

COLOMBIA

TRADE SUMMARY

In 2001, the U.S. trade deficit with Colombia was \$2.1 billion, a decrease of \$1.2 billion from the U.S. trade deficit of \$3.3 billion in 2000. U.S. goods exports to Colombia were about \$3.6 billion, a decrease of \$66 million (1.8 percent) from the level of U.S. exports to Colombia in 2000. Colombia was the United States' 30th largest export market in 2001. U.S. imports from Colombia were about \$5.7 billion in 2001, a decrease of \$1.3 billion (18.3 percent) from the level of imports in 2000.

The stock of U.S. foreign direct investment (FDI) in Colombia in 2000 was an estimated \$4.4 billion, an increase of 14.8 percent over the 1999 level. U.S. FDI was concentrated principally in the manufacturing, petroleum and finance sectors.

IMPORT POLICIES

Tariffs

Colombia's trade policies have been significantly modified with the opening of the economy during the last decade. Reforms were focused on reducing customs duties and eliminating most non-tariff barriers to imports. Import duties are quoted ad-valorem on the cost, insurance and freight (CIF) value of shipments. Most duties have been consolidated into four tariff levels as follows: a) zero and 5 percent for raw materials, intermediate and capital goods not produced in Colombia; b) 10 percent and 15 percent for goods in the above categories but with domestic production registered in Colombia; c) 20 percent for finished consumer goods; and d) some exemptions to these general rules such as import duties for automotive vehicles, which remain at 35 percent, and agricultural products which fall under a variable "price-band" import duty system. The applied tariff for textiles products is 17 percent.

At the Andean President's Council held January 31, 2002, the five member countries of the Andean Community agreed to establish an Andean free trade zone, a common external tariff (CET) and a customs harmonization policy by January 2004. The CET agreement establishes a unified tariff schedule that will come into effect at the end of 2003. The CET reportedly will be zero duty on capital goods, five percent on industrial goods and raw materials, ten percent on manufactured goods with some exceptions, and twenty percent on "ultra-sensitive goods."

It is estimated that the basic weighted average of Colombian tariffs fluctuates between 11 percent and 13.5 percent. However, Andean Community variable duties, which are applied to 159 separate agricultural and food product areas, result in duties approaching or exceeding 100 percent for important U.S. exports to Colombia, including corn, wheat, rice, soybeans, pork, poultry, cheeses, powdered milk, and pet-food. The elimination or reduction of these variable duties is the most important market access issue for the U.S. agricultural sector.

Colombia has a comprehensive free trade agreement with Mexico and Venezuela, known as the G-3 Agreement, which took effect on January 1, 1995. Under this agreement most tariffs are to be reduced to zero by 2004 (special treatment, however, was given to agricultural, agro-industrial, and automotive sectors) and transparent rules and regulations are provided on trade and investment. Colombia also has a partial free trade agreement with Chile, which became effective in January 1994. This agreement gradually eliminated all bilateral tariff and non-tariff barriers. As of January 1999, 96 percent of all bilateral trade in goods had been liberalized and negotiations towards including trade in services in the agreement had begun. During 2000, a commitment was made to broaden and accelerate liberalization in two phases: a first group of products to be liberalized between 2000 and 2006, and a second (more

COLOMBIA

sensitive) group of products to be liberalized between 2007 and 2011. In April 1998, Colombia, along with the other members of the Andean Community, entered into negotiations for a free trade agreement with the countries of MERCOSUR. Colombia has also signed other integration agreements with Cuba, El Salvador, Guatemala, Honduras, Costa Rica and Panama, as well as a liberalization agreement with the Caribbean Community (CARICOM) countries (Trinidad & Tobago, Jamaica, Barbados, Guyana, Antigua and Barbuda, Belize, Dominica, Granada, Monserrat, St. Kitts, St. Lucia, St. Vincent and the Grenadines).

