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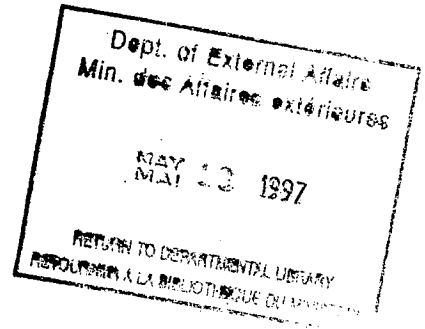
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COLOMBIA

A Guide for Canadian Exporters and Investors



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A Guide for Canadian Exporters & Investors

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COLOMBIA

A Guide for Canadian Exporters and Investors

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Colombia

Favourable Business Climate for Canadian Companies

Colombia, a market of some 35 million people, occupies a strategic position at the gateway to South America, with port facilities on both oceans. It also enjoys preferred access to neighbouring country markets through a number of existing free trade agreements such as the Andean Pact, as well as bilateral agreements with Chile and Mexico.

Colombia's enviable record of uninterrupted economic growth has continued for nearly 40 years, averaging a strong 5% over the past several years. Political uncertainty and a monetary "over adjustment" led to a slowdown in growth for 1996, with GDP growth coming in at just under 3%. However, indications point to recovery in 1997.

Colombia's policy of "apertura" (or opening of the economy), initiated in the early 1990s, has continued to unfold. This has meant falling import duties, leading to increases in imports of consumer goods and, more importantly, plant and equipment for the modernization of industry.

Colombia's economy is one of the most stable and dynamic in Latin America. Colombia has no balance of payments problems and an excellent credit rating. Indeed, Colombia and Chile are the only two countries in Latin America to enjoy an investment grade rating from Standard and Poors. Canada's Export Development Corporation rates Colombia very highly and has extended a number of lines of credit through Colombian banks.

Huge amounts are being spent in telecommunications, aviation, agri-food and consumer products; as well as in the petroleum sector, both in the development of new fields and in pipeline construction. Current petroleum exports exceed half a million barrels per day; this is expected to reach 1 million b/d by the year 2000. Canadian companies have taken a major lead in this area. Canadian Occidental Petroleum Ltd., TransCanada PipeLines Ltd. and Interprovincial Pipe Line Ltd. are all major investors in the Colombian oil & gas sector.

The on-going "decertification" of Colombia by the United States, which has frozen export credits from the US Eximbank, has opened opportunities for Canadian financial entities such as the EDC and Canada's private banks, as well as for Canadian subsidiaries of US companies that no longer have access to Eximbank credits.

Privatization

Colombian investment law, which is designed to encourage foreign investment and repatriation of profits, majority foreign positions and a minimal governmental approval system, provides a very favourable climate for investment. The country's privatization policy also remains on track and offers significant investment opportunities in power plants, railways, mining, banking and other infrastructure projects.

The Colombian Government initiated an ambitious privatization plan in 1991. Since then, the nation's ports, portions of its railway system, cellular telephone service and domestic long-distance service, six banks, eight chemical companies, three shipbuilding companies, six agro-industry enterprises, a fishing company, and a retail gasoline chain, among others, have been sold to private operators.

Two hydroelectric plants and South America's largest nickel plant were privatized in 1996. More state-owned financial institutions, power plants, highways, railways and airports will be privatized in 1997.

The private sector is awaiting anxiously the privatization of Telecom, the state-owned telecommunications enterprise, and shortly afterwards, the opening of the international long-distance telephony sector.

The participation of the private sector in privatization projects is regulated by law 80 of 1993 "General Statute of Public Contracting" which opens public contracts to foreign bidders, and law 226 of 1995 "Law of State Owned Stocks Alienation" which regulates the privatization of state-owned enterprises.

Political and legal system

The Republic of Colombia was created by the Constitution of 1863. It has a democratic and decentralized form of Government, with public power divided into three branches: the executive; the legislative and the judiciary. Today, Colombia is divided for administrative purposes into 32 departamentos (states) each headed by a Governor. The departamentos are, in turn, subdivided into 1,024 municipalities, each headed by a mayor and city council.

The Presidency

The executive branch of the Government consists of the President, his cabinet, the heads of the administrative departments and a number of autonomous agencies. The President, Ernesto Samper, is the head of the state, of the Government and of the armed forces, as well as the supreme administrative authority. The President is elected by popular vote at elections held every four years and cannot be re-elected. The President appoints his cabinet, currently consisting of fifteen ministers. The President also appoints top Government employees who are not in the civil service. Consequently, every election causes a change of almost all important positions at the ministries and other Government institutions. Usually this also mean new directions, policies and approaches.

