

# Summary of Colombia's OECD Post-Accession Progress

Please cite this publication as:

OECD (2021), *Summary of Colombia's OECD Post-Accession Progress*

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## Background

1. On 25 May 2018, Council decided to invite Colombia to accede to the OECD Convention [C(2018)81/FINAL] and an Accession Agreement, consisting of the Final Statement of Colombia accepting the obligations of OECD membership and the Council Decision to invite Colombia, was signed on 30 May 2018. Colombia deposited its instrument of ratification of the OECD Convention and thus became an OECD Member on 28 April 2020.

## Overview of post-accession reporting

2. The Council Decision to invite Colombia to become an OECD Member provided that, after accession, Colombia should report as follows:

- *Environment Policy Committee: a progress report on the implementation of the eleven legal instruments for which it requested a timeframe, to be submitted by the end of 2018 or by the end of 2020 in accordance with the specific timeframe for implementation requested for each instrument, and thereafter if required;*
- *Chemicals Committee: a progress report in 2021 on the implementation of the nine legal instruments for which it requested a timeframe and on the Committee recommendations in relation to C(83)98/FINAL and C(83)97/FINAL taking into account the implementation timeline of the National Industrial Chemicals Policy;*
- *Public Governance Committee: an annual progress report for a period of five years after accession on progress in implementing the Key Recommendations listed in paragraph 78 of the Public Governance Committee Formal Opinion, including the commitments listed in Appendix A of the Formal Opinion on the implementation of the Ten-Year Justice Plan;*
- *Regulatory Policy Committee: an initial report within two years after accession and a second report in five years if required;*
- *Employment, Labour and Social Affairs Committee: a yearly update report based on the elements and indicators listed in Annex A of the Employment, Labour and Social Affairs Committee Formal Opinion, to be accompanied by a report prepared by the Secretariat two, four, six and eight years after accession to the Organisation and thereafter as required;*
- *Trade Committee: a follow-up assessment with respect to the recommendations listed in Section V. of the Trade Committee Formal Opinion at each Trade Committee meeting following the date of its accession for two years and thereafter as required;*
- *Fisheries Committee: a progress report within two years after accession.*

3. In addition to the post-accession formal reporting in these areas, Colombia requested a timeframe for the further implementation of two OECD legal instruments in the fields of Fiscal Affairs and Insurance and Private Pensions, namely the Recommendation of the Council on the Determination of Transfer Pricing between Associated Enterprises [[OECD/LEGAL/0279](#)] and the Recommendation of the Council on Disaster Risk Financing Strategies [[OECD/LEGAL/0436](#)]. These timeframes are subject to follow-up by the Committee on Fiscal Affairs and the Insurance and Private Pensions Committee, respectively.

4. The post-accession progress reporting of Colombia started in the second half of 2020. On 23 June 2021, the Council discussed the first annual post-accession report of the progress made by Colombia in the implementation of its accession commitments to date.

5. A summary of Colombia's post-accession progress in each area is set out below.

## Summary of post-accession reporting

### 1. Environment

#### *OECD post-accession recommendations*

6. In the course of its review of Colombia for purposes of accession to the OECD, the Environment Policy Committee (EPOC) requested Colombia to report on actions taken to implement the following eleven OECD legal instruments on environment and waste management for which timeframes were requested:

