**2001 Country Reports on Economic Policy and Trade Practices**
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# COLOMBIA

## Key Economic Indicators

(Billions of U.S. dollars unless otherwise indicated)

| | 1999 | 2000 | 2001 1/ |
|---|---|---|---|
| *Income, Production and Employment:* 2/ | | | |
| Nominal GDP | 85.3 | 87.9 | 88.2 |
| Real GDP Growth (pct) | -4.3 | 2.8 | 2.0 |
| GDP by Sector: | | | |
| Agriculture | 12.5 | 12.9 | 13.3 |
| Manufacturing | 11.1 | 11.9 | 12.3 |
| Services (includes financial) | 34.2 | 34.8 | 33.3 |
| Commerce | 9.7 | 10.2 | 10.6 |
| Government 3/ | 25.7 | 25.4 | 27.2 |
| Per Capita GDP (US$) | 2,097 | 2,118 | 2,087 |
| Labor Force (000s) 4/ | 17,521 | 17,836 | 18,157 |
| Unemployment Rate (pct) | 18.1 | 19.5 | 18.7 |
| *Money and Prices (annual percentage growth):* 5/ | | | |
| Money Supply Growth (M2) | 10.5 | 4.7 | 2.8 |
| Consumer Price Inflation | 9.2 | 8.7 | 8.2 |
| Exchange Rate (Peso/US$ annual average) | | | |
| Official | 1,756.8 | 2,080.0 | 2,298.2 |
| *Balance of Payments and Trade:* 6/ | | | |
| Total Exports FOB | 11.5 | 13.0 | 14.5 |
| Exports to United States | 5.6 | 6.5 | 7.5 |
| Total Imports CIF | 10.6 | 11.5 | 12.7 |
| Imports from United States | 3.9 | 3.8 | 4.3 |
| Trade Balance | 0.9 | 1.5 | 1.8 |
| Balance with United States | 1.8 | 2.7 | 3.2 |
| Current Account Deficit/GDP (pct) | -2.4 | -2.0 | -2.6 |
| External Public Debt | 19.7 | 20.2 | 22.0 |
| Debt Service Payments/GDP (pct) | 3.2 | 3.9 | 2.8 |
| Fiscal Deficit/GDP (pct) | -5.8 | -3.6 | -3.0 |
| Gold and Foreign Exchange Reserves | 8.1 | 9.0 | 9.7 |
| Aid from the United States | | | |
| (US$ millions) 7/ | 18.8 | 129.1 | 119.5 |
| Aid from All Other Sources | N/A | N/A | N/A |

1/ 2001 figures are estimates based on available monthly data in October.

2/ Percentage changes calculated in local currency. Sources for all figures in section except government spending are National Department of Statistics (DANE). For government spending: Ministry of Finance.

3 Approved national budget. Source: Ministry of Finance.

4 Economically active population for the whole country.

5 Source: Banco de la Republica (BDR).

6 Source: Ministry of Foreign Trade.

7 Aid reflects U.S. AID program only.

*1. General Policy Framework*

Colombia's economic liberalization, which consisted of tariff reductions, financial deregulation, privatization of state-owned enterprises, and adoption of a more liberal foreign exchange regime, was initiated by the administration of President Cesar Gaviria (1990-94). Almost all sectors became open to foreign investment although agricultural products remained protected. A price-band system to determine tariffs for agricultural products excluded them from the liberalization process. Import license requirements were eliminated for most products though some agricultural products still require licenses.

By the mid-1990's, fiscal and current account deficits were increasing. Government spending surged during the Samper administration (1994-98), while the fiscal deficit and public sector debt increased dramatically. The financing of larger deficits had contractionary effects on the private sector by pushing interest rates higher. Economic growth slowed beginning in 1996, until the first recession since 1931 began in late 1998. Colombia's economy picked up again after the 1998-99 recession, the worst in seventy years in a country accustomed to more than forty years of steady growth. Colombia faced negative growth of 4.3 percent in 1999, caused by a contraction of aggregate demand due to a generalized and significant fall in prices and a crisis in the financial system. The construction industry, one of the largest employment sectors in Colombia, was particularly hard-hit by tight credit conditions. As a result, unemployment increased dramatically reaching over 18 percent by year-end in 1999.