The next Presidential elections will be held in May, 1998. As President Samper enters the last year of his mandate, it appears he has survived the controversies that dogged him during his first two years in office.

Economic Policy

A supporter of hemispheric free trade, Colombia continues to aggressively expand its trade relations and is reaping the free trade benefits of agreements with neighbouring Latin American countries. The country, as a member of the Andean Pact with Venezuela, Ecuador, Peru and Bolivia, makes up part of a 60 million member consumer market. It has also joined Venezuela and Mexico in the G-3 and has negotiated similar agreements with Chile and the Caribbean. Average customs duties for imports, which stood at over 40% in 1992, are now less than 11.5%.

Colombia and its Andean Pact partners established a Common External Tariff (CET) beginning on February 1, 1995. The CET has a four tier structure, with levels of 5, 10, 15 and 20 % for most products. In accordance with the Andean Pact CET, Colombia harmonized its four tier tariff schedule with Venezuela and Ecuador, with some exceptions by each country. (Bolivia retained its two tier tariff structure of 5 and 10 %, and Peru, which is still on temporary self suspension from the Andean Pact, maintains a two tier tariff structure of 15 and 20 %.)

Recent Canadian Successes in Colombia

Colombia is Canada's 26th largest export market in the world and the fourth largest in Latin America - behind Mexico, Brazil and Venezuela. Canadian exports to Colombia reached C\$419 million in 1996 up from C\$392 million in 1995, led by wheat, pulses, malt, newsprint and paper products, copper, telecommunications, machinery, asbestos, motor vehicles and parts, electronic equipment, polyethylene and polymers, chemicals, processed foods and beverages.

There is an interest to associate with Canadian firms and this reflects the sharply increasing awareness of Canada as a source of technology and quality products. This perception owes much to the high profile of Canadian companies active in Colombia, such as Bell Canada International, TransCanada PipeLines, Interprovincial Pipe Line, Northern Telecom, Bell Helicopters, Bombardier, Labatt's and McCain Foods Ltd.

Bell Canada International holds a greater than 50% stake in Colombia's most successful cellular telephone service provider, Comcel. Through aggressive marketing, superior customer service and innovative products, Comcel's market share for the Eastern region of the country now exceeds 51%.

Holding a 34% equity, TransCanada PipeLines Ltd. is the project manager and operator of the TransGas de Occidente S.A. Gas Pipeline Project. The project is a 344 kilometre-20" pipeline expected to come into service in early 1997. TCPL also owns a 17.5% interest in the Cusiana-Cupiagua Oil Pipeline Project and is a joint operator of the pipeline. The Cusiana project consists of 800 kilometres of 30" and 36" pipeline as well as the expansion storage and port facilities.

Interprovincial Pipe Line International Ltd. has a 17.5% stake in Ocesa, the Cusiana-Cupiagua Oil Pipeline Project, and is a joint operator of this pipeline. When completed, the Cusiana line is expected to operate at a capacity of 500,000 barrels per day.

Over the past year, Colombia has witnessed a strong surge of Canadian investment activity in the communications and energy sectors, with Canadian investors involved in projects worth over US \$3 billion. Investments in other sectors are also under discussion.

Early in 1996, McCain Foods Ltd. purchased Prodelpo of Medellin, a medium-sized potato and yuca processor with a good share of the Medellin market. The purchase took place after two years of research into the agronomics of the Colombian potato market and the processing capabilities of Prodelpo. McCain Andina S.A is now distributing its frozen french fries and vegetables through the major supermarkets in the country and franchise outlets such as McDonald's. The ultimate aim of McCain Andina S.A. is to export throughout the Andean market.

With the promise of long-distance telephone liberalization on the horizon, Nortel finds itself well-situated to capture a sizable portion of the Colombian telephone equipment market. It is currently involved in a major project to install 220,000 phone lines in the Bogotá area as part of Telecom's (the national phone carrier) "Capitel" project.

Serving Colombia's aviation needs are 34 Bell Textron 212 and three Bell Textron 412 helicopters. Flown by both private and public sector users, these Canadian-made workhorses are proving their worth daily.

Also keeping Colombians on the move are five Bombardier Dash 8 aircraft flown by Aires airlines. Aires has been pleased with the Canadian planes and is looking to expand their fleet.

Labatt's Blue is now sold in cans through major Colombian supermarkets and in bottles in upscale restaurants throughout the country. Only recently introduced to the Colombian market, Labatt's Blue now ranks close behind other well-known imported beers like Heineken, Corona and Miller.

Canadian exports to Colombia in 1997 are expected to grow, with anticipated increases in telecommunications, oil & gas, electric power equipment, civil aviation equipment, geomatics, agri-food products, pharmaceutical equipment & machinery, and environmental products & services.

