Air transport companies can benefit from the Vallejo Plan for services, which allows capital goods to be imported with a total or partial tariff waiver and deferred payment of VAT, subject to their exporting a minimum amount of services (1.5 times the f.o.b. value).¹⁵¹ Fuel used for the operation of international flights is not subject to the national carbon tax (Section 3.1.4).¹⁵²

4.4.3.1.2 Airports

4.154. An operating permit from Aerocivil is required to build and operate an airport in Colombia.¹⁵³ The State, through Aerocivil, owns 67 airports, of which 15 are operated under concession by the private sector. Airport concession holders may be private companies or semi-public companies, in which the State shall not hold more than a 50% stake.¹⁵⁴

4.155. Since 2014, it has been the National Infrastructure Agency (ANI) that signs and administers concession contracts, a duty which was formerly entrusted to Aerocivil. A concession contract is awarded through a public bidding process. Whereas their duration ranged between

¹⁴⁷ Article 1.856 of the Commercial Code, sections 3.6.3.5.5 and 3.6.3.5.6 of RAC No. 3, as amended by Aerocivil Resolution No. 02062 of 18 July 2017, and online information from Aerocivil, viewed at: <http://www.aerocivil.gov.co/servicios-a-la-navegacion/servicio-de-informacion-aeronautica-ais/generalidades>.

¹⁴⁸ Aerocivil Resolution No. 904 of 28 February 2012 and SIC (2015), *Estudios Económicos Sectoriales: Una Visión General del Sector Transporte Aéreo en Colombia*, December. Viewed at: http://www.sic.gov.co/sites/default/files/files/Una_Vision_General_del_Sector_de_Transporte_Aereo_en_Colombia.pdf.

¹⁴⁹ Aerocivil Resolution No. 839 of 13 March 2003 and Aerocivil Resolution No. 904 of 28 February 2012.

¹⁵⁰ Online information from the National Tourism Fund, viewed at: <http://fontur.com.co/productos-y-servicios/que-es-contribucion-parafiscal-tipos-de-aportantes-base-liquidacion/49>.

¹⁵¹ Online information from ProColombia, viewed at: <http://www.inviertaencolombia.com.co/zonas-francas-y-otros-incentivos/38-zonas-francas-y-otros-incentivos/zonas-francas-y-otros-incentivos/106-plan-vallejo-de-servicios.html>.

¹⁵² Communication of 10 February 2017 from the DIAN, viewed at: http://www.dian.gov.co/descargas/EscritosComunicados/2017/Concepto_Impuesto_al_Carbono_Ley_1819_de_2016.pdf.

¹⁵³ RAC No. 14 (Airfields, airports and heliports).

¹⁵⁴ Article 48 of Law No. 105 of 30 December 1993.

15 and 25 years for the contracts signed by Aerocivil, the contracts signed by the ANI are for a maximum term of 30 years, inclusive of extensions.¹⁵⁵ In 2017, seven concession contracts had been signed.¹⁵⁶ The consideration payable to the State for the operation and running of airports takes different forms: it may be a percentage of the concession holder's gross income, or a flat-rate contractual value plus a variable amount based on gross income. The concept of economic consideration does not feature in new contracts, where an expected revenue arrangement is preferred: under the concessions, the State gives over the income from airport taxes and airport charges to the concession holder, except for the flight protection service fee, which continues to be collected by Aerocivil.¹⁵⁷ Each concession contract specifies which income items are given over to the concession holder. Airport taxes and airport charges are regulated by means of tariff caps, which are periodically updated, using the methodology agreed in the contract.¹⁵⁸ Holders of airport concessions pay the parafiscal contribution for the promotion of tourism (Section 4.4.4).

4.156. In the airports it operates, Aerocivil sets the amount of airport taxes, which is updated annually. The airlines collect the airport taxes on behalf of Aerocivil, and receive a commission of 2% on the amount collected.

4.157. Passenger air traffic continues to grow in Colombia (Table 4.19). A total of 35.6 million passengers were transported in 2017, which is 44.7% more than at the start of the period under review. Most of this traffic is generated by domestic flights. The significant increase in the number of international passengers (from 7.7 to 12.3 million between 2012 and 2017) is explained by the introduction of new routes, more frequent flights and greater capacity on the routes operated. The volume of air freight remains low; Colombia's exports by air largely consist of fresh flowers.

Table 4.19 Air transport statistics, 2012-2017

	2012	2013	2014	2015	2016	2017
Passengers transported (millions)	24.6	28.6	30.9	34.0	35.8	35.6
Domestic flights	16.9	19.8	21.0	23.1	24.0	23.3
International flights	7.7	8.8	9.9	10.9	11.8	12.3
External trade (thousands of tonnes)	570.8	562.3	580.9	590.5	610.9	648.9
Imports	230.2	216.0	213.4	212.8	209.3	226.6
Exports	340.6	346.3	367.5	377.7	401.6	422.3

Source: Information provided by the authorities.

4.4.3.2 Maritime transport and ports

4.4.3.2.1 Maritime transport

4.158. The provision of maritime transport services is governed by the Commercial Code (Book Five)¹⁵⁹ and Single Regulatory Decree No. 1.079 of 26 May 2015, which compiles Decree No. 804 of 8 May 2001 regulating the public maritime transport service.

4.159. The Ministry of Transport (MinTransporte) and the General Maritime Directorate (DIMAR) are the main institutions in the sector. MinTransporte formulates maritime transport policy, while DIMAR, which comes under the Ministry of Defence, is the national maritime authority, executing the policy and regulating the sector's activities.

4.160. Access in international maritime transport is governed by the principle of reciprocity. Where there is no reciprocity, MinTransporte may restrict access to the market. Likewise, Colombia and the other member States of the CAN may jointly restrict access to their markets in the event of discrimination against vessels of one of the member States, pursuant to CAN Decision 390. The authorities emphasize that Colombia does not restrict access to its maritime transport market.

¹⁵⁵ Law No. 1.508 of 10 January 2012.

¹⁵⁶ Online information from the ANI, viewed at: <https://www.ani.gov.co/modo-aeropuertos>.

¹⁵⁷ Article 19 of Aerocivil Resolution No. 504 of 27 February 2017.

¹⁵⁸ Online information from the ANI, viewed at: <https://www.ani.gov.co/modo-aeropuertos> and FEDESARROLLO (2016), *Competitividad en el transporte aéreo en Colombia*. Viewed at: <http://www.repository.fedesarrollo.org.co/handle/11445/3280>.

¹⁵⁹ Decree No. 410 of 27 March 1971.

4.161. Maritime cabotage has to be provided using vessels flying the Colombian flag. Pursuant to CAN Decision 659, vessels flying the flag of one of the CAN member States are considered to be under the Colombian flag (subject to the principle of reciprocity). Notwithstanding this general restriction, DIMAR may authorize the use of vessels flying a foreign flag when there are no Colombian vessels available to provide the service. According to the authorities, cases of cabotage services being provided by foreign ships were rare between 2012 and 2017. Foreign ships provided cabotage services above all for movement of containers between the ports of Buenaventura and Cartagena.

