COLOMBIA

TRADE SUMMARY

The U.S. goods trade deficit with Colombia was $3.4 billion in 2005, an increase of $680 million from $2.8 billion in 2004. U.S. goods exports in 2005 were $5.4 billion, up 20.2 percent from the previous year. Corresponding U.S. imports from Colombia were $8.8 billion, up 21.9 percent. Colombia is currently the 28th largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in Colombia in 2004 was $3.0 billion, the same as in 2003. U.S. FDI in Colombia is concentrated largely in the manufacturing, mining, and wholesale sectors.

FREE TRADE NEGOTIATIONS

In May 2004, the United States initiated free trade negotiations with Colombia, Ecuador, and Peru. To date, the United States has concluded free trade agreements with Peru and Colombia. Negotiations with Ecuador will resume in late March 2006. Bolivia has participated as an observer and could become part of the agreement at a later stage. The United States has significant economic ties to the region. Total two-way goods trade with the Andean countries of Peru, Colombia, and Ecuador was approximately $24 billion in 2004. The stock of U.S. foreign direct investment in these countries in 2004 was $7.7 billion.

IMPORT POLICIES

Tariffs

Colombia has opened its economy considerably since the early 1990s. Customs duties were cut and many non-tariff barriers eliminated. Most duties have been consolidated into three tariff levels: 0 percent to 5 percent on capital goods, industrial goods, and raw materials not produced in Colombia; 10 percent on manufactured goods with some exceptions; and 15 percent to 20 percent on consumer and "sensitive" goods.

Some important exceptions include automobiles, which are subject to a 35 percent tariff, and agricultural products, which fall under a variable "price-band" import duty system. The price band system includes 14 product groups and covers 154 tariff lines, which at times results in duties approaching or exceeding 100 percent for important U.S. exports to Colombia, including corn, wheat, rice, soybeans, pork, poultry, cheeses and powdered milk, and negatively affects U.S. access for products such as dry pet food, some of which is made from corn. When international prices surpass the price-band ceiling, tariffs are reduced; when prices drop below the price-band floor, tariffs are raised.

The price-band system has affected local competitiveness and has dampened consumption by raising prices and is a barrier to U.S. exports. Processed food imports from Chile and members of the Andean Community (Peru, Ecuador, Bolivia, and Venezuela) enter duty free.

In the free trade agreement concluded between the United States and Colombia, the United States obtained market access for U.S. consumer and industrial products and new opportunities for U.S. farmers and ranchers. Over eighty percent of U.S. exports of consumer and industrial products to Colombia will become duty-free immediately, with remaining tariffs phased out over 10 years. U.S. farm exports to Colombia that will receive immediate duty-free treatment include high quality beef, cotton, wheat, soybeans, soybean meal; key fruits and vegetables including apples, pears, peaches, and cherries; and many processed food products including frozen french fries and cookies. U.S. farm products that will benefit from improved market access include pork, beef, corn, poultry, rice, fruits and vegetables, processed products, and dairy products.

Non-Tariff Measures

Non-tariff barriers in Colombia include discretionary import licensing, which is used to ban imports of milk powder and poultry parts. Colombia removed the "absorption" requirements for all remaining agricultural products at the end of 2003, when the WTO waiver allowing them to link imports to local purchases expired. The Colombian government replaced this system with tariff-rate quotas for rice, yellow corn, white corn and cotton, and a requirement to purchase local production in order to import under the tariff-rate quota. The United States Government addressed a significant number of Colombia's barriers to trade in U.S. agricultural products during the free trade negotiations.