Priority Sectors for Canada in Colombia

Advanced Technology Products/Systems

Canada's presence in the Colombian telecommunications market is well-established and flourishing. As the telecom sector evolves and is open to competition for long distance traffic, the opportunities for sales and joint ventures with Colombian operators will grow; there is tremendous opportunity for investment in the sector. Telecommunications remains a priority for investment by the Government which is committed to increasing the lines density per population to more than double what it is now. This will require investments in the billions of dollars in the coming years. Canadian companies are well-positioned to take advantage of these emerging opportunities in regular telephony, cellular communications and satellite-based communications. Another priority for the Government will be rural telephony where projects are being financed by a revenue tax on the cellular companies. Additionally, Colombia plans for expansion in fibre optic networks in the major municipalities, which themselves will be interconnected. This will open up opportunities for equipment/cable/switching suppliers.

The Colombian telecommunications equipment market is estimated at over US\$300 million and is expected to grow at 7% annually through 2001. Of this \$300 million figure, US\$270 million is considered to be the import market.

The right to provide new services in the communications and telecommunications sectors will be awarded to domestic and foreign companies through concession contracts, thus opening a market estimated at US\$1 billion during 1996-1997 and promising US\$4.5 billion in new public investment plans for the 1996-2000. The overall market has already grown in response to Colombian Government liberalization of value-added services, private networks, cellular services and the lowering of import duties. The policy of privatization of both the domestic and international long distance services in 1997, combined with plans for extensive network modernization during the period 1996-1998, make Colombia a very promising market for Canadian telecommunications manufacturers and service providers.

Major Canadian telecommunications operators and suppliers are reaping the benefits of this growth in the Colombian telecommunications market. Comcel, a subsidiary of Bell Canada Inc. currently holds a greater than 51% market share in the cellular telephone market in the eastern region of Colombia and this market is poised for further growth. Nortel is also a major force in the Colombian telephony market as it is currently installing close to half a million phone lines in and around Bogotá, as well as data packet switching equipment and private branch exchanges to Colombian companies.

Geomatics is an expanding market where Canadian companies are enjoying

success and will continue to do so. With new emphasis by the Colombian Government on the environment and resource management, there will be increasing opportunities with multinational exploration companies, the state oil company and environmental agencies.

Outside of the telephone market, there are opportunities for investment and equipment sales in the recently-privatized television broadcasting sector. It is anticipated that concessions will be awarded for a number of regional channels which will eventually evolve into national channels. The major industrial conglomerates will head the list of entities awarded TV concessions. The state broadcaster will also be modernizing its equipment and is committed to increasing its broadcast coverage, with requirements for transmission and related equipment.

Agriculture, Food Products Sector

Colombia has a rapidly-growing consumer middle class and an appetite for imported goods. Total imports since the 1992 apertura have increased sharply from C\$147 million in that year to an estimated C\$822 million for 1996. Also taking place is an increase in disposable incomes, evolving tastes and a developing acceptance of imported foods. With the changes occurring in lifestyles there is a growing dependence on processed/convenience foods, many of which are not manufactured locally. The expansion of mega-supermarket chains and the arrival of international chains to compete with the locals, means there are very significant opportunities for Canadian producers of food products in the market. Colombia's policy of "apertura", or economic opening, has offered new ranges of choice to consumers, who are exercising their newly acquired power of selection and are increasingly seeking products of premium quality and value. Since consumers have less and less time for cooking, imported foods are playing an increasing role in solving this important challenge.

The increased appetite for food imports has been satisfied largely by Venezuela, Chile, Ecuador, and the United States, the latter dominating with 28.3% of the market (C\$157 million) in 1995. Canadian exports of processed foods to Colombia have grown to C\$6.3 million and continue to expand.

The total market size for processed foods is estimated at C\$1.3 billion for 1996, making it the largest manufacturing industry in Colombia at 23% of all manufacturing. The Colombian domestic food industry is accelerating its development and is attempting, where possible, to follow the model established by some of the imported products. However, it will be difficult for some time for the domestic food industry to compete in terms of quality, packaging and, in many instances, price.

Agricultural commodities (wheat, pulses, barley, etc.) have long been the mainstay of Canada's agricultural exports to Colombia (C\$80 to 100 million annually) and will continue to be so for the foreseeable future. Livestock and animal genetics products also continue to play an important role consolidating Canada's role as a primary supplier of agricultural products and services.

Oil and Gas Sector

With Phase II of the Cusiana fields approaching full development, investments are required by the operating partners to achieve full production potential. In related infrastructure, Canadian companies have won an important contract for the construction and operation of the new oil export pipeline and natural gas pipeline. Both should enter full operation in 1997. There are opportunities for Canadian suppliers in pipeline equipment & materials and related systems as this network expands with new oil and gas discoveries.