Over ten different duties may be applied to a given product depending on whether it comes from the Andean Community countries, from Mexico under the G-3 agreement or under the Latin American Integration Agreement (LAIA), from any other LAIA country, or from the CARICOM countries. Colombia has bound its tariffs in the WTO at 30 percent for petrochemical products, 35 percent for a broad variety of industrial products, and 40 percent for textiles and apparel, footwear and other leather items, autos, and other products. Most imports are subject to a 16 percent value-added tax assessed on the CIF value of the shipment plus import duties. Some exemptions apply, as in the case of imported vehicles, which are covered by a variable sales tax of 16 percent to 45 percent, depending on the type of vehicle, engine size, its intended use, and its price. Decree 1344 of July 22, 1999, extended a value-added tax, which varies between 1 percent and 10 percent based on average production costs, to imports of some pharmaceutical, agrochemical, and seafood products. Also, Law 633 of December 29, 2000, applied a value-added tax of five percent for certain commodities and other goods previously exempt from that tax, effective January 1, 2001. Law 633 establishes a gradual increase of the value-added tax on those products to 10 percent in 2002 and 15 percent in 2003.

Since April 1995, Colombia has applied a variable import duty system to agricultural products under the Andean price band system, which is based on domestic and international prices. Thirteen basic agricultural commodities including wheat, sorghum, corn, rice, barley, milk, and chicken parts, and an additional 146 commodities considered substitute or related products are subject to tariffs calculated under the price band system. If the applicable reference price is within the floor and ceiling price band, the import duty is calculated using the applied tariff rate and the reference price. When the reference price falls below the floor price, a variable duty or surcharge is applied, which is based on the difference between the floor and the reference prices. This surcharge is levied in addition to the applied duty. Conversely, when the reference price exceeds the ceiling price, a reduction is made to the applied duty based on the difference between the reference and ceiling prices. The Andean Community price band system lacks transparency and can be manipulated to provide arbitrary levels of import protection, often resulting in artificially high, prohibitive tariff rates.

In 1999, Colombia reduced tariff rate bindings for peas, lentils and apples from 16 percent, 15 percent, and 20 percent, respectively, to a standard 15 percent. The tariff rate for all other agricultural products was bound at 100 percent in 1995, with the commitment made to reduce it to 70 percent by 2004. This bound rate does not apply to agricultural products included in the Andean Community price band system. Colombia has made no reductions to date in duties toward the 70 percent commitment.

Colombia requires import licenses for less than two percent of all products, which include various commodities, narcotics-precursor chemicals, armaments and munitions, donations, and some imports by government entities. The

COLOMBIA

majority of used goods—cars, manufactured auto parts, tires and clothing—are prohibited from import, and those that are allowed, such as machinery, are subject to licensing. Though the government abolished most import licensing requirements in 1991, it has continued to use import licensing to restrict importation of certain agricultural products such as chicken parts and other preserved chicken and turkey products. In addition, since the promulgation of Decree 2439 in November 1994, Ministry of Agriculture approval is required for import licenses for products which, if imported, would compete with domestic products. Some of these products, which include important U.S. exports to Colombia, are wheat, malt barley, poultry, corn, rice, sorghum, cotton, wheat flour, and oilseeds and their products (e.g., soybean meal and soybean oil). Colombia has implemented absorption agreements which require an importer to purchase a government-specified quantity of domestically produced goods as a precondition for the granting of import licenses.

Colombia adopted a harmonized automotive policy with Venezuela and Ecuador, which went into effect in January 1994. Automotive parts and accessories, and motor vehicles imported from any of the three signatory countries have a zero import duty, while those imported from other countries are covered with CET rates varying between 3 percent and 35 percent depending on the type of vehicle and automotive part. The policy includes regional content requirements.

Colombia also assesses a discriminatory VAT of 35 percent on whiskey aged for less than 12 years, which is more characteristic of U.S. whiskey, versus a rate of 20 percent for whiskey aged for 12 or more years, most of which comes from Europe. This tax regime on distilled spirits appears to violate Colombia's WTO obligation to provide Most Favored Nation (MFN) treatment equally to all WTO members. The United

States government has protested this distinction, although no short-term resolution is in sight.

Customs clearance processes in many instances—valuation of imported merchandise and payments of duties and other taxes at commercial banks—can be performed fairly rapidly. In 1996, Colombia incorporated the WTO Agreement on Customs Valuation into its legislation. In 2000, the WTO Committee on Customs Valuation granted Colombia's request to use minimum values for certain products for specified periods. Minimum values are permitted for certain agricultural and footwear products until April 2002, and for certain other agricultural products until April 2003. Use of minimum values for textile products ended in April 2003. Additionally, all importers of goods with a value of \$5,000 and above must present the "Andean Customs Valuation Declaration" in which the importer states the real value of the merchandise. Colombian customs adopted, in December 1998, more efficient procedures through a "unified approval regime." In December 1999, the Ministries of Finance and Foreign Trade abolished a pre-shipment certification requirement for exports to Colombia. Thus, the pre-shipment inspection certificate is no longer required to clear goods through Colombian customs.