Colombia treats remanufactured goods as used goods, thereby limiting the market access for major U.S. makers of high-quality remanufactured goods. Colombia assesses a value-added tax (VAT) of 35 percent on whiskey aged for less than twelve years, which is more characteristic of U.S. whiskey, compared to a rate of 20 percent for whiskey aged for twelve or more years, most of which comes from Europe. Colombia also assesses a consumption tax on beverage alcohol by a system of specific rates per degree (percentage point) of alcohol strength. This tax regime discriminates against imported distilled spirits through arbitrary breakpoints that have the effect of applying a lower tax rate per degree of alcohol to domestically produced spirits. For example, locally produced spirits are dominated by *aguardiente* bottled at 35 percent alcohol-by-volume (a.b.v.) or less. By law, most categories of distilled spirits that tend to be imported and all whiskies in Colombia must have a minimum alcohol content of 40 percent a.b.v., while local producers of *aguardiente* have a significantly lower tax burden because (a) their products contain less alcohol by volume, and (b) each unit of that alcohol is taxed at a lower rate.

Several Colombian states are engaged in practices that have restricted the ability of U.S. distilled spirits companies to conduct business in Colombia. For example, some states mandate the minimum quantity of a specific distilled spirit brand that a company must sell during the year. If a company does not meet the minimum sales requirement, the company is fined or its sales contract is revoked in that particular state. Some states also mandate the minimum price at which imported spirits may be sold. In certain cases, the minimum price is set above the price at which imported products can be sold competitively in the market. Other measures that are applied only to importers of distilled spirits include: assessment of a 7.5 percent tax on all contracts based on the minimum volume to be sold in the state; a requirement to share a percentage of profits with the state; and payment of a federal excise tax upon entry into Colombia instead of after the first sale as domestic producers are allowed to do.

According to the Ministry of Industry, Trade and Tourism, under Decision 337 of 1993, imports of used clothing are not permitted in Colombia. Certain importers of used goods may apply for licenses to bring products into Colombia under limited circumstances. These licenses are granted at the discretion of the Ministry of Industry, Trade and Tourism. Industry reports that in practice approval is not granted, resulting in the effective prohibition of these imports. U.S. officials continue to monitor the situation in the context of the World Trade Organization's (WTO) Import Licensing Committee.

In December 2005, Colombia enacted a decree that establishes various new restrictions on importers of textiles and apparel, and footwear. These new restrictions include: 1) requiring the importer to present a list of suppliers, buyers, and clients to Columbian Customs; 2) advising Colombian Customs of any change to this list within 15 days of signing a contract; 3) restricting an importer to import goods in no more than 10 tariff subheadings; and 4) restricting imports to 200 percent in value of the importer's net worth, among numerous other restrictions on importation.

The United States addressed these and other non-tariff barriers during the free trade negotiations with Colombia. As a result of the negotiations, for example, Colombia agreed to allow trade in remanufactured goods and join the WTO Information Technology Agreement.

STANDARDS, TESTING, LABELING AND CERTIFICATION

Regarding pet food, Colombia requires companies not only to list the ingredients but the percentage of those ingredients on their products, which U.S. companies declare as proprietary information. In some cases, sanitary and phytosanitary (SPS) measures have been implemented to restrict U.S. exports. For example, Colombia has maintained restraints on U.S. exports of cattle and beef that do not appear to be consistent with the Office of International Epizootics (OIE) recommendations. Since December 2003, U.S. beef has been banned in Colombia on the basis of Bovine Spongiform Encephalopathy (BSE).

However, this ban continues to be enforced without adequate scientific justification. U.S. companies retailing nutritional supplements in Colombia continue to experience problems due to the lack of legislation that establishes clear parameters for sanitary registration. Colombia does not have a specific classification for nutritional supplements.

Through the free trade negotiations, the United States and Colombia have worked to resolve sanitary and phytosanitary barriers to agricultural trade, including on food safety inspection procedures for beef, pork, and poultry.

For textile products, Colombia requires that in addition to the name of the producer, the name of the importer also be included on the label. Industry reports that such information is difficult if not impossible to know during the manufacturing process when permanent labels are attached. Re-labeling of products upon entry to meet these requirements results in additional costs and delays.