The drop in economic activity was less dramatic in the third quarter of 1999, while economic indicators began to show positive trends during 2000. Economic growth was 2.8 percent in 2000. However, unemployment rose to over 19.5 percent by year-end in 2000, and stood at 18.6 as of September 2001. It is worth noting that what appears to be a decrease of unemployment is actually the result of changes in the way unemployment rate is calculated. Colombia's National Department of Statistics (DANE) recently decided that instead of using data for the main seven cities, it would use data for the 13 largest cities to calculate the national unemployment rate. In any event, continued very high unemployment remains Colombia's greatest economic problem.

The Pastrana administration (1998-2002) has sought to promote trade and investment, reduce the fiscal deficit, and achieve peace with the guerrilla insurgency. Measures taken by the

Colombian government to lower inflation and interest rates and increase the real exchange rate aided a modest economic improvement. Tough budget cuts and the successful flotation of the peso helped, along with an agreement with the International Monetary Fund for a US$ 2.7 billion Extended Funds Facility. The IMF accord entailed commitments to achieve specific macro-economic targets and to seek structural reform legislation, including a reform of departmental and municipal pensions, a broader pension reform, a revenue-enhancing tax reform, and an amendment capping transfer payments to departmental and municipal governments currently mandated under the 1991 Constitution. Thus far, the government has been able to pass legislation in all these areas except the broad pension reform which is still pending. The peso has stabilized, and needed macro-economic reforms have been executed relatively smoothly.

The National Planning Department (DNP) has estimated growth for 2001 at 2.4 percent, slightly lower than the 2.8 registered in 2000. This is mainly due to lower world economic expectations and to the behavior of domestic demand, which has not recovered in the face of continued high unemployment. As of October 2001, DNP estimates growth for 2002 at four percent. Private analysts such as ANIF, Fedesarrollo, and others suggest the government's expected growth rates for 2001-02 are overestimated. Guerrilla attacks on a major oil pipeline led to an interruption in oil exports, very low international coffee prices have affected over 400,000 families, credit conditions are still tight, and a constant capital outflow and emigration are all direct threats to a strong economic recovery.

Colombia's current fiscal crisis began in the mid 1990's and attained its critical point in 1999, when the consolidated fiscal accounts had a cash deficit of 4.3 percent of the GDP. If other accrued basis operations are added, this cash flow deficit added up to 6.3 percent of GDP in 1999. Although the central government has faced serious obstacles to successful fiscal adjustment, because of the narrow margins of its expenditure policy and the modest revenue increases gathered from several tax reforms, the fiscal deficit is scheduled to decline to 2.8 percent of GDP in 2001 and 1.8 percent of GDP in 2002 under the IMF program. Although the government has said it will meet its obligations with the IMF, as of October 2001, many analysts remain skeptical that the target can be met. Instead they estimate a 3.1 percent of GDP deficit aided by a projected further deterioration in the finances of the public pension systems. The structural reform agenda for 2002 calls for considerable action to strengthen the control over expenditure at all levels of the public sector; an improvement in the finances of the Social Security Institute's (ISS) health services and the passing by Congress of a second-generation pension reform.

Colombia has major commercial and investment links to the United States. Colombia's largest trading partner in 2000 was the United States, which received 49.8 percent of Colombia's exports (up from 48.5 percent in 1999) and provided 40 percent of Colombia's imports (down from 42.1 percent in 1999). The rise in exports was largely due to improved international prices for oil, a strong performance of non-traditional exports, and a weaker peso, which led to improved competitiveness for non-traditional goods. Approximately 70 percent of Colombian exports to the United States are primary products such as food (mainly coffee, bananas, flowers, tuna, shrimp, and sugar), and fuel (petroleum and coal). Other important export products are gold, emeralds, chemical products, plastic products, machinery, textiles and apparel. The United States also holds the largest country share of foreign direct investment: $5.3 billion, or 26.6

percent of the estimated total direct foreign investment of $19.9 billion.