4.162. There are no restrictions on foreign holdings in companies in the sector. To provide international maritime transport services, foreign vessels must have a shipping agent in Colombia with a commercial operating licence obtained from DIMAR. The captain, officers and 80% of the rest of the crew on board vessels flying the Colombian flag must be Colombian. Citizens of CAN member States enjoy national treatment.¹⁶⁰

4.163. Provision of maritime transport services, whether international or cabotage, freight and/or passenger, with Colombian or foreign vessels, is authorized by DIMAR. According to the type of service, either an approval and an operating permit (scheduled service) or an authorization (non-scheduled service) are required. The approval and operating permit for scheduled services are granted for a specific type of transport, whether international or cabotage. Thus, a Colombian shipping line transporting international freight cannot simultaneously provide cabotage services, unless there are no Colombian lines approved for the cabotage transport. The approval and the operating permit are granted for an indefinite period and are not transferable.¹⁶¹ The authorization to provide non-scheduled services is granted for the period covering provision of the service and is not transferable.

4.164. Foreign ships can register in Colombia and in so doing acquire Colombian nationality. The vessel can only be registered by the owner, who must be Colombian. Registration is obtained through the certificate of registration issued by DIMAR, which proves that the vessel is listed in the port authority register. A temporary registration may be granted (free of charge) while the permanent registration procedure is being completed; the cost of permanent registration depends on the vessel's tonnage. The fee for registering a vessel under the Colombian flag is exempt from VAT.¹⁶² Lease and charter contracts must be registered with DIMAR.

4.165. Shipping lines (both Colombian and foreign) have to register their tariffs with DIMAR. DIMAR is entitled, *ex officio* or at the request of a third party, to object and modify the tariffs.¹⁶³ The authorities point out that DIMAR has not requested any revision of tariffs during the period since 2012.

4.166. The authorities report that Colombian shipping lines did not participate in maritime conferences during the period under review. The fuel used by ships operating international maritime routes is not subject to the national carbon tax (Section 3.1.4).¹⁶⁴ Ship repair and shipbuilding activities continue to be exempt from VAT.

4.4.3.2.2 Ports

4.167. Law No. 1 of 10 January 1991 regulates the concession regime for the construction, maintenance and operation of ports, docks and terminals in Colombia. The provision of port services is regulated by Single Regulatory Decree No. 1.070 of 26 May 2015, which is a compilation of Decrees No. 1.423 of 1989 and No. 3.703 of 2007.

¹⁶⁰ Single Regulatory Decree No. 1.079 of 2015, and online information from DIMAR, viewed at: <https://www.dimar.mil.co/content/agencias-mar%C3%per%centADtimas> and <https://www.dimar.mil.co/content/clases-de-empresas-de-explotaci%C3%B3n-comercial>.

¹⁶¹ Single Regulatory Decree No. 1.079 of 26 May 2015.

¹⁶² Article 1.458 of the Commercial Code, Law No. 730 of 31 December 2001, and online information from DIMAR, viewed at: <https://www.dimar.mil.co/content/certificado-de-matricula-definitiva-o-provisional-de-naves-y-artefactos-navales>.

¹⁶³ Single Regulatory Decree No. 1.079 of 26 May 2015.

¹⁶⁴ Communication of 10 February 2017 from the DIAN. Viewed at: [http://www.dian.gov.co/descargas/EscritosComunicados/2017/Concepto Impuesto al Carbono Ley 1819 de 2016.pdf](http://www.dian.gov.co/descargas/EscritosComunicados/2017/Concepto%20Impuesto%20al%20Carbono%20Ley%201819%20de%202016.pdf).

4.168. MinTransporte draws up the Port Expansion Plan which sets the guidelines and strategies for the development of port infrastructure, including the methodologies for calculating the considerations to be paid for port concessions and the tariffs collected by port companies. The plan has to be approved by the National Economic and Social Policy Council (CONPES) and then adopted by decree. The last plan was adopted in 2013.¹⁶⁵ According to the authorities, MinTransporte will be drawing up the new Port Expansion Plan in 2018.

4.169. Colombia has maritime port areas in: Barranquilla, Buenaventura, Cartagena, La Guajira, Morrosquillo Gulf, San Andrés, Santa Marta and Ciénaga, Turbo, Tumaco and Urabá.

4.170. A concession is required to engage in port activities in Colombia. As per Law No. 1 of 1991, only port companies, whether public, private or semi-public, may apply for a port concession. Port concessions are granted by the ANI, either following an application from a party or through a public bidding process ("informal bidding"). With a view to strengthening port activities, the procedures for granting concessions were streamlined in 2014, and now take only five months instead of twelve.¹⁶⁶ The concession contract has an initial duration of up to 20 years, and may be renewed for a similar or longer period of time.¹⁶⁷ As at 2017, concessions had been granted to 59 private port companies and seven regional port companies. The latter are semi-public companies in which the State holds between 3.5% and 15% of the capital (in any event, the State's share may not exceed 30%).¹⁶⁸

4.171. Concession holders pay consideration to the State for the exclusive and temporary use of public port areas. The methodology for calculating the amount of the consideration is laid down and adjusted in the Port Expansion Plans. In 2013, a new methodology was introduced, better tailored to the workings of the port business, making the sector both more competitive and more attractive. Under this new methodology, port companies will pay additional consideration when they need a longer time-frame than that required to amortize their investment.¹⁶⁹ The resulting amounts go to the National Highways Institute (INVIAS) to finance the construction and maintenance of access roads and canals leading to port areas.

4.172. Port companies charge vessels for using docks and loading/unloading and storage facilities, as well as for various services (refuelling or water supply, for example). Private-sector port companies freely set their tariffs, which must be communicated to the Delegated Supervisory Authority for Ports. For public-sector port companies, a controlled free pricing regime remains in place, under which tariffs are set freely, but must be calculated within the guidelines laid down by the Ports and Transport Supervisory Authority (Supertransporte, or SPT) on the basis of the Port Expansion Plans. In 2017, this methodology continued to be used together with the tariff requirements laid down in Resolution No. 723 of 1993.¹⁷⁰ Thereunder, tariffs have to be oriented to the "competitive tariff" calculated for each port area. Tariffs exceeding the "competitive tariff" by 25% or more are not accepted. The tariffs are communicated to the Delegated Supervisory Authority for Ports which approves and publishes them, or requests that they be adjusted. The tariffs are revised every two years.¹⁷¹

¹⁶⁵ Decree No. 1.099 of 28 May 2013

¹⁶⁶ See Decree No. 474 of 17 March 2015 abrogating Decree No. 4.735 of 2 December 2008, and online information from MinTransporte, viewed at: https://www.mintransporte.gov.co/Publicaciones/gobierno_nacional_presento_decreto_para_agilizar_tramites_de_concesiones_portuarias.

¹⁶⁷ Law No. 1 of 10 January 1991 and Decree No. 474 of 17 March 2015.

¹⁶⁸ Information provided by the authorities, and online information from MinCIT, viewed at: http://www.mincit.gov.co/publicaciones/14803/normatividad_servicios_de_transporte.