- Decision of the Council concerning the Control of Transboundary Movements of Wastes Destined for Recovery Operations [[OECD/LEGAL/0266](#)] – timeframe requested until end of 2018;
- Recommendation of the Council on the Assessment of Projects with Significant Impact on the Environment [[OECD/LEGAL/0172](#)] – timeframe requested until end of 2018;
- Recommendation of the Council on Environmental Indicators and Information [[OECD/LEGAL/0257](#)] – timeframe requested until end of 2018;
- Recommendation of the Council on Good Practices for Public Environmental Expenditure Management [[OECD/LEGAL/0345](#)] – timeframe requested until end of 2018;
- Recommendation of the Council on Environmental Information [[OECD/LEGAL/0296](#)] – timeframe requested until end of 2020;
- Recommendation of the Council on Material Flows and Resource Productivity [[OECD/LEGAL/0324](#)] – timeframe requested until end of 2020;
- Recommendation of the Council on Resource Productivity [[OECD/LEGAL/0358](#)] – timeframe requested until end of 2020;
- Recommendation of the Council on a Comprehensive Waste Management Policy [[OECD/LEGAL/0147](#)] – timeframe requested until end of 2018;
- Recommendation of the Council concerning the Re-Use and Recycling of Beverage Containers [[OECD/LEGAL/0159](#)] – timeframe requested until end of 2018;
- Recommendation of the Council on Waste Paper Recovery [[OECD/LEGAL/0184](#)] – timeframe requested until end of 2018;
- Recommendation of the Council on the Environmentally Sound Management of Waste [[OECD/LEGAL/0329](#)] – timeframe requested until end 2018.

#### *Colombia's progress*

7. When considering Colombia's progress in November 2020, EPOC's Working Party on Resource Productivity and Waste (WPRPW) concluded that Colombia complies with three Recommendations<sup>1</sup> and invited Colombia to submit a post-accession progress report on implementation of the remaining two legal instruments in the area of waste<sup>2</sup> as soon as regulatory work in Colombia in relation to certain elements of these legal instruments is completed. The WPRPW further recommended that Colombia present an update in 2025, in the context of regular reporting by OECD Members, on the implementation of its National

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<sup>1</sup> Recommendation of the Council on a Comprehensive Waste Management Policy [[OECD/LEGAL/0147](#)]; Recommendation of the Council concerning the Re-Use and Recycling of Beverage Containers [[OECD/LEGAL/0159](#)] and Recommendation of the Council on Waste Paper Recovery [[OECD/LEGAL/0184](#)].

<sup>2</sup> Recommendation of the Council on the Environmentally Sound Management of Waste [[OECD/LEGAL/0329](#)] and Decision of the Council Concerning the Control of Transboundary Movements of Wastes Destined for Recovery Operations [[OECD/LEGAL/0266](#)].

Policy on Integrated Solid Waste Management (CONPES 3874), including the Extended Producer Responsibility scheme for packaging waste, and other measures described in Colombia's first post-accession progress report.

8. At its meeting in February 2021, EPOC endorsed the conclusion of the WPRPW that Colombia complies with three Recommendations in the field of waste and also concluded that Colombia complies with two legal instruments on environmental information<sup>3</sup>. The Committee further encouraged Colombia to intensify efforts to facilitate public access to information on environmental performance of enterprises and invited Colombia to report back on the implementation of commitments on the four outstanding legal instruments<sup>4</sup> as soon as the implementation of Colombia's Action Plan regarding these legal instruments is completed.

9. In terms of next steps, Colombia is scheduled to report back on the remaining instruments on environment at a spring 2022 EPOC meeting and on the two outstanding legal instruments in the area of waste at the autumn 2022 meeting of WPRPW.

## 2. Chemicals

### *OECD post-accession recommendations*

10. In the course of its review of Colombia for purposes of accession to the OECD, the Chemicals Committee requested Colombia to report on actions taken to implement the following ten OECD legal instruments for which a timeframe was requested:

- Decision of the Council concerning the Minimum Pre-Marketing Set of Data in the Assessment of Chemicals [[OECD/LEGAL/0199](#)] – timeframe requested until end of 2020;
- Decision of the Council on the Exchange of Information concerning Accidents Capable of Causing Transfrontier Damage [[OECD/LEGAL/0240](#)] – timeframe requested until end of 2020;
- Decision-Recommendation of the Council on the Systematic Investigation of Existing Chemicals [[OECD/LEGAL/0232](#)] – timeframe requested until end of 2020;
- Decision-Recommendation of the Council concerning Provision of Information to the Public and Public Participation in Decision-making Processes related to the Prevention of, and Response to, Accidents Involving Hazardous Substances [[OECD/LEGAL/0239](#)] – timeframe requested until end of 2020;
- Decision-Recommendation of the Council on the Co-operative Investigation and Risk Reduction of Existing Chemicals [[OECD/LEGAL/0259](#)] – timeframe requested until end of 2020;
- Recommendation of the Council establishing Guidelines in Respect of Procedure and Requirements for Anticipating the Effects of Chemicals on Man and in the Environment [[OECD/LEGAL/0154](#)] – timeframe requested until end of 2020;

