



Bogotá's Legal Guide to Foreign Direct Investment

2026

07

INTERNATIONAL AGREEMENTS

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Foreign Trade and International Protection Treaties

Colombia offers one of the most reliable investment environments in Latin America, supported by a network of 19 bilateral and multilateral investment treaties currently in force. This framework provides legal certainty to foreign investors through two fundamental pillars: international investment treaties and international investment arbitration as an effective dispute resolution mechanism.

The International Investment Agreements ("IIAs") entered into by Colombia with other countries —primarily contained in Bilateral Investment Treaties ("BITs") and in investment chapters within Free Trade Agreements ("FTAs")— establish binding protections for foreign investors. When disputes arise, international arbitration provides investors with direct access to neutral tribunals, without the need to exhaust domestic remedies.

In this regard, Colombia has ratified 19 investment protection treaties (IIAs) covering its main trading partners in

- North America
- Asia
- Europe
- Latin America

The main treaties include¹:

Region	Contracting States	Entry into Force
North America	United States ² , Canada, Mexico	2011–2012
Europe	Spain, France, United Kingdom, EFTA States, Switzerland, European Union	2007–2020
Asia-Pacific	China, Japan, South Korea, India, Israel	2012–2020
Latin America	Pacific Alliance, Chile, Peru, Costa Rica, Northern Triangle	2009–2016

Together, these instruments consolidate a comprehensive and geographically diversified protection framework. In addition to investment treaties and investment chapters of FTAs, Colombia has ratified the Trade Agreement with the European Union (in force since July 16, 2013).

¹ Available at: <https://www.tlc.gov.co/acuerdos/a-internacional-de-inversion/contenido/acuerdos-internacionales-de-inversion-suscritos>. It also includes references to investment treaties with the Pacific Alliance, Korea and the European Union.

² In 2024, the Colombia-United States Free Trade Commission issued **Decision No. 9**, clarifying that arbitration claims require actual losses directly arising from alleged breaches, excluding speculative claims.

All IIAs guarantee the following standards:

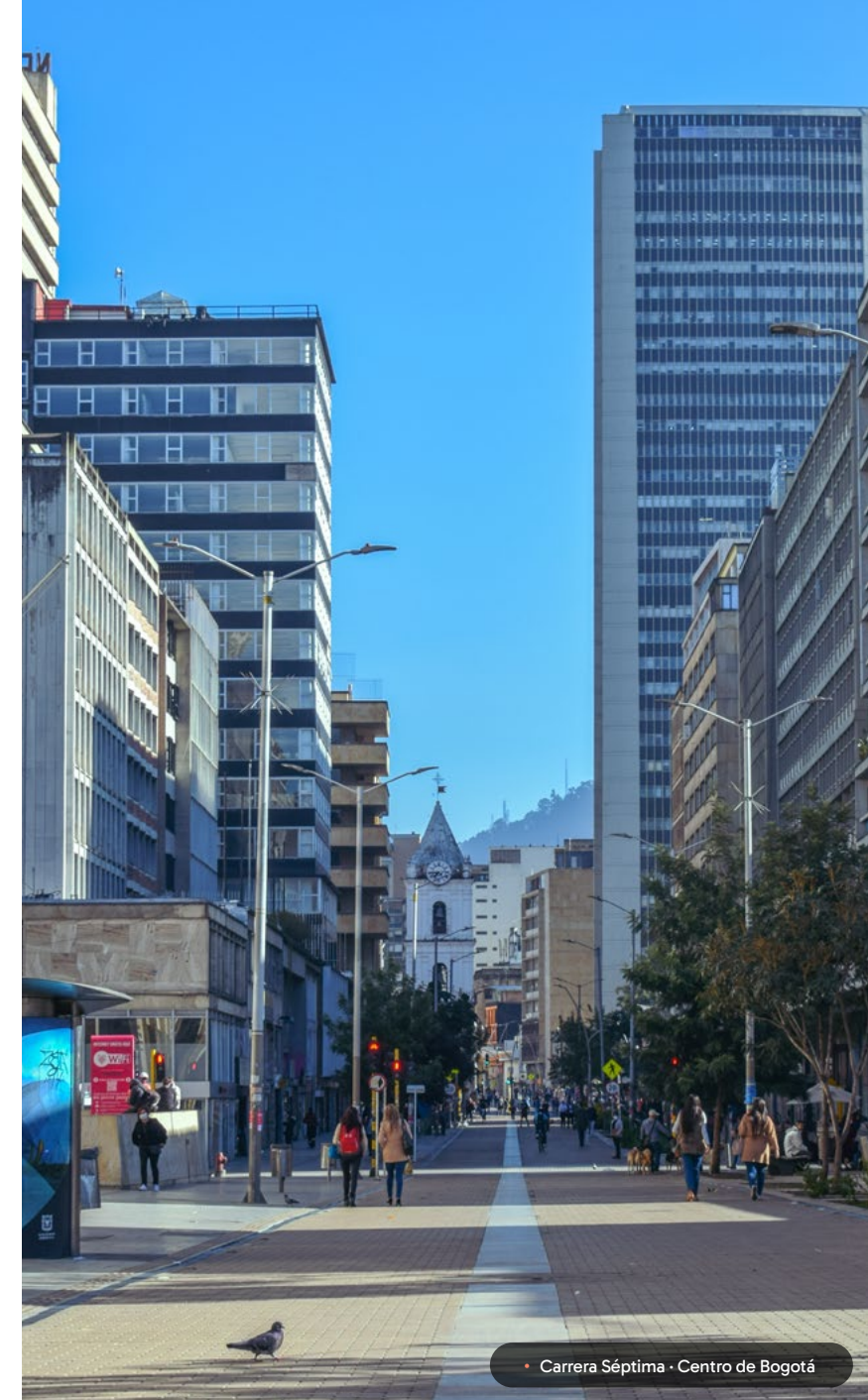
- Most-Favoured-Nation Treatment, which ensures that investors receive treatment no less favourable than that accorded to investors of any third country.
- National Treatment, which guarantees foreign investors treatment equal to that accorded to domestic investors in like circumstances.
- Fair and Equitable Treatment, which protects the legitimate expectations of investors based on representations made by the State.
- Protection against Expropriation, which prohibits direct or indirect expropriation, except for a public purpose, on a non-discriminatory basis, in accordance with due process and upon payment of prompt and adequate compensation.
- Free Transfer Clauses, which allow investors to freely transfer capital, profits, dividends and the proceeds from the liquidation of investments.