¹⁶⁹ Decree No. 1.099 of 28 May 2013; CONPES Document 3.744 of 15 April 2013 and its Annex 2 (viewed at: <http://portalterritorial.gov.co/apc-aa-files/40743db9e8588852c19cb285e420affe/3744.pdf> and at: <http://www.supertransporte.gov.co/documentos/2014/delegada%20puertos/conpes/Anexo%20%20Conpes%203744%20de%202013.pdf>).

¹⁷⁰ CONPES Document 3.744 of 15 April 2013 and Resolution No. 723 of the former General Port Supervisory Authority of 13 July 1993, as amended by Resolutions No. 1.261 of 1993 and No. 884 of 1996.

¹⁷¹ The tariffs may be viewed at: <http://www.supertransporte.gov.co/index.php/la-entidad/delegadas/superintendencia-delegada-de-puertos/139-tarifas-portuarias>. Articles 19-20 of Law No. 1 of 10 January 1991, Resolution No. 426 of the former General Port Supervisory Authority of 10 July 1997 and Resolution No. 723 of the former General Port Supervisory Authority of 13 July 1993, as amended by Resolutions No. 1.261 of 1993 and No. 884 of 1996.

4.173. Port companies may supply port services directly or contract them out to port operators. The provision of port services requires a commercial operating licence, issued by DIMAR. Harbour pilots must have a licence. Vessels under foreign flags may not provide port services in Colombian ports, except dredging. DIMAR will authorize the use of foreign flag vessels to provide port services when there are no Colombian ships available for the purpose. The authorization is given to the foreign vessel for six months and may be extended up to a maximum of one year.¹⁷² Tariffs for port services are set freely, but are monitored by Supertransporte.¹⁷³ Subsidies may not be granted to regional port companies.¹⁷⁴

4.174. In 2016, port traffic in Colombia stood at 199.5 million tonnes (Table 4.20). As regards the type of cargo carried, the leading products are still coal in bulk (45% of the total) and liquid bulk (29%), primarily petroleum, followed by container freight (16%).

Table 4.20 Traffic indicators in maritime ports, 2012-2016

	2012	2013	2014	2015	2016
External trade (millions of tonnes)	157.8	165.6	168.7	175.3	180.9
Year-on-year variation (%)	2.5	4.9	1.9	3.9	3.2
Transit (millions of tonnes)	17.5	16.0	18.3	19.6	16.8
Cabotage (millions of tonnes)	0.4	0.8	0.6	1.0	1.8

Source: Statistics from Supertransporte. Viewed at: <http://www.supertransporte.gov.co/index.php/las-entidad/delegadas/superintendencia-delegada-de-puertos/163-intermediarios-comercio-exterior-movimientos-carga>.

4.4.4 Tourism

4.175. The tourism sector is governed by Law No. 300 of 26 July 1996 (General Tourism Law) and amendments thereto, and by Single Regulatory Decree No. 1.074 of 26 May 2015, in which various decrees governing the provision of tourism services are compiled (Decrees No. 502 of 1997, No. 1.076 of 1997, No. 1.036 of 2007 and No. 229 of 2017).

4.176. MinCIT draws up the policy for the tourism sector, advised by the Advisory Council for the Tourism Industry. For its part, the Higher Tourism Council draws up the programmes to implement the tourism policy. Both councils were established in 2013.¹⁷⁵ The policy objectives for the tourism sector are set out in the (four-year) Tourism Sector Plans (PST). The current PST 2014-2018 (Tourism for Peace Building) proposes to enhance competitiveness through various initiatives: creating new tourist destinations and products and consolidating existing ones as well as promoting them on the domestic and international market; optimizing and developing the tourism infrastructure; and supporting tourism service providers in obtaining certification showing that they meet technical quality standards for tourism. There is also a drive to improve cooperation between the State and local authorities for implementation of the sector policy.¹⁷⁶

4.177. Foreigners may provide tourism services in Colombia. To provide tourism services, they have to be listed in the National Tourism Register (RNT), which is administered by the chambers of commerce. To register, providers have to go through the webpage of the chamber of commerce of the department where the service will be provided.¹⁷⁷ The registration certificate is issued within 15 days (as against 30 days prior to 2017) and has to be renewed every year.¹⁷⁸ Renewal may be contingent on fulfilling certain conditions: for example, the authorities specify that accommodation

¹⁷² Articles 1 and 32 of Law No. 1 of 10 January 1991, Single Regulatory Decree No. 1.070 of 26 May 2015, and online information from DIMAR, viewed at: <https://www.dimar.mil.co/content/clases-de-empresas-de-explotacion-comercial>.

¹⁷³ Article 20 of Law No. 1 of 10 January 1991 and SIC (no date), *Estudios de Mercado: Sector Portuario Colombiano e incidencia de las Políticas Públicas en la SPRBUN*. Viewed at: http://www.sic.gov.co/recursos_user/documentos/promocion_competencia/Estudios_Economicos/Estudios_Economicos/Estudios_Mercado_Puertos.pdf.

¹⁷⁴ Online information from MinCIT, viewed at: http://www.mincit.gov.co/publicaciones/14803/normatividad_servicios_de_transporte.

¹⁷⁵ Decree No. 1.591 of 30 July 2013 and Decree No. 1.873 of 20 September 2013.

¹⁷⁶ The Tourism Sector Plan may be viewed at: http://www.mincit.gov.co/minturismo/publicaciones/30661/plan_sectorial_de_turismo_2014_-_2018.

¹⁷⁷ See: <http://rnt.confecamaras.co>.

¹⁷⁸ Single Regulatory Decree No. 1074 of 26 May 2016, as amended by Decree No. 229 of 14 February 2017.

establishments need to meet the sector's technical standards. Tourism service providers in the department of the San Andrés, Providencia and Santa Catalina Archipelago are not covered by the RNT, but have to register with the Tourism Secretariat of the corresponding department to obtain a permit, in lieu of the registration certificate.¹⁷⁹

4.178. The parafiscal contribution for the promotion of tourism and the tourism tax serve to finance infrastructure, competitiveness and promotion projects in the sector carried out by the National Tourism Fund (FONTUR). All tourism service providers, as well as other providers of services related to tourism (for example, air transport companies and airport concession holders), pay the parafiscal contribution for promoting tourism, at a rate of 0.25% of their income, except for bars and restaurants (0.15%) and air transport (US\$1 per international passenger).¹⁸⁰ The tourism tax is collected from foreign passengers arriving on scheduled flights to Colombia; certain categories of passenger (civil servants, students or seniors aged over 65) and passengers on non-scheduled flights are exempt. The amount of the tourism tax is set at US\$15 (unchanged since 2012).¹⁸¹

4.179. During the review period, fiscal incentives continued to be used to encourage development of the sector. For example, revenues from services provided in new, renovated or expanded hotels are exempt (for 30 years) from income tax.¹⁸² Likewise, the income tax rate will be 9% for revenues from services provided in new, renovated or expanded hotels located in municipalities of fewer than 200,000 inhabitants; this 9% tax rate will apply for a period of 20 years.¹⁸³ Revenues from ecotourism services are exempt (for 20 years) from income tax.¹⁸⁴ Since 2013, the sale of certain packages of tourist services has been exempted from VAT.¹⁸⁵ Providers of tourism services can also benefit from the Plan Vallejo for services, which allows capital goods to be imported with a total or partial tariff waiver and deferred payment of VAT, subject to their exporting a minimum amount of services. Moreover, companies in the sector may apply for loans of up to Col\$700 million through the line of credit (Col\$45 billion) made available to the sector by Bancoldex through the commercial banking system.¹⁸⁶ According to the authorities, 92% of the credit line had been utilized at end 2017, chiefly benefiting small enterprises in the sector; 286 projects had been carried out.