Between 1990 and 1999 the government privatized a number of state-owned banks, ports, railroads, and mining companies. It also sold concessions to private providers of telecommunications and broadcasting services that began using the government-owned spectra. The 50 percent government-owned share of the Carbocol coal mining company was privatized in October 2000. The Pastrana administration's plans to privatize the remaining profitable public enterprises, including the Bogota Telephone Company (ETB), the electricity transmission company (ISA), and the electricity generating company (ISAGEN), plus 14 electric distributors, have been postponed repeatedly. Over the past two years, the Constitutional Court suspended the privatization of ISAGEN several times, and there were no bidders at the auction of ETB.

The government has made clear that eventually it will privatize a number of assets in various sectors, except for Banco Agrario, the state owned bank oriented at rural Colombia. The government still maintains participation in US$ 2.1 billion.

Colombia has one of the highest taxation levels in Latin America. Colombia's general tax structure is mainly composed of four internal and two external taxes. The internal taxes are made up of an income tax, a Value-Added Tax (VAT), a stamp tax on written contracts, and a tax on gasoline. A withholding mechanism is applied to the first three, which has the effect of speeding up collection. The external taxes are tariffs and a value-added tax on imports.

As mentioned above, rising fiscal deficits forced the authorities to adopt several tax reforms over the last years. Between 1990 and 2000 there were at least eight tax reforms, which were not based on a single set of guiding principles, such as the opening of the economy, the social security system, or fiscal decentralization. Some of these reforms were directly associated with structural reforms implemented in other economic fields. Others were simply designed to help bridge the increasing gap between the government's expenditures and revenues. In December 1998, the Colombian Congress passed a major tax reform law (Law 488), which lowered the VAT from 16 to 15 percent, while widening coverage; increased the stamp tax from 1 percent to 1.5 percent of the contract's total value; and established a Unified Tax Regime (UTR) for small taxpayers, which aimed to facilitate tax collection from entrepreneurs and small businesses. On December 29, 2000, a new tax reform (Law 633) was decreed. This reform aimed to improve tax collection in order to contribute to the elimination of the fiscal deficit. The reform consisted basically of an increase in the 0.2 percent tax on all transactions in the financial system, which the government had implemented back in December 1998 through an economic emergency decree. This tax, previously limited in duration, was made permanent and was increased from 0.2 percent to 0.3 percent. As well, the VAT was increased back from 15 percent to 16 percent, and measures were taken to benefit taxpayers who voluntarily repatriate capital from abroad and to control tax evasion and contraband. A requirement that all corporations invest 0.6 percent of their liquid assets in seven-year term "peace bonds," terminated last May 2001 with a final issuance by the government.

Colombia's political Constitution of 1991 established an autonomous Central Bank responsible for maintaining the currency's purchasing power (Law 31 of 1992). To meet this objective, the Central Bank's board of directors makes and implements the country's monetary, exchange rate, and financial policies. The Central Bank conducts monetary policy based on targeted growth rates of monetary aggregates, which must be consistent with final inflation and economic growth expectations. The Central Bank intervenes in the money market to reduce the volatility of interest rates, and it had been actively intervening in the foreign exchange market to maintain the foreign exchange rate within a band system, until September 1999, when the exchange band was removed. Colombia enjoyed single digit inflation in 1999, inflation dropped from 26.8 percent in 1991 to 8.7 percent in 2000, though this in large measure was a result of the low level of economic activity. As of September 2001, inflation had already reached 7.9 percent, making it difficult to meet the official target for 2001 of 8 percent.

*2. Exchange Rate Policy*

After the passage of the 1991 Constitution, the Central Bank no longer kept the monopoly on trade in foreign currency. Market forces were left to determine the exchange rate as well as the allocation of foreign trade resources. Exchange control mechanisms were modified and the financial institutions became more involved in foreign currency trading. Law 9 of 1991 revoked Law 444 of 1967, which had been enforced for the last 25 years. With these reforms anybody could hold foreign currency or assets. Between 1991 and 1994 there was a transition period towards a system of exchange rate bands, which was finally established in February of 1994. Throughout these years, the exchange authorities continued to announce "official exchange rates" on a daily basis according to the crawling peg system. However, in September 1999, Colombia abandoned its crawling band exchange regime and adopted measures that permitted the peso to float freely against the dollar and other currencies. Before the elimination of the band, the Central Bank intervened in the market by buying or selling dollars to keep the dollar's price in pesos within the band in response to exchange market pressure. The exchange rate stabilized soon after abolition of the band, subsequently responding to economic and political developments. The peso's depreciation, along with a low inflation, has had a positive impact on Colombia's foreign sector competitiveness. Depreciation over the last years has reduced the price competitiveness of U.S. exports to Colombia, while boosting the competitiveness of Colombian exports to the United States. Currency depreciation together with import compression due to recession produced a dramatic turnaround in Colombia's overall trade balance, as well as its bilateral balance with the United States. Between 1998 and 2000, Colombia's overall trade balance swung from a $3.8 billion deficit to a $1.5 billion surplus, while the U.S.-Colombia trade balance swung from a $627 million U.S. surplus to a $1 billion deficit. As of July 2001, the U.S.-Colombia trade balance had registered a $1 billion deficit. However, there may be signs that this trend is beginning to change. As of October 2001, the peso had depreciated only 4 percent from the beginning of the year, and depreciation expectations for the year-end vary between 7 percent and 8.3 percent, equal or slightly lower than expected inflation, which could actually result in the peso's revaluation in real terms.