GOVERNMENT PROCUREMENT

Government procurement is the main public spending instrument used by the Government of Colombia (GOC) and represents approximately 16 percent of the GDP according to the GOC. The Government Procurement and Contracting Law, Law 80/93 established procedures for the selection of suppliers, mainly through public tenders. In order to qualify as a potential supplier to the Government of Colombia, foreign firms must register with the local chamber of commerce and appoint a local representative. Registration must be renewed annually and includes certification of experience, finances, technical expertise, and organization. The certifications are used to qualify and classify suppliers based on "bona fide" criteria. The registration requirements make the process particularly costly for foreign firms, which need to demonstrate a commercial presence in Colombia to participate in government procurement.

A drawback of Law 80 is the absence of fully explained exemption regimes resulting in investor uncertainty. The private sector has complained of lack of transparency, inefficiency and lack of credibility in government procurement processes. This has led the Colombian Congress to study possible reforms to Law 80, which would introduce measures to ensure transparency and efficiency, and would eliminate some of the exception regimes. The possible changes to Law 80 currently being studied by Congress include:

- Making records of government procurement contacts publicly available;
- Providing for public announcements of contract authorizations;
- Implementation of an electronic system for integral government procurement;
- Removal of subjective factors from the selection process;
- Providing for publication of all reference terms;
- Government procurement agreements financed with funds from cooperation or multilateral institutions shall be subject to the rulings of such entities; and
- Direct hiring (to which government procurement rules do not apply) shall be performed only for agreements involving national defense, the provision of

health services by government entities and those low-value agreements involving low budget quantities.

Congress has postponed reforming Law 80 on at least four occasions in the last two years for two reasons: a lack of political will; and the demands of reforms in other areas, for example pensions, reelection, peace and justice law. Congress began studying possible reforms to Law 80 again in early September 2005.

The private sector has complained of lack of transparency with respect to the awarding of major government contracts. In response to these complaints, the Colombian government has taken positive steps to fight corruption by working with non-governmental organizations to launch probity programs aimed at promoting entrepreneurial and public ethics. In May 2005, the office of the Vice President issued the *Manual for Good Practices in Government Procurement*, aimed at strengthening government procurement practices and eliminating corruption in the awarding of contracts.

In July 2003, the Colombian government promulgated Law 816 to protect national industries in government procurement. Law 816 mandates that all public entities adopt criteria that support national industries and accords preferential treatment to bids that incorporate Colombian goods or services. Under Law 816, national companies are given a 10 to 20 percent "bonus" in their evaluation score, and companies using Colombian goods or services are given a 5 percent to 15 percent "bonus." Bids without any local content component are scored between 5 percent and 20 percent lower than bids with such a component. Additionally, Law 816 requires that foreign suppliers without local headquarters in Colombia obtain certification from a Colombian mission in the suppliers' home country, and that government procurement laws in the suppliers' home country meet reciprocity requirements. To date, this new system, and specifically the lack of an established certification process, has proven to be a barrier against the participation of U.S. suppliers in government procurement contracts.

Colombia is not a signatory of the WTO Agreement on Government Procurement, but is an observer to that agreement. According to industry analysts, the elimination of barriers in the government procurement sector could yield an increase of U.S. exports in the range of $100 million to $500 million.

Under the free trade agreement concluded between the United States and Colombia, Colombia agreed to grant U.S. suppliers non-discriminatory rights to bid on contracts from a broad range of Colombian government ministries, agencies, public enterprises, and regional governments. The United States and Colombia agreed to terms that require the use of fair and transparent procurement procedures, such as advance notice of purchases and timely and effective bid review procedures.

EXPORT SUBSIDIES

Colombia has been working to eliminate export subsidies since its GATT accession. This process has continued under the WTO Agreement on Subsidies and Countervailing Measures.

Free zones are geographic areas where industrialization processes are promoted through special customs, tax, and foreign exchange regimes. Users of free zones are exempt from income tax, import tariffs and value-added tax on imports, and have access to special credit lines offered by Colombia's foreign trade bank (Bancoldex). In compliance with its obligations under the WTO, the Colombian government announced it would phase out all export subsidies in free trade zones by December 31, 2006. However, free trade zones and special import-export zones will maintain their special customs and foreign exchange regimes. In September 2005, the Colombian government presented a bill to Congress that, if approved, would impose a 25 percent income tax on free zones (lower than the normal 35 percent tax) after December 31, 2006, and would maintain the exemption on the 7 percent remittance tax for free zones in the country.