4.180. The tourism sector generated income of US\$4,307 million as at the third quarter of 2017. The number of visitors grew from 3.5 to 5.8 million between 2012 and 2017 (Table 4.21), which according to the authorities places Colombia among the five most visited countries in the Americas. The increase in the number of visitors can be explained by better air connections and the efforts deployed to promote and diversify the tourism offering.

Table 4.21 Tourism sector indicators, 2012-2017

	2012	2013	2014	2015	2016	2017
Visitors (millions)	3.5	3.7	4.2	4.4	5.1	5.8
Foreign exchange earnings (US\$ million)	4,364	4,758	4,887	5,236	5,835	4,307 ^a

a Third quarter.

Source: Information provided by the authorities.

¹⁷⁹ Single Regulatory Decree No. 1.074 of 26 May 2016, and Law No. 915 of 21 October 2004.

¹⁸⁰ Single Regulatory Decree No. 1.074 of 26 May 2016, Law No. 1.558 of 10 July 2012, and online information from FONTUR, viewed at: <http://fontur.com.co/contribucion-parafiscal>.

¹⁸¹ Single Regulatory Decree No. 1074 of 26 May 2016.

¹⁸² Hotels on which the works in question were carried out between 1 January 2003 and 31 December 2017. Decree No. 2.755 of 30 September 2003, amended by Decrees No. 920 of 17 March 2009 and No. 463 of 16 March 2016.

¹⁸³ Hotels for which the works in question are carried out between 2017 and 2027. Article 100 of Law No. 1.819 of 29 December 2016.

¹⁸⁴ Ecotourism services provided between 2003 and 2023. Decree No. 2.755 of 30 September 2003, amended by Decrees No. 920 of 17 March 2009 and No. 463 of 16 March 2016.

¹⁸⁵ Decree No. 297 of 23 February 2016 abrogating Decree No. 2.646 of 20 November 2013, and online information from MinCIT, viewed at: http://www.mincit.gov.co/publicaciones/35871/turistas_extranjeros_no_pagaran_iva_en_colombia.

¹⁸⁶ Online information from MinCIT, viewed at: http://www.mincit.gov.co/publicaciones/35940/en_2016_linea_de_credito_de_bancoldex_sigue_a_disposicion_de_empresas_de_turismo; and online information from Bancoldex, viewed at: <https://bancoldex.com/Pagina-Principal/Crditos-para-empresas-de-turismo.aspx>.

5 APPENDIX TABLES

Table A1. 1 Total merchandise exports by HS section, 2012-2017

Description	2012	2013	2014	2015	2016	2017
	(US\$ million)					
Total exports (f.o.b.)	60,274	58,822	54,795	35,691	31,045	37,800
	(% of exports)					
1 - Live animals; animal products	1.0	1.2	0.6	0.8	0.8	0.7
03. Fish, crustaceans and molluscs	0.3	0.3	0.3	0.4	0.4	0.3
02. Meat and edible meat offal	0.1	0.4	0.1	0.1	0.1	0.2
01. Live animals	0.6	0.5	0.1	0.1	0.2	0.1
2 - Vegetable products	7.0	7.1	9.0	13.6	15.8	13.7
09. Coffee, tea, maté and spices	3.3	3.3	4.6	7.2	8.0	6.9
06. Live trees and other plants; bulbs, roots and the like; cut flowers and ornamental foliage	2.1	2.3	2.5	3.7	4.3	3.7
08. Edible fruit and nuts	1.5	1.4	1.7	2.5	3.3	2.9
3 - Animal or vegetable fats and oils	0.5	0.5	0.6	1.1	1.2	1.4
4 - Prepared foodstuffs; beverages, spirits and vinegar; tobacco and manufactured tobacco substitutes	2.5	2.4	3.0	3.8	4.0	3.4
17. Sugars and sugar confectionery	1.3	1.1	1.5	1.7	1.7	1.5
21. Miscellaneous edible preparations	0.6	0.6	0.6	0.8	0.9	0.8
5 - Mineral products	65.8	66.8	65.7	53.0	47.7	54.3
27. Mineral fuels, mineral oils	65.7	66.8	65.6	52.8	47.5	54.1
6 - Products of the chemical or allied industries	3.5	4.0	4.2	6.2	6.3	5.0
38. Miscellaneous chemical products	0.6	0.9	0.9	1.5	1.6	1.2
33. Essential oils and resinoids; perfumery, cosmetic or toilet preparations	0.9	1.0	0.9	1.2	1.3	1.2
30. Pharmaceutical products	0.8	0.8	1.0	1.4	1.4	0.9
7 - Plastics and articles thereof	2.8	2.9	3.1	4.2	4.3	3.8
8 - Raw hides and skins, leather, furskins and articles thereof; saddlery and harness	0.4	0.5	0.6	0.7	0.6	0.4
9 - Wood and articles of wood; wood charcoal	0.1	0.1	0.1	0.1	0.1	0.1
10 - Pulp of wood or of other fibrous cellulosic material; paper and paperboard and articles thereof	0.9	0.8	0.8	1.0	0.9	0.8
11 - Textiles and textile articles	1.9	1.7	1.6	2.2	2.2	1.8
62. Articles of apparel and clothing accessories, not knitted or crocheted	0.6	0.6	0.6	0.9	0.8	0.7
61. Articles of apparel and clothing accessories, knitted or crocheted	0.5	0.4	0.4	0.5	0.5	0.4
12 - Footwear, headgear, umbrellas, sun umbrellas, walking sticks, seat-sticks, whips, riding-crops and parts thereof; prepared feathers and articles made therewith	0.1	0.1	0.1	0.1	0.1	0.1
13 - Articles of stone, plaster, cement, asbestos, mica or similar materials; ceramic products; glass and glassware	0.8	0.7	0.8	0.9	1.0	0.8
14 - Natural or cultured pearls, precious or semi-precious stones, precious metals	6.1	4.3	3.4	3.7	5.6	5.3
15 - Base metals and articles of base metal	3.3	2.9	2.8	3.4	3.3	3.1
72. Iron and steel	1.7	1.4	1.4	1.4	1.3	1.2
74. Copper and articles thereof	0.6	0.6	0.5	0.6	0.6	0.7
76. Aluminium and articles thereof	0.3	0.4	0.4	0.6	0.8	0.6
16 - Machinery and mechanical appliances; electrical equipment; parts thereof	1.5	1.6	1.7	2.5	2.8	2.4
17 - Vehicles, aircraft, vessels and associated transport equipment	1.0	1.5	1.1	1.5	1.9	1.6
87. Vehicles other than railway or tramway rolling-stock, and parts and accessories thereof	1.0	1.5	1.0	1.4	1.8	1.4
18 - Optical, photographic, cinematographic, measuring, checking and precision instruments and apparatus	0.1	0.2	0.2	0.3	0.3	0.2
19 - Arms and ammunition; parts and accessories thereof	0.0	0.0	0.0	0.0	0.0	0.0
20 - Miscellaneous manufactured articles	0.7	0.7	0.7	0.9	0.8	0.7
21 - Works of art, collectors' pieces and antiques	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0

Source: WTO Secretariat estimates based on data from the Comtrade database and information provided by the authorities for 2017.