GOVERNMENT PROCUREMENT

The Government Procurement and Contracting Law, Law 80/93, sought to establish simpler procedures based on the principles of transparency and objective selection. It provides equal treatment to foreign companies on a reciprocal basis and eliminates the 20 percent surcharge previously added to foreign bids. It also eliminated unnecessary requirements and bureaucratic procedures that increased prices of public services and limited their availability. The law also settled procedures for the selection of suppliers, mainly through public tenders and in

COLOMBIA

exceptional cases through direct contracts. In implementing Law 80, the Colombian government instituted a requirement that companies without local headquarters in Colombia must certify that government procurement laws in the home country meet reciprocity requirements.

Law 80 does not apply to contracts for the exploration and exploitation of renewable or non-renewable natural resources, their commercialization, and those activities performed by state companies involved in these sectors. Contracts for the exploration and exploitation of renewable and non-renewable natural resources, and all those contracts related to telecommunications, radio, and courier services are governed by special legislation.

Decrees that regulate government procurement are: Decree 679 of 1996, which regulates different aspects of Law 80; Decree 855 of 1994, which regulates direct government contracts; Decree 856 of 1994, which deals with registries of suppliers kept by chambers of commerce; Decree 1584 of 1994, which deals with the classification and qualification of suppliers; and Decree 1985 of 1994, which deals with delegation of authority in government contracts. Colombia is not a signatory of the WTO Agreement on Government Procurement.

In May 2001 the economic affairs committee of the House of Representatives submitted a bill to Congress to partially reform Law 80. The bill would eliminate non-bid contracts or direct contracts, establishing public tenders as the only means of contracting between the government and any third party. The proposal would include the creation of a government web-site especially designed for public tenders, in which public enterprises would announce their contracting requirements and legal and natural persons would be able to participate in the respective bidding processes electronically. If approved,

this reform to Law 80 could assist in the efforts to eliminate corruption and to make more transparent all government procurement practices in Colombia.

EXPORT SUBSIDIES

As a result of the policies of “apertura” (the opening of markets to foreign investment) and commitments made by Colombia to abide by the provisions of the GATT Subsidies Code, Colombia agreed to phase-out any export subsidies inconsistent with that code. This process has continued under the WTO Agreement on Subsidies and Countervailing Measures. Between 1991 and 1999, the Government of Colombia issued various decrees aimed at restructuring the Ministry of Foreign Trade, based on the presumption that its policies should aim at “correcting and preventing all restrictive trade practices that directly or indirectly affect production.” For instance, Colombia has notified the WTO that its “special machinery import-export system” and “free zones” do, in fact, constitute export subsidies. Also, Colombia’s tax rebate certificate program (CERT) contains a subsidy component, which the Government of Colombia has stated it will replace with an equitable drawback system, although it has not yet done so. The other 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. Other than the above, Colombia’s subsidy practices are generally compatible with WTO standards.

On January 1, 2000, the Colombian government announced that it would eliminate the subsidy component of the CERT as per WTO regulations. However, the Colombian government’s efforts to increase exports led to the formulation of a new customs code which would provide for tariff exemptions on raw

COLOMBIA

materials used by exporting enterprises. These incentives, which are very similar to the CERT, were reinforced with “legal and tax stability agreements” providing for fixed tax and legal conditions over 5 and 10 year periods to companies that develop special, and in some cases subsidized export programs. The new customs code—Decree 2685 of December 28, 1999—also simplified export procedures, making it easier and faster for exporters to conduct operations. The new code entered into force on July 1, 2000. Decree 1198 of June 29, 2000, partially modifies Decree 2685 and regulates customs procedures at free trade and special import-export zones. Decree 1198 entered into force on January 1, 2001. Recently, Colombia has requested an extension of the transition period for these two export subsidy programs.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Colombia does not yet provide adequate and effective intellectual property protection. As a result, Colombia has been on the Special 301 “Watch List” every year since 1991, and an out-of-cycle review in 1999 retained Colombia in that category. Colombia is a member of the World Intellectual Property Organization (WIPO) and has joined the Paris Convention for the Protection of Industrial Property, the Patent Cooperation Treaty and the Union for the Protection of New Plant Varieties. In November 2000, Colombia ratified the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty.