Also anticipated is a further round of tender offerings for new exploration rights. This will provide exploration and production companies an opportunity to participate in the development of Colombia's expanding petroleum sector.

In late 1996, Canadian Occidental Petroleum Ltd. was awarded major concessions for exploration in Colombia and has begun operations.

In September, 1996 a new major oil find was discovered in the department of Cundinamarca near Medina. Initial estimates place this find ahead of the Cusiana discovery at close to 700 million barrels of oil.

Colombian total reserves of crude oil are estimated at 3.5 billion barrels of oil. Total natural gas reserves are about 10,000 giga cubic feet of gas.

The Government's Petroleum Corporation (ECOPETROL) and the private companies that maintain association contracts with this firm are optimistic about the fields they are exploring. The most promising are those in the Colombian eastern plains (Llanos Orientales) near the area where the most important hydrocarbon discovery in Colombia was made at the beginning of the 1990s (the Cusiana-Cupiagua-Volcanera fields). Development of these fields, and other promising explorations, should allow Colombia to increase its production of oil from an average of 600,000 barrels per day in 1996 to about one million barrels per day in 2000.

A priority for the Government of Colombia is promotion of economic and social development programs, paid in part by the development of new resources. Construction of a new network of oil and gas pipelines is a part of that program. Currently, about 2,100 kilometres of gas pipeline are under construction. There is a 792 kilometre oil pipeline connecting the Cusiana-Cupiagua fields with the Atlantic coast that is being completed by a consortium headed by TransCanada PipeLines Ltd. and Interprovincial Pipe Line Ltd. The network of multi-products pipelines and storage for different hydrocarbons is being expanded. Investments in Colombian oil and gas are estimated to reach US\$1.3 billion per year for the next ten years.

To encourage new, larger investments in the oil and gas sector, Colombia has announced that some important modifications will be introduced to association

contracts. Additionally, Colombia has allowed the opening of bids for exploratory rights in some regions that had been reserved for direct exploration by Ecopetrol. The new policies have encouraged exploration activity that may lead to the discovery of new major fields. Canadian firms should be alert for the opportunities that the Colombian oil and gas sector market will offer for their products and services.

Natural Gas Mass Distribution Program

Colombia has traditionally been a modest user consumer of natural gas.

Residential use of natural gas only started in 1986 with a gas pipeline between Ballenas and the cities of Barranquilla and Cartagena on the Northern coast. In 1991, natural gas represented only 5% of total energy consumption in Colombia. A Government decision to increase energy efficiency has facilitated a plan for a gas mass distribution program including an expansion in this service for household, industrial, commercial and electric generation use in cities of Santafé de Bogotá, Medellín and Cali.

The "gas massification program" is a major component of the Government's energy policy. A priority for the Government is to enhance international private participation in the development and operation of the natural gas infrastructure. Urban/regional distribution networks are in the advanced planning stage. An important tender has already been issued which will service some 50 municipalities in the centre of the country. The larger cities are also planning their network through their public utility companies during 1997 and 1998. These projects offer Canadian utilities an opportunity for investment and for equipment and material suppliers a significant opportunity for export sales.

Investments in oil and gas transportation alone have been estimated at a total of about US\$3.5 billion for the next 10 years. Four major pipeline projects, covering most of the country and awarded to private investors under the BOMT (build-operate-maintain-transfer) systems, will help increase the number of user-households from the 600,000 families currently served to 2 million subscribers in the year 2000.

Aerospace and Defence

Because of the inaccessibility of much of the country, aviation is one of the most important modes of transportation in Colombia, particularly for passenger transport. Colombian air routes are well-developed.

Canada's aviation technology is well-known in Colombia as five Bombardier Dash 8s are operated by Aires Airlines along with nine Twin Otters flown by Aces

Airlines. The Colombian Air Force and the Colombian National Police are each currently employing ten Bell Textron 212 helicopters.

With past sales of helicopters to the Air Force and National Police, there should be opportunities for companies in the maintenance and overhaul fields. Moreover, there will be a continual requirement for helicopters on the part of the Defense Ministry, which the Commercial Section of the Embassy in Bogotá will continue to monitor. Additionally, the Colombian armed forces will have requirements for other fixed-wing aircraft and simulators for training. The key to being a successful vendor to the Defense Ministry is a selecting a capable local agent who can actually create the demand and political will for the project. Likewise, attractive financing will be critical as could a Government-to-Government structure using the services provided by the Canadian Commercial Corporation who have experience dealing with the Ministry.