*3. Structural Policies*

As a member of the Andean Community, Colombia has had a Common External Tariff (CET) in effect since 1995. The CET has different duty levels that vary from 0 to 20 percent for most non-agricultural products. A special Andean price-band system (based on domestic and international prices) is applied to calculate variable tariffs of agricultural imports. Tariff rates for agricultural products subject to the price-band system vary between 27 and 107 percent. Thirteen basic agricultural commodities including wheat, sorghum, corn, rice, barley, milk, and chicken parts, and an additional 150 commodities considered substitute or related products are subject to tariffs calculated under the price-band system. The government also regulates prices of electricity, water, sewage, and telephone services, public transportation, rents, education tuition, and pharmaceuticals. Colombia’s special import-export system for machinery and its free trade zones constitute export subsidies. Colombia’s tax rebate certificate program (CERT) also contains a subsidy component which the Colombian government has stated it will replace with an equitable drawback system, although it has not yet done so.

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.

All foreign investment in petroleum exploration and development in Colombia must be carried out under an association contract between the investor and the state petroleum company, “Ecopetrol.” The terms of the standard association contract were modified in 1994, 1995, 1997, 1998, and again in 1999. The Pastrana administration has acknowledged Colombia’s need for new oil reserve discoveries and implemented a new hydrocarbon policy designed to attract foreign investment. The 1999 reform included royalty relief, accelerated environmental licensing, and a reduction in Ecopetrol’s participation requirement from 50 percent to 30 percent. The new policy represents one of the most comprehensive reforms of the last 30 years, and has the long-term goal of producing 1.5 million barrels per day by the year 2010. In positive reaction to these changes, a record 32 contracts for exploration or incremental production were awarded in 2000. Government officials hope to award another 30 contracts by year-end in 2001. These changes will hopefully enhance the attractiveness of Colombia’s oil investment climate. Continuing security problems however, are a drag on increased petroleum investment.

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 third countries are covered with CET rates varying between 3 and 35 percent depending on the type of vehicle and automotive part. A new Andean auto regime was adopted in November 1999, in which common external tariff rates remained unchanged, but regional content requirements were gradually increased from the current average of 23 percent to a maximum of 34 percent by the year 2009.

The Pastrana administration has taken concrete steps to promote trade and investment. An agreement with the U.S. government establishing periodic Trade and Investment Council meetings with the Andean Community was signed in October 1998. Efforts have also been made to improve oversight of the television sector and reduce cable and satellite signal piracy. A Presidential Directive was issued in early 1999, requiring all Colombian public entities to respect international copyrights. The Pastrana administration amended an article in the 1991 Constitution, repealing the previously allowed expropriation of foreign investment without compensation.