An export subsidy, known as the "Plan Vallejo," allows for duty exemptions on the import of capital goods and raw materials used to manufacture goods that are subsequently exported. In order to qualify for this tax exemption, in the case of capital goods, the producer must show that at least 70 percent of the volume of product produced by the newly imported capital good will be exported. In the case of raw or partially finished materials, the producer must export a value equal to 1.5 times that of the value of the imported materials as valued upon their entry by Colombian government customs. In July 2004, the Colombian government proposed to eliminate the "Plan Vallejo" by December 31, 2006 in the hopes that a free trade agreement between Colombia and the United States would be in place and provide for duty free importation of many capital goods. Currently, 76 percent of Colombia's exports benefit from the "Plan Vallejo" program.

Colombia also operates producer financed export subsidies under "price stabilization" funds for sugar, palm oil, beef, and dairy. The exports under the sugar and palm oil funds are in excess of Colombia's WTO export subsidy commitments of 223,608 tons for sugar and zero for palm oil. In December 2004, the government granted export subsidies for exporters of bananas and flowers to hedge their exchange rate risk, with an estimated fiscal cost of less than 0.1 percent of GDP (approximately $65.6 million).

The eligibility period for this subsidy expired on February 28, 2005. After this date, the government affirmed that it would not grant any further export subsidies, but may seek other options to assist the agricultural sector within its budget constraints. However, in September 2005, the Minister of Agriculture announced that the government was seeking resources for further export subsidies in 2006. As part of this initiative, the Ministry of Agriculture created the Rural Capitalization Incentives, consisting of direct subsidies to agricultural producers who make new investments directed at modernizing their production for international markets.

The amount of the subsidy is 20 percent of the value of the new investment for large producers and 40 percent for small producers, up to a maximum of 150 monthly minimum salaries or approximately $20,000.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Colombia has been on the Special 301 "Watch List" every year since 1991. Key concerns include lax customs enforcement and the inability to conclude legal cases against individuals arrested for trafficking or producing counterfeit goods. Colombia, as a member of the WTO, has ratified legislation to implement its obligations under the Uruguay Round Agreement on Trade-Related Aspects of Intellectual Property Rights. Colombia is a member of the World Intellectual Property Organization (WIPO), the Paris Convention for the Protection of Industrial Property, the Berne Convention for the Protection of Literary and Artistic Works, the WIPO Copyright Treaty, the WIPO Performances and Phonograms Treaty, the Treaty on the International Registration of Audiovisual Works, the 1978 Act of the International Union for the Protection of New Varieties of Plants, and the Patent Cooperation Treaty.

In Colombia, the grant, registration, and administration of intellectual property rights (industrial property and copyright) are carried out by four different government entities. The Superintendence of Industry and Commerce (SIC) acts as the Colombian patent and trademark office. This agency was given control of the government's IPR policy effective January 2000. The agency suffers from inadequate financing and personnel, a high turnover rate, and a large backlog of trademark and patent applications, which has led to a large number of appeals.

The patent office at the Superintendence believes that the number of new patent and trademark applications (currently 1,600 patent and 15,000 trademark requests per year) will double in the next two or three years, without considering the obvious increase in applications that the signing of a free trade agreement with the United States will produce. This will necessarily increase the already large backlog of applications. Although the SIC is making efforts to provide electronic registration services for patents, industrial designs and trademarks, it still has important deficiencies especially in personnel, with only 16 patent examiners for the whole country.

The Colombian Agricultural Institute (ICA) is in charge of the issuance of plant variety protection and agro-chemical patents. The Ministry of Social Protection is in charge of the issuance of pharmaceutical patents, while the Ministry of Justice is in charge of the issuance of literary copyrights.