Patents and Trademarks

The patent regime in Colombia currently provides for a 20-year term of protection for patents and reversal of the burden of proof in cases of alleged process patent infringement. The provisions of the decisions covering protection of trade secrets and new plant

varieties are generally consistent with world-class standards for protecting intellectual property rights, and provide protection for a similar period of time.

The Andean Community's September 2000 adoption of Decision 486 as the IPR regime for the region helped bring Ecuador closer to compliance with the WTO TRIPS Agreement. However, U.S. pharmaceutical companies are concerned that Decision 486 is not sufficiently explicit regarding the protection of data that is included in marketing approval applications, thereby opening the way to the possible erosion of such protection. They also express concern regarding an Andean Tribunal decision against Peru during 2001 that a company that had patented a compound for one use cannot subsequently patent a second use of that compound. This decision would put the Andean Community at odds with international norms and possibly with the WTO TRIPS Agreement. Venezuela and Ecuador have similar cases before the Tribunal.

Colombian trademark protection requires registration and use of a trademark in Colombia. In a 1998 decree, Colombia announced that registration of a trademark must be accompanied with its use in order to prevent parallel imports. Trademark registrations have a ten-year duration and may be renewed for successive ten-year periods. Priority rights are granted to the first application for a trademark in another Andean Community country or in any country which grants reciprocal rights. Colombia is a member of the Inter-American Convention for Trademark and Commercial Protection. Enforcement of trademark legislation in Colombia is showing some progress, but contraband and counterfeiting are widespread. U.S. pharmaceutical firms continue to press for a range of legislative and administrative reforms. The Superintendency of Industry and Commerce acts as the local patent

COLOMBIA

and trademark office in Colombia. This agency suffers from inadequate financing and inefficiency in patent application procedures.

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 include some provisions for IPR enforcement and have been used to combat infringement and protect rights. Colombia belongs to the Berne and Universal Copyright Conventions, the Buenos Aires and Washington Conventions, the Rome Convention on Copyrights, and the Geneva Convention for Phonograms. It is not a party to the Brussels Convention on Satellite Signals.

Colombia's 1993 Copyright Law significantly increased penalties for copyright infringement, and created a Special Investigative Unit within the Prosecutor General's Office, empowering the Prosecutor General's Office to combat piracy. This unit began functioning in November 1999. Colombia ratified the Andean anti-piracy convention on February 25, 1999. In 1999 the Colombian government also issued a presidential directive mandating that all government entities purchase only legally copyrighted software and other goods protected by international copyright law, but it does not appear to have been implemented.

During 2001, the Colombian Administrative Department of Security (DAS) and other law enforcement agencies performed 306 anti-piracy operations, which resulted in 76 detentions, the seizure of over 96,000 pirated software and the destruction of 1,203 computers. However, enforcement of copyright laws is still insufficient

and U.S. industry estimates that the majority of the videocassette, sound recording, and business software products continue to be pirated.

A major copyright issue has been the Colombian Government's failure to license legitimate pay television operators and to pursue pirate operators. Colombia's Television Broadcast Law increased legal protection for all copyrighted programming by regulating satellite dishes, but enforcement has only recently begun through a licensing process designed to make illegal operators responsible for paying copyright fees. The licensing process, if effective, should establish legitimate royalty paying service providers. As of October 2001, the National Television Commission (CNTV) had completed licensing for 117 cable television operators in municipalities with less than 100,000 inhabitants, and 46 cable TV operators in municipalities with more than 100,000 inhabitants, covering 86 municipalities all over the country. The CNTV also made efforts to pursue pirate operators by initiating investigations of 282 suspected pirate operators, eight of which have so far incurred sanctions. However, industry remains concerned. The U.S. Motion Picture Association (MPA) reports very disappointing results in terms of deterrent sentences, civil judgments, or actual reductions in the levels of piracy. At least 90 percent of the video market is pirated or systematically involved in unauthorized transmissions. Current annual losses due to audiovisual piracy are estimated to be \$40 million.