Table A1. 2 Total merchandise imports by HS section, 2012-2017

Description	2012	2013	2014	2015	2016	2017
Total imports (c.i.f.)	58,088	59,381	64,028	54,036	44,831	46,076
	(US\$ million)					
	(% of imports)					
1 - Live animals; animal products	0.7	0.8	1.0	1.0	1.3	1.3
02. Meat and edible meat offal	0.2	0.3	0.4	0.3	0.4	0.6
03. Fish and crustaceans, molluscs and other aquatic invertebrates	0.3	0.4	0.4	0.4	0.5	0.4
04. Dairy produce; birds' eggs; natural honey; edible products of animal origin	0.2	0.1	0.2	0.2	0.3	0.2
2 - Vegetable products	4.8	4.5	4.0	4.5	5.3	5.1
10. Cereals	3.2	3.1	2.6	3.1	3.5	3.3
12. Oil seeds and oleaginous fruits; miscellaneous grains, seeds and fruit; industrial or medicinal plants	0.4	0.5	0.5	0.5	0.6	0.6
3 - Animal or vegetable fats and oils	1.1	0.9	0.9	0.9	1.3	1.3
4 - Prepared foodstuffs; beverages, spirits and vinegar; tobacco and manufactured tobacco substitutes	3.8	4.0	3.7	4.2	5.5	5.4
23. Residues and waste from the food industries	1.3	1.4	1.4	1.4	1.7	1.6
22. Beverages, spirits and vinegar	0.4	0.5	0.4	0.6	1.0	1.1
21. Miscellaneous edible preparations	0.5	0.5	0.5	0.6	0.8	0.8
5 - Mineral products	10.1	11.1	12.2	10.1	9.2	8.6
27. Mineral fuels, mineral oils and products of their distillation	9.7	10.8	11.8	9.5	8.6	8.1
6 - Products of the chemical or allied industries	13.7	14.0	13.4	14.9	16.0	16.4
30. Pharmaceutical products	3.6	3.9	3.7	4.3	4.7	4.8
29. Organic chemicals	3.8	4.0	3.7	3.8	4.3	4.4
38. Miscellaneous chemical products	1.6	1.7	1.7	1.9	2.0	2.0
31. Fertilizers	1.5	1.2	1.2	1.5	1.3	1.5
33. Essential oils and resinoids; perfumery, cosmetic or toilet preparations	1.0	1.0	1.0	1.1	1.3	1.2
7 - Plastics and articles thereof	6.1	6.0	6.0	6.2	6.6	6.6
39. Plastics and articles thereof	4.0	4.1	4.2	4.4	4.7	4.6
40. Rubber and articles thereof	2.1	1.9	1.8	1.8	1.9	2.0
8 - Raw hides and skins, leather, furskins and articles thereof; saddlery and harness	0.3	0.3	0.3	0.3	0.3	0.3
42. Articles of leather; saddlery and harness; travel goods, handbags and similar containers	0.3	0.3	0.3	0.3	0.3	0.3
9 - Wood and articles of wood; wood charcoal	0.4	0.4	0.4	0.4	0.5	0.5
10 - Pulp of wood or of other fibrous cellulosic material; paper and paperboard and articles thereof	1.7	1.7	1.6	1.6	1.8	1.8
48. Paper and paperboard; articles of paper pulp, of paper or of paperboard	1.2	1.2	1.1	1.1	1.2	1.3
11 - Textiles and textile articles	4.0	3.9	3.9	3.9	4.2	4.1
52. Cotton	0.9	0.8	0.8	0.8	0.9	0.8
62. Articles of apparel and clothing accessories, not knitted or crocheted	0.6	0.7	0.6	0.6	0.6	0.7
61. Articles of apparel and clothing accessories, knitted or crocheted	0.6	0.6	0.6	0.6	0.5	0.6
55. Man-made staple fibres	0.5	0.5	0.4	0.5	0.6	0.5
12 - Footwear, headgear, umbrellas, sun umbrellas, walking sticks, seat-sticks, whips, riding-crops and parts thereof; prepared feathers and articles made therewith	1.1	0.9	0.9	0.9	0.9	0.9
64. Footwear, gaiters and the like; parts of such articles	0.9	0.8	0.8	0.7	0.8	0.8
13 - Articles of stone, plaster, cement, asbestos, mica or similar materials; ceramic products; glass and glassware	1.1	1.1	1.1	1.1	1.2	1.1
14 - Natural or cultured pearls, precious or semi-precious stones, precious metals	0.1	0.1	0.2	0.1	0.1	0.2
15 - Base metals and articles of base metal	7.9	7.2	7.3	6.9	6.7	7.4
72. Iron and steel	3.2	2.9	3.1	3.0	2.8	2.9
73. Articles of iron or steel	2.4	2.0	2.0	1.7	1.4	1.8
76. Aluminium and articles thereof	0.6	0.6	0.7	0.7	0.8	0.9
74. Copper and articles thereof	0.7	0.7	0.6	0.6	0.6	0.6
16 - Machinery and mechanical appliances; electrical equipment; parts thereof	23.4	23.4	23.2	23.2	21.9	22.7
84. Nuclear reactors, boilers, machinery and mechanical appliances	14.0	13.3	12.8	12.8	11.7	11.9
85. Electrical machinery and equipment and parts thereof; sound recorders and reproducers	9.4	10.1	10.4	10.3	10.2	10.8
17 - Vehicles, aircraft, vessels and associated transport equipment	14.1	13.7	13.9	13.5	10.8	10.4
87. Vehicles other than railway or tramway rolling-stock, and parts and accessories thereof	11.1	9.1	9.7	7.8	8.4	7.9
88. Aircraft, spacecraft, and parts thereof	2.2	3.9	3.7	4.8	2.1	2.2
18 - Optical, photographic, cinematographic, measuring, checking and precision instruments and apparatus	2.9	3.0	3.1	3.2	3.3	3.1
19 - Arms and ammunition; parts and accessories thereof	0.1	0.1	0.2	0.1	0.1	0.1

Description	2012	2013	2014	2015	2016	2017
20 - Miscellaneous manufactured articles	1.6	1.6	1.6	1.6	1.7	1.7
94. Furniture; bedding, mattresses, mattress supports, cushions and similar stuffed furnishings; lamps and lighting fittings, not elsewhere specified or included	0.7	0.7	0.7	0.7	0.7	0.7
95. Toys, games and sports requisites; parts and accessories thereof	0.6	0.6	0.6	0.6	0.6	0.6
21 - Works of art, collectors' pieces and antiques	0.0	0.0	0.0	0.0	0.0	0.0
Other	1.0	1.1	1.0	1.1	1.1	0.9

Source: WTO Secretariat estimates based on data from the Comtrade database and information provided by the authorities for 2017.