The modernization and privatization of over 100 Colombian airports, scheduled to take place over the next few years, will present possibilities to many Canadian equipment suppliers in a variety of fields. The erection of control towers, construction of runways, acquisition of security systems and the upgrading of navigational and communication devices pose opportunities for Canadian advanced technology suppliers. All told, the Colombian Government is investing over US\$40 million in airport infrastructure during 1997 alone.

The Colombian Civil Aviation Authority (Aeronautica Civil) is entering into contracts with private firms for the management of the country's airports. Aeronautica Civil is considering developing a 20-year Master Plan for the decentralization and operation of each airport. The Plan will specify the works which will have to be undertaken by the firm during the term of the management contract.

The Plan will make investment by national and international bidders that much more attractive. The first airports to be decentralized were those in Cartagena and Barranquilla. Scheduled next for decentralization are the airports in Bogotá, Cali and Rionegro. The Aeronautica Civil will proceed no further with decentralization until an evaluation of the Cartagena and Barranquilla efforts has been made.

Power and Energy Sector

Colombia's total installed electrical generation capacity in 1994 amounted to 10,107 MW, of which 7,873 MW (78%) was hydro-generation; the remaining 2,234 MW (22%) was from thermal plants. The generation system includes 70 stations: 37 are hydro, 9 are coal-fired and 24 operate on gas and fuel oil.

With Colombia's economy growing annually at an estimated rate of between four and six percent during the rest of this century, it will be necessary to initiate projects that would add at least 2,050 MW to the country's installed capacity in the period 2000-2005 as follows: four to five plants for a total of 1,200 MW in gas-fired plants, 150 MW in coal-fired units, and 700 MW in hydroelectric projects. Some of these projects are to be initiated in the period 1997-2000 to allow time for unexpected delays in their implementation (mainly in the case of hydroelectric projects). Many of these new initiatives will be undertaken and/or implemented by private investors.

At the moment, several electric generation plants are being planned or are in the advanced preparation stage. These are:

- ▶ gas fired - the 360 MW Cartagena project
 - the 480 MW Barranquilla project

- ▶ coal fired - the 150 MW Paipa IV project
 - the 150 MW Tasajero II project
 - the 300 MW Tibita project
 - the 300 MW San Jorge project
 - the 150 MW Zipa VI project
 - the 150 MW Amagá project
 - the 300 MW La Loma project
 - the 150 MW San Luis project

- ▶ hydroelectric - the 340 MW Urrá I project
 - the 392 MW Porce II project
 - the 375 Miel I project
 - the 90 MW Riachón project
 - the 240 MW Calima III project

The privatization of the electrical generation sector will provide abundant opportunities to Canadian utilities and equipment suppliers not only in terms of equipment, but there exists the possibility of investment and joint venturing in the sector. New projects coming on-stream, primarily on the thermal side, will also be of interest. The Government is committed to avoiding the rationing which occurred throughout 1992 due to a lack of rainfall to fill the hydro reservoirs. In addition, as natural gas is now more readily available in the interior of the country, the number of gas thermal units is expected to expand. Competition in this sector

is strong from many countries, particularly the USA, and Canadian companies should be prepared to devote significant energy and resources to develop power projects in this market.

Environment Sector

Creation of a new Ministry of Environment in 1994 has brought increased attention to environmental practices and many industrial organizations are acting to change the way in which they do business.

The Colombian Ministry of the Environment is a new entity and has been actively setting up its organization and the structure in the country. It has been receiving a great deal of assistance from various international technical assistance agencies, including Canada, in getting organized and operational. In addition to structural/organizational issues, the Ministry is developing the regulatory standards for the environment. The Ministry will shortly be introducing its regulatory framework, which will be in conformity with established international standards.

As soon as the environmental standards and regulations are passed, there will be great pressure on municipalities and industry to meet these standards. This will require significant investments on their parts in new technologies and processes. The market is currently very much dependent on international sources of technology and expertise. Resources are being dedicated and plans made in the river/water treatment, waste management and emission reduction areas. There will be significant opportunities for Canadian companies that can provide technology and products to address these areas.

Under Colombian environmental legislation, companies must also prepare pollutant release inventories for their operations. The Ministry of Environment is updating the country's ambient air quality standards and preparing industry-specific legislation and investments for conservation and restoration of renewable natural resources.

In 1995 the Government allocated approximately US\$190 million over four years to the cities of Bogotá, Cali, Medellín, Sogamoso and Cartagena for air pollution control.

A further US\$12.6 million has been allocated for 1995-1999 for the promotion of clean industrial operations in the extraction, refining and manufacturing sectors. The program encourages the adoption of environmentally-clean technologies, making use of the country's vast energy and aquatic resources.