As noted earlier, contraband and counterfeiting remain widespread. Although in 1999 President Pastrana issued a directive to all government and educational institutions to respect copyrights and avoid the use or purchase of pirated printed works, software and audio/video material, reports on the effectiveness of this decision are mixed. According to the Colombian Ministry of Foreign Trade (MFT), enforcement authorities

COLOMBIA

saw a drop of 26 percent in business software piracy in 1999, and a greater drop of 30 percent in 2000. However, the most recent available data from the International Intellectual Property Alliance (IIPA) suggests that U.S. industries continue to lose substantial revenue from piracy—\$193 million in 2000. Enforcement problems consistently arise not only because of inadequate police activity, but also within the judicial system, where there have been complaints about the lack of respect for the preservation of evidence and frequent perjury, as well as the inavailability of ex parte search authority. The IIPA estimates that, in Colombia, videocassette piracy increased to 90 percent of the video market in 2000; sound recording piracy represented 60 percent of the market; business software piracy 55 percent of the market; while entertainment software piracy increased to 85 percent of the market.

SERVICES BARRIERS

The “apertura” policy implemented during the 1990’s promoted and facilitated the importation of most services. Sector liberalization has progressed farthest in financial services, telecommunications, accounting/auditing, energy, and tourism. It has occurred to a lesser extent in 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. 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.

A commercial presence is required to provide information-processing services. All tourism service providers must be registered with the Ministry of Economic Development and must be licensed by the Government’s National Tourism Corporation. Health service providers must be registered with the various supervisory entities (the Ministry of Health, the National Council of Social Security and Health, and the Superintendency of Health) which impose strict parameters pertaining to cost accounting structures and the quality of the service provided. Foreign educational institutions must have resident status in Colombia in order to receive operational authority from the Ministry of Education.

Cargo reserve requirements in transport have been eliminated. However, the Ministry of Foreign Trade reserves the right to impose restrictions on foreign vessels of nations, which impose reserve requirements on Colombian vessels. Colombia also restricts the movement of personnel in several professional areas, such as architecture, engineering, law and construction. For firms with more than ten employees, no more than ten percent of the general workforce and 20 percent of specialists can be foreign nationals.

Foreign construction firms must establish a local presence. There is also a discriminatory surcharge of 20 percent placed on bids awarded to foreign firms for government construction projects. In addition, a firm must open a branch office to be “legal”; legal firms pay 42 percent tax on profits while those firms without branch offices pay a 42 percent tax on net revenues. However, acquiring a license for a branch offices is tedious and is only good for one project.

In October 2000, the National Planning Department issued a new Foreign Investment Regime—Decree 2080 of October 18,

COLOMBIA

2000—which unified foreign investment regulations revoking all the rules on the subject previously dispersed into various decrees. Decree 2080 eliminated percentage limits previously placed on foreign equity participation as well as limits on foreign participation in audiovisual and radio services.

Financial Services

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. Such reserve requirements on foreign loans were designed to reduce the amount of import-related debt.

Basic Telecommunications 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. Despite making these commitments in the WTO, ratification of the Fourth Protocol remains before the Colombian Constitutional Court where it awaits final approval. In addition, concerns have been raised regarding the failure to make licensing criteria publically available, as required by the WTO Reference Paper. Currently foreign investment is allowed in telecommunications firms, but under the WTO agreement Colombia reserves the right to limit foreign investment in these firms based on an economic needs test. While Colombia has allowed new competitors into long distance and international services, high license fees are a significant barrier.

INVESTMENT BARRIERS

Colombian foreign investment statutes provide for national treatment for foreign investment. 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 largely eliminated, and the mechanisms that still exist are generally routine and non-discriminatory. As a measure against money laundering, Foreign Direct Investment (FDI) in real estate was prohibited until February 8, 1999, when prohibitions on foreign investment in real estate companies were abolished by Decree 241.

All foreign investment must be registered with the Central Bank’s foreign exchange office within three months in order to insure 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.

Under the Andean Community Common Automotive Policy, Colombia, Venezuela and Ecuador impose local content requirements in order to qualify for reduced duties on imports. The local content requirement for passenger vehicles was 32 percent in 1997. It was raised to 33 percent for 1998, and was then lowered to 24 percent for 2000. However, in December 1999 the Andean Automotive Policy Council determined that it would not eliminate the local content requirement as it had initially indicated, but instead decided to increase it gradually to 34 percent by the year 2009. This automotive policy may be inconsistent with Colombia’s WTO obligations under Trade Related Investment Measures (TRIMS).