Each of these entities suffers from significant financial and technical resource constraints. Moreover, the lack of uniformity and consistency in IPR registration and oversight procedures limits the transparency and predictability of the IPR enforcement regime.

The free trade agreement concluded between the United States and Colombia provides for improved standards for the protection and enforcement of a broad range of intellectual property rights, which are consistent with both U.S. standards of protection and enforcement and with emerging international standards. Such improvements include state-of-the-art protections for digital products such as U.S. software, music, text, and videos; stronger protection for U.S. patents, trademarks and test data, including an electronic system for the registration and maintenance of trademarks; and further deterrence of piracy and counterfeiting by criminalizing end-use piracy.

Copyrights

Andean Community Decision 351 on the protection of copyrights has been in effect in Colombia since January 1, 1994. Colombia also has a modern copyright law: Law 44 of 1993. The law extends protection for computer software to 50 years, but does not classify it as a literary work. Law 44 and Colombia's civil code includes some provisions for IPR enforcement and have been used to combat infringement and protect copy rights.

Patents and Trademarks

The patent regime in Colombia currently provides for 20-year protection for patents and a 10-year term for industrial designs. Provisions covering protection of trade secrets and new plant varieties have improved Colombia's compliance with its TRIPS obligations. However, U.S. companies are concerned that the Colombian government does not provide patent protection for new uses of previously known or patented products.

In 2002, the Colombian government issued Decree 2085, which improved the protection of confidential data. Until 2002, the Government of Colombia health authorities approved the commercialization of new drugs that were the bioequivalent of already-approved drugs, thereby denying the originator companies the exclusive use of their data. Decree 2085 prohibited this practice for a limited time, thus providing improved protection for industrial information. Under the decree, data presented for health certification of pharmaceuticals is protected for a period of three years for registrations issued in 2002, four years in 2003, and five years in 2004 and beyond. Colombia remains the only Andean country with such protection. In March 2003, the Agricultural Ministry promulgated Decree 502 that provides similar protection for agricultural chemicals. However, the subsequent passage of Law 822 on July 10, 2003, established additional norms in relation to the registration, control and sale of generic agrochemicals, which along with the related Resolution 770 of March 27, 2003, appears to significantly weaken the data protections established by Decree 502.

Counterfeit pharmaceutical products continue to be a major problem in Colombia. Recent surveys, such as the CRECER project, reveal that in rural areas there are more counterfeit pharmaceutical products than original products. The CRECER project found that 10 percent of these counterfeit products are identical to the original product, while 60 percent do not contain any active ingredient and 30 percent contain the wrong active ingredient or the wrong dosage.

In 2004, the National Institute for the Vigilance of Medications (INVIMA) seized 700 tons of counterfeited food, liquors, and pharmaceuticals with a value of approximately $2.6 million.

Colombia is a member of the Inter-American Convention for Trademark and Commercial Protection. Enforcement of trademark rights legislation in Colombia is showing some progress, but contraband and counterfeiting are widespread.

Enforcement

Colombia's Criminal Code of 2001 included copyright infringement as a crime and significantly increased jail terms from three to five years. The code also contains provisions concerning technological protection measures and rights management information, both key obligations of the WCT and WPPT treaties. Colombia has also created a Special Investigative Unit within the Prosecutor General's Office dedicated to intellectual property rights issues. This unit began operations in November 1999 and is currently working on approximately 60 cases on different issues including trademark usurpation, counterfeit pharmaceuticals, pirated books, CD's, and movies, violations to industrial secrecy, and cases against broadcasters of pirated television programming.

The International Intellectual Property Alliance estimates that in 2005 piracy levels in Colombia for recorded music reached 71 percent, with damage to U.S. industry estimated at about $48 million. Motion picture piracy represented 75 percent of the market, with an estimated loss of $40 million. Piracy in both business software and book publishing continued to grow in 2004. According to the Business Software Alliance (BSA), piracy in business software amounted to $44.8 million in 2005, with a 55 percent piracy level. Although the Colombian police have conducted raids, the judicial process is slow and cumbersome, and fails to incarcerate copyright infringers.