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<sup>3</sup> Recommendation of the Council on Environmental Indicators and Information [[OECD/LEGAL/0257](#)] and Recommendation of the Council on Environmental Information [[OECD/LEGAL/0296](#)].

<sup>4</sup> Recommendation of the Council on Material Flows and Resource Productivity [[OECD/LEGAL/0324](#)], Recommendation of the Council on Resource Productivity [[OECD/LEGAL/0358](#)], Recommendation of the Council on Good Practices for Public Environmental Expenditure Management [[OECD/LEGAL/0345](#)], Recommendation of the Council on the Assessment of Projects, Plans and Programmes with Significant Impact on the Environment [[OECD/LEGAL/0172](#)].

- Recommendation of the Council concerning the Protection of Proprietary Rights to Data submitted in Notifications of New Chemicals [[OECD/LEGAL/0203](#)] – timeframe requested until end of 2020;
- Recommendation of the Council on Implementing Pollutant Release and Transfer Registers [[OECD/LEGAL/0284](#)] – timeframe requested until end of 2020;
- Recommendation of the Council concerning Chemical Accident Prevention, Preparedness and Response [[OECD/LEGAL/0319](#)] – timeframe requested until end of 2020.

11. The Chemicals Committee also identified key actions that Colombia should prioritise after accession, namely:

- To ensure the implementation of the *National Industry Chemicals Policy* and its related action plans;
- To ensure that the relevant provisions on the release of non-confidential data, in line with the Recommendation of the Council concerning the OECD List of Non-Confidential Data on Chemicals [[OECD/LEGAL/0205](#)], be adopted as part of the legal framework under the *National Industrial Chemicals Policy*;
- To ensure that the relevant provisions to be adopted as part of the legal framework under the *National Industrial Chemicals Policy* comprehensively reflect the Principles set out in the Appendix to the Recommendation of the Council Concerning the Exchange of Confidential Data on Chemicals [[OECD/LEGAL/0204](#)].

12. Colombia was also requested to provide an update on its progress in implementing the Declaration on Risk Reduction for Lead [[OECD/LEGAL/0285](#)] in the context of regular reporting to the Chemicals Committee.

### *Colombia's progress*

13. When Colombia reported on the progress in implementing the Declaration on Risk Reduction for Lead [[OECD/LEGAL/0285](#)] in June 2019, the Committee noted the range of actions underway to reduce exposure to lead and encouraged Colombia to continue its efforts.

14. Colombia is scheduled to report to the Chemicals Committee for the first time on progress made in implementing the legal instruments listed above and the Chemicals Committee's recommendations in February 2022.

## **3. Public Governance**

### *OECD post-accession recommendations*

15. In the course of its review of Colombia for purposes of accession to the OECD, the Public Governance Committee requested Colombia to report annually for a period of five years after accession on progress in implementing key recommendations falling under the below categories:

- Sound structures of government: effective and efficient justice institutions, including through an inclusive implementation of the reform package of the judicial branch and improvements to access to justice throughout the territory, and control institutions, notably in revising the mandate and responsibilities of *Procuraduría General de la Nación* (Office of the Inspector General);
- Transparency and accountability, including by enhancing citizens' participation at all points in the policy-making cycle nationally and at the local level and ensuring greater coordination between the Open Government agenda and the key national development strategies of the government;
- Integrity and anti-corruption frameworks and institutions, including by strengthening inter-institutional co-ordination in the implementation of these reforms, revising further the election

process of regional and municipal Comptrollers to strengthen their independence, reinforcing the financial and administrative independence of the National Electoral Commission, strengthening the protection of whistle-blowers and regulating lobbying activities, as well as designing and implementing a unified approach to the promotion of public ethics and managing conflict of interest; and

- Sub-national administrative capacity, by continuing building administrative, workforce, fiscal and digital capacity in the sub-national institutions of the Executive and Judicial Branches and in the Control Institutions of the Public Ministry at the departmental and municipal levels.