*4. Debt Management Policies*

Colombia's foreign debt has increased significantly over the last years. The foreign debt of the non-financial public sector (including the central government) climbed from representing 14.2 percent of GDP in 1995 to 24 percent of GDP in 2000. The overall consolidated debt of the non-financial public sector (foreign and domestic) went from representing 24.9 percent of GDP in 1995 to 46.2 percent of GDP in 2000. The central government's indebtedness accounted for 80 percent of such an increase in the total debt. Thus, the central government has followed a strategy consisting of replacing foreign debt with domestic debt. The so-called TES's (treasury bills) have been the main instruments in this strategy. By year-end of 2000, these leading governmental securities represented 88 percent of Colombia's total internal debt. Currently, the central government counts with other instruments, yet the TES's continue to be paramount. As of July 2001, the government had drawn sufficient demand from investors to complete bond deals for $2 billion. In 1999, international financial institutions supported the Colombian government's fiscal adjustment and development programs through 2002: a $2.7 billion guarantee (Extended Funds Facility) from the International Monetary Fund, and loans at concessionary rates in the amount of $1.7 billion from the Inter-American Development Bank, $1.4 billion from the World Bank, $600 million from the Andean Development Corporation, and $500 million from the Latin American Reserve Fund. Additional multilateral loans amount to the totality of the government's $3.5 billion financial needs for 2001. The Finance Minister has already approved additional issuances for $2.2 billion in capital markets to ensure in advance needed resources for 2002. As of September 2001, Colombia's total (public and private) foreign debt amounted to $35.7 billion.

Colombia's history of continuous timely servicing of its international debt obligations and, at least until recently, modest external debt burden earned the country one of the few "investment grade" credit ratings from the major rating companies. However, in 1999, such rating companies (namely Standard & Poors, Moody's, and Duff & Phelps) downgraded Colombia's debt to "speculative grade," citing Colombia's faltering peace process, increased security concerns, and insufficient progress in fiscal consolidation. The rating downgrades had little impact on the secondary market prices of Colombian debt, as the move had largely been priced into the market already. Colombian debt had traded at significantly wider spreads than would be indicated by its "investment grade" rating for some time. In May 2000, Standard & Poors downgraded Colombia's short-term perspectives to "negative" citing uncertainty in the peace process and insufficient progress in needed structural reforms. Foreign perspectives deteriorated even more after financial crises unfolded in Turkey and Argentina in early 2001. In contrast to the treatment given to those countries, in April 2001, Moody's maintained Colombia's short-term perspectives at "stable," citing increased stability in Colombia's foreign accounts and the country's efforts to balancing its fiscal accounts. However, the major rating companies reiterated that Colombia would not improve its credit rating until it deepened its structural reforms, thus permitting a reduction of its local and foreign debt indicators.

*5. Significant Barriers to U.S. Exports*

Import Licenses: 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. Though the government abolished most import licensing requirements in 1991, it has continued to use prior 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 has been 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, corn, rice, sorghum, and wheat flour. Prior to its termination in the first quarter of 2000, the Colombian Institute of Foreign Trade (INCOMEX) excluded powdered milk from the licensing regime, which had previously restricted milk imports during Colombia's high milk production season. The 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.

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 audiovisual services, legal services, insurance, distribution services, advertising, and data processing. 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. At least 50 percent of programmed advertising broadcast on television must have local content. Foreign talent may be used in locally produced programming, but limits are set by the National Television Commission. 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, abolished the limits on foreign investment in the Colombian motion picture industry. As a result, foreign investment in local television production companies is now unlimited. 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.

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. On June 1, 2000, the Council for Social and Economic Policy (CONPES) approved modifications to the rules governing foreign portfolio investment. Additionally, the Colombian government issued Decree 2080 of October 18, 2000, by which it simplified paperwork requirements on foreign investment funds (electronic submission of required documents to Colombian authorities is now permitted) and lifted restrictions to foreign investment in publicly traded companies. The new decree provided for the elimination of limits on acquisitions of shares with voting rights by foreign investment funds. Likewise, automatic authorization for these funds was established. Prohibitions on foreign investment in real estate companies were abolished by Decree 241 of February 8, 1999. All foreign investors (acting as individuals or investment funds) must receive prior approval from the Banking Superintendency to acquire an equity participation of five percent or more in a Colombian financial entity. Colombian law requires that at least 80 percent of employees of companies in the mining and hydrocarbons sector be Colombian nationals. It also requires that foreign employees in financial institutions be limited to managers, legal representatives and technicians. Colombia limits foreign ownership of telecommunication companies to 70 percent. An economic needs test determines market access and national treatment for cellular, PCS, long distance, and international telecommunications services. The government retains the right to identify other sectors in which to limit or forbid foreign investment.

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.