The environmental industry is very decentralized. Each departamento (or state) has its own Regional Autonomous Corporation (CAR), responsible for implementation of policies set out by the national Government.

Priority industries identified by the Ministry of the Environment for clean-up include: tanneries, lime producers, panela (block sugar) manufacturers, pesticides, artisan gold manufacturers, coffee and cocoa processing plants, and small foundries/quarries. Much of the problem enforcing environmental clean-up in Colombia comes from the fact that such a large percentage of producers are very small, inefficient, family-owned enterprises without the financial or managerial wherewithal to implement costly solutions to environmental problems. Hence, many environmental assessments will have to have a socio-economic analysis of the costs of clean-up.

Private sector participation in the operation and management of public service companies to provide potable water has excellent potential. Other promising subsectors include water pollution control equipment, air pollution monitoring and control systems, solid waste hauling and disposal equipment, and environmental consulting services.

Foreign Investment

Colombian investment law is designed to encourage foreign investment and repatriation of profits, majority foreign positions and a minimal Government approval system.

Colombia boasts an open investment climate with a modern and competitive foreign investment framework established to attract foreign capital. The three fundamental principles of the legislation are:

- ▶ **Equality:** foreign investment in Colombia receives the same treatment as investment by Colombian investors.
- ▶ **Universality:** foreign investment is allowed in all economic sectors apart from the following exceptions: national defense and security; the processing and disposal of toxic or radioactive waste not produced in the country; the business of buying, selling or renting of real estate; and real estate backed securities.
- ▶ **Automatic authorization:** foreign investors need no prior authorization to invest except in the following cases:
 - ▶ by the National Department of Planning for the provision of public services, excluding cellular phone service; the processing of toxic waste produced in the country; mining projects with investment over \$100 million; projects requiring coverage by entities providing investment protection, guarantees or insurance derived from international agreements.
 - ▶ by the Superintendent of Banks for any investment whose object is the acquisition of 10 percent or more of the share of any financial institution; investments destined for the creation of a financial institution; foreign investment funds in cases where the expectation is to obtain more than five percent of the voting shares of a financial institution.
 - ▶ by the National Stock Exchange Superintendent for portfolio investments in institutional funds; and,
 - ▶ by the Ministry of Mines and Energy for investment projects in exploration and development of oil and natural gas; the total or partial transfer of titles of oil and gas projects; hydrocarbon refining, transportation and distribution; projects developed for the exploration development and processing of minerals.

Partnering for Success

Use of Agents, Representatives & Distributors

Foreign firms interested in exporting only to the private sector in Colombia are not required by law to secure a local agent or representative and may deal directly with customers. However, as a general rule, it is advisable to appoint a local agent or sales representative to help with import procedures, actual sales promotion, and after-sales service. It is a requirement for international bids and when contracting with the Colombian Government that foreign bidders are legally represented in Colombia.

Agency or representation and distribution agreements are regulated by the Colombian Commercial Code. An agent or representative differs from a distributor in that the former is legally associated with the principal and may enter into legal agreements on the principal's behalf, while the latter acts totally independent from the principal. A distributor may purchase items from a foreign supplier (wholesaler or jobber) and resell them locally at his own discretion and risk, thus, controlling his level of profits and style of marketing.

To secure an agent, representative or distributor for Colombia, a contract is required, following the provisions of the Colombian Commercial Code. This contract must be registered with the chamber of commerce where the agent/representative is located. Agency or representation agreements do not require Government approval.

Joint Ventures/Licensing

Joint ventures and licensing agreements have been in effect in Colombia for many years as important tools for transferring technology. Legislation in Colombia has been changed to permit these types of association, so as to encourage and promote foreign investment and the protection of intellectual property rights.

Joint ventures can be established in Colombia on a temporary basis, to pursue a project or on a long-term basis. The ownership split between the Canadian and Colombian partners can be made in any proportion. The entity must be incorporated with a notary public, just like any local company. The investment must also be registered with the Banco de la Republica in order to be legally incorporated.

Steps to Establishing Business

There are several ways of establishing a business in Colombia: as a corporation; limited liability partnership; sole proprietorship; or a branch or subsidiary of a foreign corporation. Each requires different steps to be followed and is legally

intricate. The Embassy always advises firms planning to establish an office in Colombia to obtain legal advice from either a lawyer or an accounting office. A list of attorneys and accountants who can provide these services is available from the Commercial Section of the Embassy.

(The following general procedures are listed as an example of the complexity of establishing a firm in Colombia and demonstrate the need for legal advice.)