Table A1. 3 Total merchandise exports by trading partner, 2012-2017

Description	2012	2013	2014	2015	2016	2017
Total exports (f.o.b.)	60,274	58,822	54,795	35,691	31,045	37,800
	(US\$ million)					
	(% of exports)					
America	68.5	63.7	57.5	63.6	65.5	65.8
United States	36.9	31.8	26.4	28.2	32.9	29.1
<i>Other America</i>	31.7	31.9	31.1	35.4	32.6	36.7
Panama	4.8	5.5	6.6	6.7	6.2	7.2
Mexico	1.4	1.5	1.7	2.6	3.0	4.1
Ecuador	3.2	3.4	3.4	4.0	3.9	3.9
Brazil	2.1	2.7	3.0	3.3	3.2	3.6
Peru	2.6	2.2	2.2	3.2	3.4	2.9
Chile	3.6	2.7	1.8	2.1	2.2	2.7
Bahamas	0.9	1.0	1.5	1.9	1.0	2.1
Saint Lucia	0.0	0.1	0.4	0.5	0.2	1.6
Canada	0.8	0.7	1.2	1.2	1.2	1.4
Dominican Republic	1.1	0.6	0.5	0.7	0.9	0.9
Venezuela, Bolivarian Republic of	4.2	3.8	3.6	3.0	2.0	0.8
Guatemala	1.0	1.1	0.5	0.6	1.0	0.8
Argentina	0.5	0.7	0.4	0.4	0.6	0.7
Trinidad and Tobago	0.9	0.8	0.3	0.5	0.3	0.7
Aruba, Netherlands with respect to	1.7	2.9	2.1	2.4	1.1	0.7
Europe	17.7	17.7	19.8	20.3	20.4	19.7
EU (28)	15.2	15.8	17.2	16.9	16.6	14.9
Netherlands	4.2	3.9	3.9	4.2	3.9	4.5
Spain	4.9	4.9	6.0	4.4	3.7	2.6
Belgium	0.8	0.8	0.8	1.3	1.5	1.3
Italy	0.8	0.8	1.8	1.4	1.4	1.3
Germany	0.7	1.3	1.2	1.4	1.5	1.3
EFTA	1.2	0.8	1.0	1.3	1.4	1.1
Switzerland	1.2	0.8	0.9	1.2	1.2	0.9
Other Europe	1.3	1.1	1.6	2.1	2.5	3.7
Turkey	1.3	1.1	1.6	2.1	2.5	3.7
Commonwealth of Independent States (CIS)	0.2	0.2	0.2	0.3	0.3	0.3
Russian Federation	0.2	0.2	0.2	0.3	0.2	0.2
Africa	0.8	0.3	0.7	0.9	0.9	0.4
Côte d'Ivoire	0.2	0.0	0.2	0.3	0.3	0.1
Morocco	0.0	0.0	0.0	0.0	0.0	0.1
South Africa	0.2	0.1	0.3	0.4	0.1	0.1
Middle East	1.0	0.9	1.3	1.1	1.3	1.2
Israel	0.9	0.7	1.0	0.8	0.9	0.8
Asia	11.2	15.6	18.1	12.0	8.5	11.0
China	5.5	8.7	10.5	6.3	3.6	5.3
Japan	0.6	0.7	0.8	1.5	1.4	1.5
Other Asia	5.1	6.2	6.9	4.2	3.5	4.2
Korea, Republic of	0.6	0.4	0.9	0.6	1.3	1.2
Singapore	0.7	0.1	0.4	1.0	0.2	0.9
India	2.3	5.1	5.0	1.5	0.7	0.7
Malaysia	0.4	0.2	0.0	0.3	0.3	0.4
Chinese Taipei	0.1	0.1	0.1	0.2	0.1	0.2
Hong Kong, China	0.7	0.1	0.1	0.2	0.3	0.2
Australia	0.1	0.1	0.1	0.1	0.2	0.2
Other	0.5	1.6	2.3	1.8	3.2	1.6
Free zones	0.4	0.1	0.1	0.7	1.7	1.5
Other	0.0	1.5	2.2	1.2	0.8	0.2

Source: WTO Secretariat estimates based on data from the Comtrade database and information provided by the authorities for 2017.

Table A1. 4 Total merchandise imports by trading partner, 2012-2017

Description	2012	2013	2014	2015	2016	2017
Total imports (c.i.f.)	58,088	59,381	64,028	54,036	44,831	46,076
	(US\$ million)					
	(% of imports)					
America	56.6	55.4	53.5	49.7	49.7	49.0
United States	24.3	27.7	28.5	28.8	26.7	26.3
<i>Other America</i>	32.3	27.7	25.0	20.9	23.0	22.8
Mexico	11.0	9.3	8.2	7.1	7.6	7.5
Brazil	4.8	4.4	3.9	3.9	4.7	5.0
Canada	1.9	1.7	1.8	1.6	1.7	1.7
Ecuador	1.8	1.5	1.4	1.4	1.8	1.6
Chile	1.6	1.5	1.5	1.4	1.6	1.5
Peru	1.6	1.5	1.9	1.7	1.5	1.4
Argentina	4.0	2.9	1.6	0.9	1.1	1.2
Colombia	2.2	1.6	1.7	0.0	0.0	0.8
Bolivia, Plurinational State of	0.5	0.9	0.9	0.8	1.2	0.8
Venezuela, Bolivarian Republic of	0.9	0.7	0.7	0.5	0.4	0.5
Europe	13.8	14.6	14.9	16.6	15.4	16.4
EU (28)	12.6	13.4	13.7	15.3	14.0	14.9
Germany	3.9	3.7	4.0	4.2	3.8	4.1
Spain	1.3	1.6	1.5	1.7	2.0	2.1
France	2.0	2.4	2.9	3.6	1.8	2.1
Italy	1.6	1.7	1.5	1.5	1.7	1.6
United Kingdom	1.0	0.9	0.9	1.0	0.9	1.0
EFTA	0.9	0.9	0.9	0.9	0.9	1.0
Switzerland	0.9	0.9	0.8	0.8	0.9	0.9
Other Europe	0.3	0.3	0.3	0.5	0.5	0.5
Turkey	0.3	0.3	0.3	0.4	0.5	0.5
Commonwealth of Independent States (CIS)	0.9	0.6	0.7	0.8	0.7	0.8
Russian Federation	0.7	0.5	0.6	0.7	0.6	0.6
Ukraine	0.2	0.1	0.1	0.1	0.1	0.1
Africa	0.3	0.3	0.2	0.2	0.2	0.2
Morocco	0.1	0.1	0.1	0.1	0.1	0.1
South Africa	0.1	0.1	0.1	0.1	0.1	0.1
Middle East	0.5	0.5	0.7	0.5	0.5	0.5
Israel	0.3	0.4	0.5	0.3	0.3	0.3
Saudi Arabia, Kingdom of	0.1	0.1	0.1	0.1	0.1	0.1
Asia	27.0	27.5	29.0	29.0	30.1	30.1
China	16.5	17.5	18.4	18.6	19.3	19.0
Japan	2.8	2.5	2.4	2.3	2.5	2.7
Other Asia	7.6	7.6	8.2	8.2	8.3	8.4
India	1.9	1.9	2.1	2.2	2.1	2.3
Korea, Republic of	2.2	2.2	2.3	2.1	2.0	1.7
Viet Nam	0.4	0.5	0.7	0.9	1.1	1.2
Chinese Taipei	1.0	0.9	1.0	1.0	1.0	0.9
Thailand	0.6	0.5	0.5	0.6	0.6	0.6
Indonesia	0.4	0.4	0.4	0.4	0.4	0.4
Malaysia	0.4	0.3	0.4	0.3	0.4	0.4
Singapore	0.2	0.2	0.2	0.2	0.2	0.2
Other	1.0	1.0	1.0	3.0	3.4	3.0
Free zones	1.0	0.1	0.2	1.3	2.0	3.0
Other	0.0	0.8	0.8	1.7	1.3	0.0

Source: WTO Secretariat estimates based on data from the Comtrade database and information provided by the authorities for 2017.