The Motion Picture Association of America (MPAA), in conjunction with local attorneys, took 17 criminal actions against alleged television pirates in 2000, 16 such cases in 2001, and 8 in 2002. However, MPAA's anti-piracy strategy relied on enforcement by the Colombian National Television Commission (CNTV), which largely failed in its efforts. Given the CNTV's poor results in suppressing piracy, MPAA has ceased initiating action against television broadcast or home video piracy.

Colombia's Television Broadcast Law increased legal protection for all copyrighted programming by regulating satellite dishes, and enforcement has begun through a licensing process. However, an MPAA estimate suggests that 75 percent of the motion picture market in Colombia is pirated, while annual losses due to audiovisual piracy remained at $40 million in 2004. In 2004, CNTV launched an aggressive anti-piracy campaign and signed its first cooperation agreement with FOX Sports to combat piracy in the television market. In view of such efforts, the International Intellectual Property Alliance (IIPA) has acknowledged progress in combating television piracy in the last year in Colombia, although administrative enforcement against signal theft piracy still needs improvement.

SERVICES BARRIERS

Liberalization has progressed furthest in telecommunications, auditing, and energy. It has occurred to a lesser extent in accounting, tourism, legal services, insurance, distribution services, advertising, and data processing. The provision of legal services is limited to law firms licensed under Colombian law. Foreign law firms can operate in Colombia only by forming a joint venture with a Colombian law firm and operating under the licenses of the Colombian lawyers in the firm.

Economic needs tests are required for foreign providers of professional services to operate temporarily in Colombia. Moreover, residency requirements restrict trans-border trade of certain professional services, such as accounting, bookkeeping, auditing, architecture, engineering, urban planning, and medical and dental services. For firms with more than ten employees, no more than 10 percent of the general workforce and 20 percent of specialists may be foreign nationals. A commercial presence is required to provide information processing services. Foreign educational institutions must have resident status in Colombia in order to receive operational authority from the Ministry of Education.

Trans-border transportation services are restricted in Colombia. Land cargo transportation must be provided by natural or legal persons with commercial presence in the country and licensed by the Ministry of Transportation. Colombia's law permits international companies to provide cabotage services (i.e., transport between two points within Colombian territory) "only when there is no national capacity to provide the service." Cargo reserve requirements in transport have been eliminated. However, the Ministry of Foreign Trade reserves the right to impose restrictions on foreign vessels of those nations that impose reserve requirements on Colombian vessels.

Colombia permits 100 percent foreign ownership of insurance firm subsidiaries. It does not, however, allow foreign insurance companies to establish local branch offices. Insurance companies must maintain a commercial presence in order to sell policies other than those for international travel or reinsurance. Colombia denies market access to foreign maritime insurers.

International banking institutions are required to maintain a commercial presence in Colombia through subsidiary offices and therefore, must comply with the same capital and other requirements as local financial institutions. Colombian legislation has limits on the operation of banks and other financial institutions by separating fiduciary, investment banking, commercial loans, leasing and insurance services, from banking services. Current legislation (Law 389 of 1997) permits banking institutions to develop such activities in the same office/building, but the management of such services must be separate. Colombian legislation permits 100 percent foreign ownership in financial services, although the use of foreign personnel in the financial services sector remains limited to administrators, legal representatives and technicians. In April 2000, the Central Bank completely removed previous reserve requirements on foreign borrowing operations.

Further constraints on foreign financial institutions are found in Decree 2951, dated September 13, 2004. This decree requires foreign institutions to establish a commercial presence if their promotions target Colombian residents. A banking relationship with a Colombian resident and a financial entity abroad is permitted if the relationship was initiated by the Colombian resident without any publicity or promotion in Colombian territory. Industry experts estimate that the elimination of trade barriers in the financial services sector could create opportunities for U.S. firms to achieve $100 million to $500 million in sales.