Standards, Testing, Labeling, and Certification: The Colombian Foreign Trade Institute (INCOMEX) requires specific technical standards for a variety of products. The particular specifications are established by the Colombian Institute of Technical Standards (ICONTEC), or under ISO-9000. Certificates of conformity must be obtained from the Superintendency of Industry and Commerce before importing products that are subject to technical standards.

Government Procurement Practices: Law 80 of 1993 is Colombia's government procurement and contracting law. It grants equal treatment to foreign companies on a reciprocal basis and eliminates the 20 percent surcharge previously added to foreign bids. In implementing Law 80, the Colombian government instituted a requirement that companies without local headquarters must certify government procurement reciprocity in the home country. A local agent or legal representative is required for all government contracts. Although Law 80 has given more dynamism to the government contracting system, Colombia is still not a signatory of the WTO government procurement code, and there have been complaints of non-transparency in the awarding of major government contracts. When foreign firms bid under equal conditions, the contract is usually awarded to the one that incorporates a greater number of domestic workers, involves more domestic content, or provides better conditions for transfer of new technology.

During 2000, the Colombian government submitted to Congress a bill reforming Law 80. The bill would prohibit donors to political campaigns from participating in contracts or bidding processes offered by their beneficiaries. It would also eliminate non-bid contracts providing equal treatment to foreign and domestic bidders, and would create a virtual system for public tenders where local and foreign bidders may participate through an official website. If enacted, this measure could reduce corruption and lack of transparency in procurement contracts.

Customs Procedures: In 1996, Colombia incorporated the GATT's customs valuation code into its legislation. 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. 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. A new Customs Code—Decree 2685—was approved on December 28, 1999, simplified export procedures. The new code entered into force on July 1, 2000.

### *6. Export Subsidies Policies*

Although Colombia has made commitments to abide by the provisions of the GATT Subsidies Code, by phasing-out any export subsidies inconsistent with that code, it still maintains certain export subsidies. 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. Colombia's "special machinery import-export system" also constitutes an export subsidy through the mechanism of tax exemptions on imported machinery. Other than the above, Colombia's subsidy practices are generally compatible with WTO standards.

### *7. Protection of U.S. Intellectual Property*

Colombia remains on the Special 301 "Watch List" for not providing effective protection of intellectual property rights (IPR). It has been on the "Watch List" every year since 1991. Colombia is a member of the World Intellectual Property Organization (WIPO) and has negotiated to join the Paris Convention for the Protection of Industrial Property, the Patent Cooperation Treaty, and the Union for the Protection of Plant Varieties. Colombia has ratified, but not yet fully implemented, the provisions of the World Trade Organization (WTO) agreement on Trade Related Aspects of Intellectual Property (TRIPS). 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 member of the Brussels Convention on Satellite Signals. USTR has noted that piracy has worsened in Colombia since 1998, with counterfeit CD's, videos, software, and books flooding the local market.

In 2000, the Colombian government reformed the Criminal Code (Law 599 of 2000) to further criminalize intellectual property piracy. The new code became effective in July 2001. Colombia has also created a Special Investigative Unit within the Prosecutor General's Office dedicated to intellectual property rights issues. This unit began functioning in November 1999, and is currently working on more than 4,000 cases, a large proportion of which are against pirate TV operators and against several telecommunications companies accused of offering illegal "callback" services.

A major intellectual property rights issue has been the need for the Colombian Government 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, and enforcement has begun through a licensing process. In 1999, the Colombian National Television Commission (CNTV) made efforts to reduce the widespread piracy by legitimizing non-royalty paying service providers. As of October 2001, the CNTV had completed licensing for 117 cable television operators on municipalities with less than 100,000 inhabitants, and 46 cable TV operators on municipalities with more than 100,000 inhabitants, covering 86 municipalities all over the country. CNTV also made efforts to pursue pirate operators by initiating investigations of 282 suspected pirate operators, eight of which have so far incurred sanctions. In spite of such efforts, industry concerns remain very intense. The U.S. Motion Picture Association (MPA) estimates that at least 90 percent of the video market is pirate or systematically involved in unauthorized transmissions of MPA member company products. Annual losses due to audiovisual piracy are estimated to be $40 million in 2000.

