

U.S.-Colombia Trade Promotion Agreement

INVESTMENT

The U.S.-Colombia TPA establishes a secure, predictable legal framework for U.S. investors in Colombia. The Agreement's commitments improve transparency, reduce barriers to investment, and improve the dispute settlement process, addressing key concerns about the investment climate in Colombia. Foreign investment can contribute significantly to the economic development and stability of Colombia. Increased foreign investment in Colombia will greatly improve the development of efficient, reliable systems for power generation, water, sewage, transportation, and telecommunications. The Uribe administration has stepped up the economic liberalization begun in the early 1990's and is committed to an open investment regime. Liberalization has progressed furthest in telecommunications, accounting/auditing, energy, and tourism, and to a lesser extent in legal services, insurance, distribution services, advertising, and data processing.

Colombia is actively seeking foreign investment in nearly all sectors of the economy, notably in the hydrocarbons sector. In 2003 the Colombian government shifted regulatory responsibilities from Ecopetrol, the state-owned oil company, to a government entity called the National Hydrocarbons Agency (ANH). The ANH administers Colombia's concession process, allowing Ecopetrol to compete side-by-side with foreign firms for hydrocarbon contracts. Foreign companies may assume up to 100 percent of investment and risk activities in all exploration and production contracts. Oil companies may obtain the right to exploit fields for 30 years or until depleted, as well as extend previous association contracts.

Key Investment Provisions

- Establishes a secure, predictable legal framework for U.S. investors operating in Colombia.
- Protects all forms of investment, including enterprises, debt, concessions, contracts, and intellectual property.
- Gives U.S. investors, with limited exceptions, the right to establish, acquire, and operate investments in Colombia on an equal footing with local investors, and with investors of other countries.
- Provides U.S. investors in Colombia the same substantive protections foreign investors enjoy in the United States.
- Ensures that U.S. investors will receive the fair market value of their investment in the event of an expropriation.
- Backs investor rights by effective, impartial dispute settlement procedures.

In July 2005, the Colombian government adopted an investment stability law, Law 963. This law guarantees investors that the laws applicable to an investment at the time it is made will remain in effect for a period between 3 and 20 years, depending on the type and amount of the investment. This pro-investment policy, coupled with the more secure, predictable legal framework that the U.S.-Colombia TPA will establish, should improve the investment climate in Colombia.

The U.S.-Colombia TPA includes an effective, impartial, and transparent investor-state dispute settlement mechanism, which provides investors with the option of seeking recourse outside of Colombian courts, through binding international arbitration. Additionally, the U.S.-Colombia TPA will make binding arbitration available for breaches of written agreements with the Colombian government that cover activities such as the

exploration and extraction of natural resources; the supply of power generation services to the public; and infrastructure projects, such as the construction of roads, bridges, canals, dams, or pipelines.