Significant barriers to entry in telecommunications services include high license fees ($150 million for a long distance license), commercial presence requirements, and economic needs tests. The Telecommunications Regulatory Commission (CRT) may require an economic needs test for the approval of licenses in voice, facsimile, e-mail and other value-added services. However, the parameters that determine an "economic needs test" are not clearly established. In addition, lack of transparency in the interconnection and trunk access policies, and guidelines applied by the regulatory authority further limit competition for the provision of local, long distance, and mobile services.

In the WTO negotiations on basic telecommunications services, Colombia made fairly liberal commitments on most basic telecommunications services and adopted the WTO reference paper. However, Colombia specifically prohibited "callback" services and excluded fixed and mobile satellite systems. Colombia also limited licenses or concessions for the supply of telecommunications services to enterprises legally established in Colombia. Most other restrictions on foreign participation in telecommunications services have been lifted and Colombia currently permits 100 percent foreign ownership of telecommunications providers.

In 2003, Colombia opened its mobile telecommunications market to Personal Communications Services (PCS) competition. The government issued a PCS license to new competitor Colombia Movil, effectively ending Colombia's mobile telecommunications duopoly and opening the door for competition (Telefonica and Comcel share approximately 80 percent of the mobile market). Colombia Movil received a 10-year concession to develop the market and compete against the current cellular providers. Two municipality-owned telephone companies, ETB (Empresa de Telecomunicaciones de Bogota) and EPM (Empresas Publicas de Medellín), own Colombia Móvil.

The free trade agreement concluded between the U.S. and Colombia provides for an open and competitive telecommunications market in Colombia. Users of Colombian telecom networks are guaranteed reasonable and nondiscriminatory access to the network. This prevents local firms from having preferential or "first right" of access to telecom networks. U.S. phone companies obtained the right to interconnect with Colombian dominant suppliers' fixed networks at nondiscriminatory and cost-based rates.

As part of the de-monopolization of Colombia's government-owned television network, Colombia passed the Television Broadcast Law, Law 182/95, effective January 1995, which increased protection for all copyrighted programming by regulating satellite dishes and permitting private television broadcasters to compete with the government-owned broadcaster. The law increased restrictions on foreign content in broadcasting and imposed a burdensome system of sub-quotas for different hours of the day. The law requires broadcasters to transmit 70 percent nationally produced programming during prime time (7:00 p.m. to 10:30 p.m.), and 50 percent nationally produced programming from 10:00 a.m. to 7:00 p.m. and between 10:30 p.m. and midnight. Regional and local stations must also transmit 50 percent of nationally produced programming.

According to Law 680, national production is defined as production that is made in all stages by Colombian artists and technicians, with the participation of national actors in starring and supporting roles, while foreign actors' participation is allowed as long as it does not exceed 10 percent of the starring roles. Retransmissions of local productions are considered to fulfill only part of the national content requirement.

Television, radio broadcasting, and movie production and reproduction are subject to certain limitations. According to Law 680 and Law 80 of 1993, ownership by foreign operators is limited to 40 percent for broadcast television and 25 percent for radio broadcast. Law 29 of 1944 requires Colombian nationals to be directors and managers of newspapers concerned with domestic politics. All motion picture exhibitions are charged a tax to finance the national Cinematographic Development Fund. Seventy percent of the resources from the Cinematographic Development Fund must be used to promote national film productions.

In the free trade agreement concluded between the United States and Colombia, Colombia accorded substantial market access across their entire services regime, including financial services. Colombia agreed to eliminate measures that require U.S. firms to hire national rather than U.S. professionals and to phase-out market restrictions in cable television. Colombia also agreed that both mutual funds and pension funds in its territory will be allowed to use portfolio managers in the United States.

INVESTMENT BARRIERS

Colombian law currently requires that foreign investments be accorded national treatment. One hundred percent foreign ownership is permitted in most sectors of the Colombian economy. Exceptions include activities related to national security and the disposal of hazardous waste. Investment screening has been eliminated, and the registration requirements that still exist are generally mere formalities. In the telecommunications, financial services, oil and mining sectors, for example, prospective foreign investors must comply with certain registration procedures, but there are no restrictions on the amount of foreign capital that may be invested in these sectors. All foreign investment must be registered with the Central Bank's foreign exchange office within three months in order to ensure the right to repatriate profits and remittances.