Patent and Trademarks: Colombian trademark protection requires registration and use of a trademark in Colombia. Trademark registration has a 10-year duration and may be renewed for successive 10-year periods. Thus, the Colombian law provides 20-year protection for patents and reversal of burden of proof in cases of alleged patent infringement. The provisions of 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. In December 2000, Andean Community Decision 486 became into effect replacing Decision 344. This new patent and trademark regime provides for improved protection to patents, trademarks, and industrial inventions, rules of origin, and unlawful competition related to industrial property. Decision 486 eliminates previous restrictions on biotechnology inventions, increases protection on industrial designs from eight to ten years, protects traditional knowledge of indigenous, Afro-American, or local communities, protects integrated circuit (microchip) designs, and provides improved protection to industrial secrets in accordance with the TRIPS agreement. This decision, however, still contains deficiencies in the areas of working requirements, transitional "pipeline" protection, protection from parallel imports, denial of pharmaceutical patent protection for products with multiple or dual use "active principal," and protection of confidential data submitted for non-patented pharmaceuticals and agro-chemicals.

In spite of such legislative improvement, U.S. pharmaceutical firms continue to press for a range of legislative and administrative reforms. According to U.S. industry, Colombia maintains a policy which lacks clarity regarding protection of industrial secrecy, and promotes unbranded pharmaceuticals at the expense of the brands typically produced by multinational companies. Social security Law 100 specifies that under a basic health plan, pharmaceutical products be supplied based on a list of 307 generic substances, thereby threatening the brand-name pharmaceutical market in Colombia. Enforcement of trademark legislation in Colombia also needs to show progress in the fight against contraband and counterfeiting. Colombia is a member of the Inter-American Convention for Trademark and Commercial Protection. The Superintendency of Industry and Commerce acts as the local patent and trademark office in Colombia. This agency suffers greatly from inadequate financing and a large backlog of trademark and patent applications.

Copyrights: In November 2000, Colombia ratified the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty. However, 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 saw a drop of 26 percent in business software piracy in 1999, and a greater drop of 30 percent in 2000. However, 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, to show for these efforts. 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 with inadequate police activity, but also in the judicial system, where there have been complaints about the lack of respect for preservation of evidence and frequent perjury. The IIPA estimates that in Colombia videocassette piracy increased to 90 percent of the video market in 2000; sound recording piracy represents 60 percent of the market; business software piracy 55 percent of the market; while entertainment software piracy increased to 85 percent of the market.

New Technologies: Colombia has a modern copyright law, which gives protection for computer software for 50 years and defines computer software as copyrightable subject matter but does not classify it as a literary work. Semiconductor design layouts are not protected under Colombian law.

### *8. Worker Rights*

*a. The Right of Association:* Colombian law recognizes the right of workers to organize unions and to strike. The labor code provides for automatic recognition of unions that obtain at least 25 signatures from potential members and that comply with a simple registration process at the Labor Ministry. The law penalizes interference with freedom of association. It allows unions to freely determine internal rules, elect officials and manage activities, and forbids the dissolution of trade unions by administrative fiat. Unions are free to join international confederations without government restrictions. In 1999, President Pastrana approved Law 584, which limits government interference in a union's right to free association.

*b. The Right to Organize and Bargain Collectively:* The constitution protects the right of workers to organize and engage in collective bargaining. Workers in larger firms and public services have been the most successful in organizing, but these organized workers represent only a small portion of the economically active population. According to recent estimates by the Ministry of Labor, and the National Labor School (a labor-oriented NGO), approximately six percent of the Colombian work force (1,054,400 workers) is organized into 5,470 registered unions, 70 percent of which are affiliated with one of three confederations (CTC, CGTD, and CUT). High unemployment (18.5 percent as of September 2001), traditional antiunion attitudes, union disorganization and weak leadership limit workers' bargaining power in all sectors.

In May 1998, the International Labor Organization (ILO) expressed serious concern at allegations of murders, forced disappearances, death threats, and other acts of violence against trade union officials and members. The ILO documented more than 300 murders of trade union members during 1995-98. In June 2000, the ILO governing body adopted the conclusions of a November 1999 Direct Contact Mission, which recommended an urgent inquiry into the participation of public officials in the creation of paramilitary groups, an increase in government budgetary allocations to protect trade union officials, and an increase in efforts to combat impunity. After its 89th annual session in June 2001, the ILO appointed a Technical Commission to continue to monitor status of union members' rights in Colombia. This Commission is expected to produce a report by the end of 2001.