For a foreign corporation to be registered in Colombia, prior authorization from the National Planning Department is no longer required for investing foreign capital, but the following documents must be made available:

- ▶ Documents of incorporation and the bylaws of the foreign corporation.
- ▶ Resolution from the board of directors of the home office which authorizes the opening of a branch in Colombia, with details of capital assigned to the branch and the initial appointment of officers and statutory auditors.
- ▶ Certificate from the chamber of commerce at the intended domicile of the branch to the effect that extracts of the documents mentioned under paragraph one above have been registered.
- ▶ Statement from the chamber of commerce that the official books have been registered and identified.
- ▶ Certificate from the manager and the statutory auditor that the capital assigned to Colombian operations has been paid in accordance to legal requirements.

The above documents may require authentication by a Colombian Consulate in Canada, the Colombian Ministry of Foreign Affairs in Bogotá, and the local Chamber of Commerce. If the documents are found to be in order, the Superintendency of Corporations, the Banking Superintendency or the Superintendency of Securities (as the case may be) will issue the corresponding permit to initiate operations in Colombia.

All companies (including branches of foreign companies domiciled in Colombia) must register in the Mercantile Register of the Chamber of Commerce in the cities where they are located, (together with their accounting books) acts, books and documents required by law.

Business Organization

There are basically three ways of setting up a business in Colombia:

1. **Local Corporation:** This is very similar to a Canadian corporation. Shareholders should not be fewer than five and they are liable for the corporation's debts up to the amount of their respective capital contributions. The company issues nominative share certificates which are negotiable in the stock market. At least fifty percent of authorized capital must be subscribed and at least 33 percent paid in, at the time of incorporation.
2. **Limited Liability Partnership:** This is a limited company of from two to 25 partners, who are liable up to the amount of their contributions. Capital must be fully paid in at the time of incorporation and must be divided into equal quotas or value units, assignable on terms specified in the bylaws and in legislation.
3. **Branch of a Foreign Corporation:** A branch operates under the rules applicable to Colombian corporations. Its liability is limited to assigned capital. It must be registered with a Notary Public in the place of domicile. Notarized copies of its incorporation document, its bylaws, the resolution or act agreeing to the establishment of the branch, and documents evidencing its existence and legal representation must be registered.

Selling to the Government

Government entities and firms must follow the provisions of Law 80 of October 31, 1993 which regulate purchases and contracts by the Government, and state industrial and commercial enterprises. As a general rule, all individuals and legal entities that wish to execute contracts with state entities have to register with the Chamber of Commerce of their jurisdiction in order to be qualified, classified, and rated in accordance with the provisions of Law 80. Foreign individuals not domiciled in Colombia or foreign private legal entities without a branch in Colombia seeking Government contracts, must provide a copy of their registration at the corresponding registry in their country of origin. They should also submit documents proving their existence and incumbency, whatever is the case. In addition, they must appoint an agent or legal representative, domiciled in Colombia, duly empowered to bid and execute the contracts as well as to represent the foreign enterprise in and out of court.

Under Law 80, Colombian bidders have preferential treatment. Given equal contracting conditions, the offer of goods and services of domestic origin is preferred. When foreign firms bid under equal conditions, the contract is awarded to the one that incorporates a greater number of domestic workers in the

work-force, more domestic content, and better conditions for technology transfer.

Business Customs

It is advisable to have some knowledge of Spanish, although many high level executives and businesspeople speak English.

Business visitors should be prepared with good quality promotional materials for the product lines offered. If possible, small samples will make visits more effective during preliminary negotiations. Literature in Spanish is preferable.

The weather in Bogotá is almost perennially early fall weather. The maximum temperature is 22 Celsius. Minimum temperatures are between 2 and 6 Celsius. Much of the rest of the country is tropical or semi-tropical.

Clothing depends largely on the climate of the region planned to be visited. In Bogotá (2600 metres above sea level) and the Andean regions, dress is more formal than in the tropical areas. Business attire for both men and women is customarily required for business or evening engagements. In warmer areas of lower elevation (Medellin, Cali, Barranquilla, Cartagena and other coastal cities) where the temperature is between 25 and 30 C, dress is less formal. Cotton is more comfortable, and jacket (frequently removed) and tie are usually worn by senior executives and for formal meetings. For women, cotton dresses are very common.

In Bogotá, banks are open to the public from 9:00 a.m. to 3:00 p.m., Monday through Thursday, and from 9:00 a.m. to 3:30 p.m. on Fridays. On the last working day of the month, banks close at noon. Some international banks and savings/credit corporations have extended schedules, even 24-hour service. Banking hours in other Colombian cities differ from those in Bogotá.

Stores are normally open between 9:00 a.m. and 7:00 or 8:00 p.m. on weekdays and Saturdays. Some open for a few hours or all day on Sundays.