All foreign investors, like domestic investors, must obtain a license from the Superintendent of Companies and register with the local chamber of commerce.

To promote the discovery and exploitation of new oil reserves, the government changed royalties from a flat 20 percent to a sliding scale, from 8 percent to 25 percent, depending on the size of the field. Colombia also implemented in June 2003 a new hydrocarbon policy, Law 1760, designed to attract foreign oil companies to Colombia. The new policy eliminated Ecopetrol's mandatory share in joint ventures, allowed private companies 100 percent control of exploration and production projects, and restructured Ecopetrol by creating the National Hydrocarbon Agency (ANH). Although Ecopetrol is still state-owned, it is now an operating company similar to any other commercial hydrocarbon companies. The ANH regulates the hydrocarbon sector and issues exploration and production contracts. The government is also extending existing contracts on a case-by-case basis. In early November 2005, the ANH established a requirement that companies or joint ventures interested in signing exploration/exploitation agreements with Colombia should be considered “capable.” This means that operators of such contracts must prove a minimum of five years of experience at the time of the proposal, or the joint venture partners must prove a minimum of ten years of experience at the time of the exploration/exploitation proposal.

Colombian television broadcast laws (Law 182/95 and Law 375/96) impose several restrictions on foreign investment. For example, foreign investors must be actively engaged in television operations in their home country, and their investments must involve a transfer of technology or know how. The National Planning Department issued a new Foreign Investment Regime – Decree 2080 of October 18, 2000 – that increased the cap on foreign investment in television network and programming companies from 15 percent to 40 percent.

In August 2005, the government issued Law 963, which authorizes the conclusion of legal stability agreements between foreign or local investors and the Colombian government. Under a stability agreement, the Colombian government promises not to change the tax and regulatory treatment applicable to an investor for periods of between 3 and 20 years. All foreign and local investors with new investments of at least one million dollars after the issuance of the law are eligible for stability agreements with the Colombian government. Such agreements may be signed in most sectors of the Colombian economy including manufacturing, agriculture, tourism, mining, petroleum, telecommunications, construction, transportation, energy, and others. Stability agreements are subject to a 1 percent fee on the annual value of new investments.

In late October of 2005, the Social and Economic Policy Council approved a reform to the Colombian Foreign Investment Statute (Decree 2080 of 2000) allowing foreign investors to use local financing resources (local credit) for the purchasing of securities in the Colombian stock market. This practice, which was previously prohibited, will be permitted after the Government of Colombia issues a regulatory decree on the matter.

The United States obtained strong protections for U.S. investors during the free trade negotiations with Colombia. The agreement establishes a stable legal framework for U.S. investors operating in Colombia. All forms of investment are protected under the agreement. U.S. investors will enjoy in almost all circumstances the right to establish, acquire, and operate investments in Colombia in an equal footing with local investors. Investor protections will be backed by a transparent, binding international arbitration mechanism.

ELECTRONIC COMMERCE

Banking and financial services organizations have been at the forefront of e-commerce development in Colombia. For example, Colombia's stock exchange and its member banks and brokerages were quick to shift from floor-driven trading to remote private Internet-based electronic trading networks - and were likewise quick to introduce e-banking and e-brokerage systems for their clients. This trend continues today, with a heightened focus on strengthening security and industry-wide self-regulatory capabilities, ensuring data privacy and adding to e-banking, brokerage data, and transaction systems capabilities.

The United States and Colombia agreed to provisions on e-commerce in the free trade negotiations that commit all parties to non-discriminatory treatment of digital products. The parties agreed not to impose customs duties on digital products transmitted electronically and to cooperate in numerous policy areas related to e-commerce. Additionally, the agreement requires procedures for resolving disputes about trademarks used in Internet domain names.