Labor leaders throughout the country continue to be targeted by paramilitaries, guerrillas, narcotics traffickers, and their own union rivals. Labor leaders and NGO's reported that 105 union members were killed during 2000 and 47 union members were killed during the first eight months of 2001. According to the National Labor School, more than 2,200 union members have been murdered since 1986.

*c. Prohibition of Forced or Compulsory Labor:* The constitution forbids slavery and any form of forced or compulsory labor, and this prohibition is respected in practice in the formal sector. However, women are trafficked for the purpose of forced prostitution, paramilitary forces and guerrilla groups forcibly conscript indigenous people, and thousands of children are forced to serve as paramilitary or guerrilla combatants, prostitutes, or coca pickers.

*d. Minimum Age for Employment of Children:* The constitution bans the employment of children under the age of 14 in most jobs. The Minors Code, established in 1989 under Decree 2737, prohibits the employment of children under the age of 12 and stipulates exceptional authorization by Labor Ministry inspectors for the employment of children between the ages of 12 and 17. These provisions are respected in large enterprises and in major cities. Nevertheless, Colombia's extensive and expanding informal economy remains effectively outside government control. In Colombia there are 10 million children between ages 7 and 17, or nearly a quarter of the population. A Roman Catholic Church study conducted in May 1999 found that approximately 2.7 million children work, including approximately 700,000 who labor as coca pickers. According to Ministry of Labor estimates for 2000, 2.5 million children work, although this figure excludes both children in the informal sector and child soldiers. The same source estimated that working children ages 7 to 15 earn between 13 and 47 percent of the minimum wage. An estimated 30 percent of working children have regular access to health care, and the health services of the social security system cover only 12 percent of child laborers. Approximately 28 percent of children are employed in potentially dangerous activities. Child labor in urban centers typically involves very young children selling sweets on the streets or simply begging. Child prostitution is also a problem. In rural areas, children also work often in substandard conditions in agriculture, leather tanning, and small family-operated mines.

*e. Acceptable Conditions of Work:* The government sets a uniform minimum wage for workers each January to serve as a benchmark for wage bargaining. The minimum wage for 2001 is approximately $125 (286,000 pesos) per month. Although the annual increase in the minimum wage is based on the government's target inflation rate, the minimum wage has not kept up with inflation. According to government estimates, the cost of the monthly low-income family shopping basket is 2.4 times the monthly minimum wage. For middle-income families, the price of the shopping basket is 6.1 times the minimum wage. Seventy-seven percent of Colombian workers earn less than twice the minimum wage. The law provides for a standard 8-hour workday and 48-hour workweek, but does not specifically require a weekly rest period of at least 24 hours. Legislation provides comprehensive protection for workers' occupational safety and health, but these standards are difficult to enforce, in part due to a small number of Labor Ministry inspectors.

*f. Rights in Sectors with U.S. Investment:* U.S. foreign direct investment is concentrated principally in the petroleum, coal mining, chemicals and manufacturing industries. Working conditions in those sectors tend to be superior to those prevailing elsewhere in the economy, due to the large size and high degree of organization of the enterprises.

**Extent of U.S. Investment in Selected Industries** -- U.S. Direct Investment Position Abroad on an Historical Cost Basis **--** 2000

(Millions of U.S. Dollars)

| Category | Amount | |
|---|---|---|
| Petroleum | | 772 |
| Total Manufacturing | | 1,373 |
| Food & Kindred Products | 348 | |
| Chemicals & Allied Products | 425 | |
| Primary & Fabricated Metals | 104 | |
| Industrial Machinery and Equipment | (D) | |
| Electric & Electronic Equipment | (D) | |
| Transportation Equipment | (D) | |
| Other Manufacturing | 443 | |
| Wholesale Trade | | 96 |
| Banking | | (D) |
| Finance/Insurance/Real Estate | | 758 |
| Services | | 48 |
| Other Industries | | (D) |

| | |
|---|---|
| TOTAL ALL INDUSTRIES | 4,423 |

(D) Suppressed to avoid disclosing data of individual companies.
Source: U.S. Department of Commerce, Bureau of Economic Analysis.