Although the metric system is used, weight is figured in pounds and gasoline is sold by the gallon. Urban land is measured in square "varas" (80 centimetres by 80 centimetres). Rural land is in some regions measured by "cuadras" or "fanegadas" (80 meters by 80 meters) and in others by hectares (100 meters by 100 meters).

EDC Lines of Credit

Colombia is one of the two countries in Latin America that enjoys investment grade credits (Chile is the other); the Government of Colombia has a BBB- rating from Standard & Poors. Colombia offers excellent credit risk conditions for medium- and long-term financing due to stable economic conditions in the country and the Government's/Quasi-Governmental entities' excellent repayment record on foreign obligations. Since the United States "decertified" Colombia in March 1996 for its non-compliance with US drug-control objectives, US Export Import Bank programs have frozen new lending to Colombia. EDC views this policy measure as providing a window of opportunity for new EDC lending in support of Canadian export programs in Colombia.

Colombia is the largest market for EDC's Foreign Investment Insurance policies with over \$300 million in exposure, particularly in the oil and gas and telecom sectors. These policies cover the exporter against the political risks of war/insurrection, transfer/convertibility and expropriation.

EDC's recent loans in Colombia are concentrated in the transportation, hydroelectric, and telecommunications sectors. New lending opportunities have been identified in the area of industrial equipment sales and environmental engineering. EDC is fully prepared to consider support for a wide range of commercial contracts in Colombia with Canadian export potential. Services can be offered through a number of flexible financing alternatives to accommodate the structure of the project, including direct loans to qualified banks or companies and to the Government of Colombia, as well as through lines of credit, leases or limited recourse structures.

EDC offers the following four Colombian lines of credit:
Banco Cafetero (US\$10 million); Instituto de Fomento Industrial (US\$10 million);
Banco Unión Colombiano (US\$ 3 million); Ecopetrol (US\$10 million).

EDC can provide medium- or long-term support of purchases of eligible Canadian capital goods and services to creditworthy Colombian borrowers. EDC financing can be used to finance up to 85 percent of the value of the Canadian capital goods and services purchased from Canadian suppliers.

Canadian exporters are invited to contact the nearest EDC office in Canada for more information on the eligibility requirements for export financing. Interested Colombian companies may also want to contact EDC directly in Canada for more detailed information on how to apply for credit facilities.

USEFUL CONTACTS

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Mr. Kevin Sinnott
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Mr. Carlos Eduardo Rivera
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Mr. Carlos Van Cotthem
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Mr. Diego Barriga
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Websites You May Find Helpful

Department of Foreign Affairs & International Trade
<http://www.dfait-maeci.gc.ca>

Industry Canada
<http://info.ic.ca>

Export Development Corporation
<http://edc.ca>

Canadian Commercial Corporation
<http://ccc.ca>

Canadian International Development Agency
<http://acdi-cida.gc.ca>

General information on Colombia
<http://www.bg.bib.de/~ai25ga/Colombia.html>

El Tiempo (daily Bogotá newspaper)
<http://www.eltiempo.com>

Annex

Domestic economy

An summary analysis of the Colombian economy is provided by the Embassy on a quarterly basis and is available on the website of the Department of Foreign Affairs and International Trade or by contacting the Commercial Section of the Canadian Embassy in Bogotá.

In Millions of US Dollars or Percentage Changes e/ estimated f/ forecast

	1994 (e)	1995 (e)	1996 (f)
- GDP	57,842.0	62,469.4	67,779.3
- GDP Real Growth rate (%)	5.7	5.0	3.0
- GDP per Capita (current dollars)	1,629.0	1,728.0	1,841.0
- Govt. spending as % of GDP	16.0	18.0	19.0
- Inflation (%)	22.6	20.0	21.63
- Unemployment Rate (Urban) (%)	8.8	8.5	12
- Net International Reserves	8,008.0	8,200.0	8,400.0
- Avg. Exchange Rate for US\$1	826.5	925.7	1,046.0
- Total Foreign Debt	18,189.0	20,475.0	22,475.0

Colombian-Canadian Trade (CDN\$ millions)

	<u>1992</u>	<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>
Exports to Colombia	242.2	240.0	452.2	375.3	419.2
Imports from Colombia	130.3	172.0	257.4	372.0	297.0


Major Canadian exports to Colombia:

Pulp & paper; cereals; copper wiring; machinery; boilers; vegetables; vehicles; salt; sulphur; plastics; starches

Major Colombian exports to Canada:

Minerals; fuels; coffee; tea; edible fruits & nuts; live trees; plants; miscellaneous edible preparations; art; clothing

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