All foreign investment in petroleum exploration and development in Colombia must be carried

COLOMBIA

out under an association contract between the foreign investor and Ecopetrol, the state oil company. The terms of the standard association contract were modified in 1994, 1995, 1997, 1998, and again in 1999. In view of Colombia's need for new oil reserve discoveries, the Pastrana administration embarked on the implementation of a new hydrocarbon policy designed to attract foreign investment. The new policy was aimed at achieving the long-term goal of producing 1.5 million barrels per day by the year 2010. Colombia's improved terms, with much faster cost recovery, provide a significant increase to a typical project's expected rate of return. The association contract provides for an initial three-year exploration period, which can be extended for an additional three years. If gas is discovered in the process, an additional four-year period can be provided in order to find a market and develop infrastructure. After discovery of oil reserves are made, a 22-year period is granted for production (30 years in the case of gas). Ecopetrol participates with 30 percent of the investment during the production period and reimburses its associate 30 percent of exploration costs prior to discovery. Then, production is distributed taking into account the "R factor," which is the ratio between the associate's cumulative revenues and expenditures.

The new contract terms were put into practice during 2000 and 2001 through bidding auctions known as "Round 2000" and "Round 2001." In such auctions in the last two years Ecopetrol awarded 31 exploration and incremental production projects to small, medium, and large size foreign companies including Occidental (U.S.), Texas Star (U.S.), Cespa (Spain), Elf (France), Tecnoil (Venezuela), and OAO NK Rosnef (Russia). The development of those 31 projects will demand investments of approximately \$837 million during the next five years. The government is confident that it will remain self-sufficient in petroleum production, at

least until the year 2007 when Colombia will face the prospect of becoming an importer unless new reserves are found. Although security conditions—guerrilla warfare and narco-terrorism—continue to be worrisome, foreign investors have remained interested because of the favorable long-term characteristics of these prospects.

ELECTRONIC COMMERCE

Electronic commerce in Colombia is primarily regulated by Law 527 of August 28, 1999. The law grants organizational, inspection, vigilance and sanctioning responsibilities to the Superintendency of Industry and Commerce. The Superintendency regulates certifying agencies which are the only entities authorized by law to provide for registration, data transmission and reception services, and to issue certificates related to electronic agreements. Law 527/99 provides the same contractual and legal validity to electronic data transfer as that of hard copies. For a digital signature to be valid, it must be verifiable, must be under the unique control of the person using it, and must be linked to the information or message being transferred. Certifying agencies (local or foreign) must be authorized by the Superintendency of Industry and Commerce to operate in Colombia. Decree 1747 of September 11, 2000, regulates Law 527 in regards to certificates and digital signatures, and establishes minimum capital and other requirements for certifying agencies to be approved by the Superintendency of Industry and Commerce. Decree 1747 and Resolution 26930 of October 26, 2000 established all legal requirements necessary for certifying agencies to begin operations in Colombia.

In May 2000, the Colombian government signed a common declaration with the U.S. Government in which both parties recognized the importance of electronic commerce and agreed to cooperate in removing barriers and

COLOMBIA

implementing a transparent and non-discriminatory legal framework for the development of such activity. In 2001, for the first time in Colombia an enterprise began offering electronic certifications to companies registered in all 57 chambers of commerce over the country. This would allow approximately 820,000 firms to obtain an electronic identification certificate to perform secure transactions through Internet. According to the Bogota Chamber of Commerce, in 2001 direct business transactions through Internet amounted to approximately \$320 million.

OTHER BARRIERS

Television Local Content Quotas

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 complicated, burdensome system of sub-quotas for different hours of the day. The law requires broadcasters to transmit 70 percent locally-produced programming during prime time and a range of zero to 40 percent during other times on national television, and 50 percent locally-produced programming on regional channels and local stations. Retransmissions of local productions are calculated to fulfill only part of the national content requirement. Foreign talent may be used in locally produced programming, but limits are set by the CNTV.

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 operation in their home country and their investments must involve an implicit transfer of technology. Until October 2000, foreign investment in television was limited to 15 percent of the total capital of local television production companies. However, Decree 2080 of October 18, 2000 revoked the limits on foreign investment in the Colombian motion picture industry. As a result, foreign investment in local television production companies is now unlimited.