In the event of disputes or breach by Colombia of the obligations assumed under the ratified treaties, investors may resort directly to international arbitration, without the need to exhaust domestic remedies. Arbitration enables the dispute to be resolved by a neutral, specialised and expeditious tribunal, while the State has the opportunity to demonstrate compliance with its international obligations.

As a general rule, pursuant to the 1965 Washington Convention—ratified by Colombia in 1997—disputes are submitted to ICSID (International Centre for Settlement of Investment Disputes). Notwithstanding the foregoing, most treaties also provide for arbitration under the UNCITRAL Rules or other institutional frameworks such as the ICC, thereby affording additional flexibility in the selection of the forum.

Thus, within the framework of International Investment Arbitration, investors may seek the protection of their rights, while the host States have the opportunity to defend themselves by demonstrating compliance with the unilateral obligations undertaken in favour of foreign investors. It follows that, should the Colombian State fail to comply with the provisions set forth in the ratified investment protection treaties, foreign investors are entitled to submit the dispute to an arbitral tribunal for impartial, specialised and expeditious resolution.

Regarding the Trade Agreement with the European Union, although it does not incorporate traditional investment protections—such as provisions on expropriation, fair and equitable treatment or investor-State dispute settlement mechanisms—it does establish relevant guarantees for European investors regarding market access, national treatment, free movement of capital and repatriation of profits. These provisions facilitate the establishment and operation of EU investments in Colombia under competitive and non-discriminatory conditions. In order to obtain comprehensive investment protections, including expropriation and fair and equitable treatment standards, EU investors should structure their investments through jurisdictions covered by Colombia's bilateral investment treaties.



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Colombia has generally maintained a favourable track record in investment arbitration, although recent decisions reflect a more nuanced landscape:

- Three awards on the merits determined that Colombia did not breach the fair and equitable treatment or expropriation standards, and four cases were dismissed on jurisdictional grounds³.
- Recent cases including *South32 v. Colombia* (June 2024, USD 9.5 million) and *Telefónica v. Colombia* (November 2024, approximately USD 380 million, annulment proceedings pending)³, have resulted in awards against Colombia.

For investors, it is important to note that:

- With respect to mining and natural resources, recent cases demonstrate Colombia's right to regulate in favour of environmental protection, particularly regarding páramo ecosystems.
- In the telecommunications sector, the *Telefónica* case highlights the risks arising from retroactive regulatory interpretations affecting concession agreements.
- In infrastructure, long-term concession agreements and public-private partnerships qualify for treaty protection when properly structured.

³ *Red Eagle Exploration c. Colombia* (February 2024): Colombia successfully invoked its essential security interest to protect páramo ecosystems, a landmark precedent in investment arbitration.
Eco Oro Minerals c. Colombia (July 2024): Despite a prior determination of a breach of the fair and equitable treatment standard, the tribunal did not award damages in respect of the mining rights affected by environmental restrictions.