Table A2. 1 Notifications under the WTO Agreements, 1 January 2012 to 31 December 2017

Agreement	Description	Frequency	WTO document (most recent if submitted regularly)
Agreement on Trade-Related Aspects of Intellectual Property Rights			
Article 63.2	Laws and regulations or amendments thereto	Ad hoc	IP/N/1/COL/8, 01/04/2015 IP/N/1/COL/P/5, 01/12/2014 IP/N/1/COL/7, 31/10/2014 IP/N/1/COL/6, 11/04/2014 IP/N/1/COL/C/8, 11/04/2014 IP/N/1/COL/E/4, 11/04/2014 IP/N/1/COL/C/7, 16/01/2014 IP/N/1/COL/C/6, 19/10/2014 IP/N/1/COL/I/4, 18/09/2012 IP/N/1/COL/T/2, 18/09/2012 IP/N/1/COL/U/1, 18/09/2012 IP/N/1/COL/U/2, 18/09/2012 IP/N/1/COL/5, 14/09/2012 IP/N/1/COL/4, 14/09/2012 IP/N/1/COL/T/1, 05/04/2012 IP/N/1/COL/3, 30/01/2012 IP/N/1/COL/C/5, 30/01/2012
Agreement on Trade Facilitation (WT/L/911 replaced by WT/L/931)			
Article 15	Commitments designated under Category A	Once only	WT/PCTF/N/COL/1, 13/06/2014
Agreement on Agriculture			
Articles 10 and 18.2 ES:1 and ES:2	Export subsidies	On an annual basis	G/AG/N/COL/55, 21/11/2017
Article 18.2 DS:1	Domestic support	On an annual basis	G/AG/N/COL/54, 09/11/2017
Article 18.2 MA:2	Tariff and other quota commitments	On an annual basis	G/AG/N/COL/50, 04/05/2016
Articles 5.7 and 18.2 MA:5	Special safeguard provisions	On an annual basis	G/AG/N/COL/53, 07/11/2017
General Agreement on Trade in Services			
Article III:3	New, or any changes to, existing laws, regulations or administrative guidelines	Ad hoc	S/C/N/700, 25/06/2013 S/C/N/699, 25/06/2013
Article V:7(a)	Economic integration agreement	Ad hoc	S/C/N/876, 03/03/2017 S/C/N/871, 03/11/2016 S/C/N/870, 01/11/2016 S/C/N/868, 07/10/2016 S/C/N/681/Rev.1, 21/03/2013 S/C/N/646, 03/09/2012 S/C/N/643, 10/05/2012
Agreement on Implementation of Article VI of the GATT 1994 (anti-dumping)			
Article 16.4	Anti-dumping actions (taken during the preceding six months)	Semi-annual	G/ADP/N/300/COL, 13/09/2017
Article 18.5	Laws/regulations and changes thereto, including changes in the administration of such laws	Ad hoc	G/ADP/N/1/COL/4, 12/10/2015
Agreement on Implementation of Article VII of the GATT 1994 (customs valuation)			
Article 22.2	Changes in laws/regulations and administrative arrangements	Ad hoc	G/VAL/N/1/COL/3, 19/11/2014 G/VAL/N/1/COL/2, 07/10/2014
Decision A.4	Determination of customs value of carrier media bearing software for data processing equipment	Once only	G/VAL/N/3/COL/1, 07/10/2014
	Check-list of issues	Once only	G/VAL/N/2/COL/2, 07/10/2014
GATT 1994			
Article XVII:4(a)	State trading activities	On an annual basis	G/STR/N/16/COL, 01/06/2017
Article XXIV:7(a)	Formation of a free trade area	Ad hoc	WT/REG380/N/1, 03/03/2017 WT/REG377/N/1, 03/11/2016 WT/REG376/N/1, 01/11/2016 WT/REG375/N/1, 07/10/2016 WT/REG333/N/1/Rev.1, 21/03/2013 WT/REG316/N/1, 03/09/2012 WT/REG314/N/1, 10/05/2012
Article XXVIII:5	Modification of schedules (reservation of the right to modify schedules for a three-year period)	On a triennial basis	G/MA/293, 26/08/2014
Agreement on Import Licensing Procedures			
Article 5.1, 5.2 and 5.3	Import licensing procedures or changes thereto	Ad hoc	G/LIC/N/2/COL/2, 15/03/2013
Article 7.3	Replies to the questionnaire on import licensing procedures	On an annual basis	G/LIC/N/3/COL/11, 21/03/2016
Article 8.2(b)	Changes in laws/regulations and administrative arrangements	Ad hoc	G/LIC/N/1/COL/3, 04/10/2013