16. The Committee provided that reporting should focus on progress in achieving concrete deliverables in implementing the key recommendations based on clear milestones and deadlines as further defined in the context of the commitments and deliverables within the “effective and efficient justice institutions” priority area.

### *Colombia’s progress*

17. Colombia reported on progress made in implementing the Committee’s recommendations for the first time in October 2021. The outcome of this reporting will be summarised in the next *Summary of Colombia’s OECD Post-Accession Progress*. Colombia is further scheduled to report on progress in the autumn of 2022.

## **4. Regulatory Policy**

### *OECD post-accession recommendations*

18. In the course of its review of Colombia for purposes of accession to the OECD, the Regulatory Policy Committee requested that Colombia submit a report within two years after accession, and a second report in five years if required, on specific actions taken to implement the following recommendations:

#### *Regulatory consultation*

- Make regulatory consultation compulsory for all institutions in the national administration.
- Prepare and publish guidelines for consultation to sustain the implementation process.
- Incorporate a principle of proportionality, where the process is more exhaustive for those regulations with high impact in regulatory consultation as well as in RIA.
- Establish a systematic capacity-building programme to give continuity to the current consultation initiatives.

#### *Regulatory Impact Assessment (RIA)*

- Design the governance of the RIA system - allocating the functions of co-ordination, challenge, facilitation, and advocacy- to a regulatory oversight body.
- Sustain the capacity-building efforts to create a better regulation culture in the public administration.

#### *Governance of regulatory bodies*

- Review the governance arrangements of *Superintendencias*.
- For the case of regulatory commissions, review the procedures for director and board appointments and dismissals.
- Define clear guidelines and policies on conflict of interests for expert commissioners and Superintendents.
- Review the role of control bodies to avoid their interference with the substantive decisions of regulatory and supervisory bodies.

*Colombia's progress*

19. Colombia is scheduled to report to the Regulatory Policy Committee on progress made in implementing the Committee's recommendations for the first time in spring 2022.

**5. Employment, Labour and Social Affairs***OECD post-accession recommendations*

20. In the course of its review of Colombia for purposes of accession to the OECD, the Employment, Labour and Social Affairs Committee (ELSAC), while recognising the significant efforts made by Colombia to tackle the significant challenges in the labour market and social policy reform agenda, identified key priority recommendations on which Colombia was requested to report back after accession in the four priority areas of:

- Labour informality and subcontracting;
- Labour law enforcement;
- Collective bargaining; and
- Crimes against trade unionists.

21. Recognising that further progress in these areas will take time, ELSAC offered its support to continue working with the Colombian authorities to improve economic and social outcomes in the country. In particular, the Committee noted that it expects Colombia to continue implementing the following reforms in the years to come, in close collaboration with the social partners. The Committee recommended: (1) a yearly up-date report by the Colombian authorities at the ELSAC meeting and (2) a report prepared by the Secretariat two, four, six and eight years after accession to the Organisation and thereafter as required. Social partners would be invited to submit their comments in writing on these reports. In addition, the Committee noted that experts from OECD Members could join the Secretariat's review process and contribute to the post-accession reports discussed at the Committee meetings.

*Colombia's progress*

22. Following its discussion with social partners in Colombia and its publication online in February 2021, ELSAC discussed a progress report prepared by Colombia for the first time at its meeting on 12 May 2021. Accordingly, the Colombian authorities presented new initiatives to:

- Tackle labour informality, including the introduction of a social protection floor and advances in the implementation of the one-stop business shops and single affiliation system for social security;
- Reduce impunity rates for violence against trade unionists thanks to a dedicated investigation strategy in the Prosecutor General's Office; and
- Strengthen labour law enforcement, including dedicated resources, continuous training for labour inspectors and a new fines collection system.
- Colombia also explained its tripartite approach in developing new laws and decrees involving the government, unions and business associations.