In order to maximise legal certainty and international protection, it is advisable for investors to:

- Conduct a prior assessment of the coverage afforded by international investment treaties applicable to their investment structure;
- Rigorously document regulatory commitments, permits and relevant administrative actions;
- Properly structure their investments and contracts to ensure access to international protection mechanisms; and
- Maintain ongoing monitoring of the regulatory landscape and the country's international investment policy.



Free Trade Agreements (FTAs)

A Free Trade Agreement ("FTA") is a binding trade agreement entered into between two or more countries to eliminate or substantially reduce tariff and non-tariff barriers to trade in goods and services. These instruments establish a comprehensive legal framework covering, market access, rules of origin, customs procedures, investment, trade in services, intellectual property, government procurement and dispute settlement, thereby creating conditions of legal certainty for foreign trade operators.

Colombia has an extensive network of trade agreements providing preferential access to various international markets.

The FTAs currently in force include those signed with:

- United States
- Canada
- Mexico
- Chile
- European Union
- United Kingdom
- South Korea
- Costa Rica
- Israel
- The Northern Triangle countries of Central America (El Salvador, Guatemala and Honduras).

Additionally, Colombia participates in regional integration schemes such as the Andean Community (CAN), comprising Bolivia, Ecuador and Peru, and the Pacific Alliance together with Chile, Mexico and Peru.

Within the framework of the Latin American Integration Association (LAIA), Colombia has entered into various Economic Complementation Agreements and Partial Scope Agreements with countries such as Argentina, Brazil, Paraguay, Uruguay (MERCOSUR), Cuba, Nicaragua and Venezuela, among others. Colombia also maintains agreements with the European Free Trade Association (EFTA) countries: Switzerland, Norway, Iceland and Liechtenstein.

Among the main benefits of FTAs is the elimination or reduction of tariffs, which decreases import costs and enhances the competitiveness of products in destination markets. In order to access these benefits, it is essential that the goods comply with the rules of origin stipulated in each agreement, evidencing their preferential origin by means of a certificate of origin issued by the competent authority or a declaration of origin by the producer, as established by the applicable treaty.

Double Taxation Avoidance Agreements

Colombia has a network of Double Taxation Avoidance Agreements (DTAs) aimed at promoting foreign investment and international trade by eliminating duplicative tax burdens on the same income. These instruments seek to prevent both juridical double taxation, where two States tax the same income in the hands of the same taxpayer, and, in certain cases, economic double taxation.

DTAs operate through rules for the allocation of taxing rights that determine which State is entitled to tax each category of income. These rules function under three principal schemes: (i) exclusive taxation in the State of residence, applicable, for example, to business profits where no Permanent Establishment exists in Colombia; (ii) full taxation in the source State without limitation, as in the case of income derived from immovable property, where relief from double taxation is granted in the State of residence through a tax credit or exemption; and (iii) shared taxation with a cap at source, commonly applicable to dividends, interest and royalties, where the rate applicable in Colombia may not exceed the maximum percentage provided for in the DTA (usually 5% or 10%), with the State of residence being required to recognise the tax paid through the corresponding credit mechanism.

Network of DTAs Entered into by Colombia

Colombia has entered into Double Taxation Avoidance Agreements with the following jurisdictions:

- Canada
- India
- Mexico
- South Korea
- United Kingdom
- Chile
- Italy
- Japan
- Portugal
- Czech Republic
- France
- Spain
- Switzerland

There are other jurisdictions with which DTAs have been signed but have not yet entered into force

- Brazil
- United Arab Emirates
- Luxembourg
- Netherlands
- Uruguay

These treaties are primarily based on the OECD Model Tax Convention, although they incorporate particularities specific to the Colombian tax system. Among the principal differences from the standard model are specific provisions on permanent establishments, the treatment of dividends and certain software payments, as well as the inclusion of Most-Favoured-Nation clauses in certain agreements.

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Andean Community of Nations Regime (Decision 578)

Additionally, Colombia is a member of the Andean Community of Nations (CAN), together with Bolivia, Ecuador and Peru. Within this regional framework, Decision 578 establishes a special regime to avoid double taxation among member countries. Unlike bilateral DTAs, which combine allocation rules with credit or exemption mechanisms, Decision 578 operates primarily under the exemption method. This means that income taxed in one member country is not subject to taxation again in another CAN member State, thereby providing a framework of tax certainty for intra-community investments.

International Transport Agreements (maritime and air transport)

Colombia has also entered into specific agreements to avoid double taxation in respect of maritime and air transport with Argentina, Germany, Brazil, Chile, the United States, Italy, Panama and Venezuela.

These instruments seek to avoid concurrent taxation on income derived from international navigation activities, thereby affording greater legal certainty to operators in the sector.



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