Agreement	Description	Frequency	WTO document (most recent if submitted regularly)
Agreement on the Application of Sanitary and Phytosanitary Measures			
Article 7, Annex B	Sanitary/phytosanitary regulations	Ad hoc	G/SPS/N/COL/124/Add.5, 06/03/2012 to G/SPS/N/COL/275, 20/11/2017
Agreement on Rules of Origin			
Article 5 and Annex II, paragraph 4	Changes in preferential rules of origin; new preferential rules of origin	Ad hoc	G/RO/N/152, 21/07/2017 G/RO/N/94, 09/04/2013
Article 5 and Annex II, paragraph 4 (first time)	Existing preferential rules of origin; judicial decisions and administrative rulings of general application relating to preferential rules of origin	Once, promptly after entry into force of the WTO Agreement	G/RO/N/157, 21/07/2017 G/RO/N/154, 21/07/2017 G/RO/N/153, 21/07/2017
Agreement on Technical Barriers to Trade			
Article 2.10	Technical regulations (urgent)	Ad hoc	G/TBT/N/COL/224, 01/06/2017
Article 2.9	Technical regulations	Ad hoc	G/TBT/N/COL/167, 13/01/2012 a G/TBT/N/COL/228, 13/09/2017
Articles 2.9 and 5.6	Technical regulations	Ad hoc	G/TBT/N/COL/190, 15/03/2013 a G/TBT/N/COL/227, 28/08/2017
Article 5.6	Conformity assessment procedures	Ad hoc	G/TBT/N/COL/220, 09/06/2016 G/TBT/N/COL/210, 15/12/2016 G/TBT/N/COL/209, 09/12/2014 G/TBT/N/COL/197, 02/08/2013 G/TBT/N/COL/196, 19/07/2013 G/TBT/N/COL/194, 07/06/2013 G/TBT/N/COL/193, 22/05/2013 G/TBT/N/COL/192, 12/04/2013
Articles to be determined	Technical regulations	Ad hoc	G/TBT/N/COL/229, 29/11/2017 G/TBT/N/COL/223, 21/04/2017 G/TBT/N/COL/201, 07/02/2014 G/TBT/N/COL/182, 04/09/2012
Agreement on Safeguards			
	Conclusion of an investigation without the adoption of safeguard measures	Ad hoc	G/SG/N/9/COL/5, 29/04/2014 G/SG/N/9/COL/4, 29/04/2014
Article 12.1(a)	Safeguard measures (upon initiating an investigation)	Ad hoc	G/SG/N/6/COL/7, 04/09/2013 G/SG/N/6/COL/6, 04/09/2013 G/SG/N/6/COL/5, 04/09/2013 G/SG/N/6/COL/4, 29/07/2013
Article 12.1(b)	Safeguard measures (upon making a finding of serious injury or threat thereof)	Ad hoc	G/SG/N/8/COL/1, 28/03/2014
Article 12.1(c)	Safeguard measures (upon taking a decision to apply or extend a safeguard measure)	Ad hoc	G/SG/N/10/COL/1, 25/04/2014
Article 12.4	Safeguard measures (provisional)	Ad hoc	G/SG/N/7/COL/2, 16/09/2013 G/SG/N/7/COL/1, 16/09/2013
Article 7.2	Safeguard measures (upon the initiation of an investigation to consider the extension of safeguard measures)	Ad hoc	G/SG/N/14/COL/1, 13/01/2015
Article 9.1, footnote 2	Non-application of safeguard measures against a product originating in a developing country Member	Ad hoc	G/SG/N/11/COL/2, 16/09/2013 G/SG/N/11/COL/1, 16/09/2013
Agreement on Subsidies and Countervailing Measures			
Article 25.11	Countervailing duty actions (taken in the preceding six months)	Semi-annual	G/SCM/N/321, 15/06/2017
Article 25.12	Authorities competent to initiate and conduct investigations, and domestic procedures governing the initiation and conduct of such investigations.	Ad hoc	G/SCM/N/18/Add.41, 22/04/2016

Source: WTO Secretariat.

Table A2. 2 International investment agreements and agreements to avoid double taxation

International investment agreements				Agreements to avoid double taxation ^a	
Investment promotion and protection agreements (APPRI)		Regional trade agreements with investment clauses			
Brazil	Signed (2015)	Canada	In force (2011)	Germany	Under negotiation
China	In force (2012)	Chile	In force (2009)	Belgium	Under negotiation
France	Signed (2014)	United States	In force (2012)	Republic of Korea	In force (2013)
India	In force (2012)	Israel	Signed (2013)	United Arab Emirates	Signed (2017)
Kuwait	Under negotiation	Mexico	In force (1995)	Spain	In force (2006)
Peru	In force (2010)	Panama	Signed (2013)	United States	Under negotiation
Qatar	Under negotiation	EU	In force (2013)	France	Signed (2015)
Spain	In force (2007)	Costa Rica	In force (2016)	Chile	In force (2009)
Singapore	Signed (2013)	Pacific Alliance	In force (2014)	Japan	Under negotiation
Switzerland	In force (2009)	Andean Community	In force (1988)	Mexico	In force (2012)
Turkey	Signed (2014)	Northern Triangle	In force (2009 Guatemala; 2010 El Salvador and Honduras)	Netherlands	Under negotiation
				Panama	Under negotiation
				Portugal	In force (2013)
				United Kingdom	Under negotiation
				Czech Republic	In force (2015)
				Switzerland	In force (2009)
				Andean Community	In force (2004)
United Arab Emirates	Signed (2017)	Republic of Korea	In force (2016)	Canada	In force (2012)
United Kingdom	In force (2014)	EFTA	In force (2011 Switzerland and Liechtenstein; 2014 Iceland and Norway)	India	In force (2014)

a Colombia also has agreements to avoid double taxation in air and maritime transport activities with Argentina, Brazil, Chile, France, Germany, Italy, Panama, the United States, and the Bolivarian Republic of Venezuela.

Source: Information provided by the authorities and PROCOLOMBIA (2016), *Guía Legal para hacer negocios en Colombia 2017*, viewed at: http://www.inviertaencolombia.com.co/Guia_legal_Espa%C3%B1ol_2017.pdf.

Table A4. 1 Tariff lines subject to preferential quotas, 2017

Trade agreement	Number of tariff lines ^a	% of tariff lines	HS chapter	Description	Number of lines per chapter	In-quota tariff range (%)	Out-of-quota tariff range (%)
Canada	38	0.5	02	Meat	29	0	9.2 - 49.8
			05	Products of animal origin, not elsewhere specified or included	3	0	21
			07	Edible vegetables and certain roots and tubers	6	0	18
Costa Rica	2	0.0	22	Beverages, spirits and vinegar	1	0	10
			23	Residues from the food industries	1	0	15
European Union	85	1.1	02	Meat	2	43.6	80
			04	Milk and cream	22	0 - 16.7	13.8 - 67.4
			05	Products of animal origin, not elsewhere specified or included	3	38.2	70
			07	Edible vegetables and certain roots and tubers	3	0	10 - 15
			17	Sugars and sugar confectionery	6	0	15
			18	Cocoa and cocoa preparations	2	7.5	15
			19	Preparations of cereals, flour, starch or milk	5	0 - 3.3	13.8 - 15
			20	Preparations of vegetables, fruit or nuts	21	0	10 - 15
			21	Miscellaneous edible preparations	20	0 - 7.5	10 - 15
33	Essential oils and resinoids; perfumery, cosmetic or toilet preparations	1	0	5			
EFTA	6	0.1	02	Meat	6	0	11.8
Korea	6	0.1	04	Milk and cream	6	0	98
Mexico	27	0.4	02	Meat	2	0	80
			04	Milk and cream	11	0	14.7 - 24.2
			11	Products of the milling industry	2	0	0
			15	Animal or vegetable fats and oils	10	0	4 - 14.4
			19	Preparations of cereals, flour, starch or milk	1	0	0
			22	Beverages, spirits and vinegar	1	0	0
United States	58	0.8	02	Meat	12	0	20+SAFP - 22.2
			04	Milk and cream	19	0	12 - 19.8 / 19.8+SAFP
			05	Products of animal origin, not elsewhere specified or included	3	0	19.4
			07	Edible vegetables and certain roots and tubers	9	0	17.9
			10	Cereals	8	0	10 - 80
			15	Animal or vegetable fats and oils	1	0	9.6+SAFP
			16	Preparations of meat, of fish or of crustaceans	1	0	20+SAFP
			17	Sugars and sugar confectionery	2	0	11.2+SAFP
			19	Preparations of cereals, flour, starch or milk	3	0	12
			21	Miscellaneous edible preparations	2	0	9.1
23	Residues from the food industries	4	0	7+SAFP - 12.5+SAFP			

a Includes complete tariff lines and parts of tariff lines.

Source: WTO Secretariat estimates based on data provided by the authorities.