23. The Committee noted the difficulties faced due to COVID-19, but expressed concerns of continued violence against trade unionists, limited progress on collective bargaining and high informality rates, and stressed the importance of continuing progress.

24. The Committee invited Colombia to further address pending issues in its next report which is scheduled to be submitted in February 2022 and which will be discussed together with the first evaluation by the OECD Secretariat in spring 2022.

## 6. Trade

### *OECD post-accession recommendations*

25. In the course of its review of Colombia for purposes of accession to the OECD, the Trade Committee requested Colombia to report back after accession on the implementation of the following recommendations:

- Progress achieved in improving and standardising the preparation of regulatory proposals in the country, based on Decree 1471 of 2014, in promoting the compulsory use of an ex ante regulatory impact assessment (RIA) and related forward planning, and in providing regulatory entities with necessary support and supervision to achieve satisfactory quality of new regulations and supporting materials (e.g. RIA, regulatory agendas);
- Progress achieved in pursuing further transparency-enhancing reforms planned by the National Government Procurement Agency, including through the implementation of the E-Procurement Platform and improved statistics on public contracting; in ensuring that adequate resources are committed to training and supervision of public contracting activities in public entities involved in tendering processes; in providing supervision of public entities to ensure consistent implementation of government procurement-related provisions in the country's FTAs, and avoid arbitrary application of preferential treatment to domestic suppliers (going beyond the official preferential margins);
- Progress in the removal of the remaining discrimination on spirits, in particular as regards the non-discriminatory application of exploitation charges in the Colombian departments, including those produced by departmental *licoreras*. Colombia will also report about any measures undertaken to ensure that the Law 1816 of 2016 is duly and uniformly applied in all departments that exercise the fiscal monopoly over spirits, in particular as regards the award and management of production and distribution concessions and of the necessary permits for the introduction of spirits in the territory of the departments;
- The management of the transitional period applied in the framework of the national scrappage policy, in particular steps to ensure that registration – and therefore, importation, are permitted in commercially viable quantities; and on the number of trucks registered as long as the national scrappage policy remains in effect. Colombia will report about the effective termination of the national scrappage policy, which is to occur no later than by the end of 2018 in a way that fully levels the playing field for imported trucks and removes the additional fees for trucks over 10.5mt.
- Progress in further developing the institutional and regulatory capacity to deal with IP-related issues, including through the enactment of the new Copyright Bill, and in increasing the efficiency of enforcement efforts.
- Colombia's continued adherence to the commitment to maintain a strict separation between health technology assessments and price determinations on the one hand, and the marketing authorisation processes on the other hand in all cases, including in circumstances involving pharmaceutical products or medical devices incorporating new technologies, and including in circumstances involving either institutional-level or individual-level distribution. Colombia will report on its commitment to commence the marketing authorisation review process upon the filing of a complete application for marketing authorisation, and not to delay marketing authorisations to await the outcome of health technology assessment or price determinations. Colombia will report on all regulations adopted in order to implement Article 72 of the National Development Plan (including on pricing mechanisms) and on any other pharmaceutical-related developments in the NDP 2014-2018 and any subsequent NDP.
- Ongoing and new procedures on Declarations of Public Interest (DPIs) for drugs or active components of medicines.

- Progress in achieving full implementation of the TFA as well as full implementation of the provisions in the new Customs Code.

### *Colombia's progress*

26. Colombia's progress in the area of trade was discussed for the first time by the Trade Committee in 4 November 2020:

- On fiscal charges of spirits, Colombia reiterated that alleged de facto differential treatment between national and imported spirits was eliminated since Law 1816 of 2016 came into effect.
- On truck scrappage, Colombia recalled that Decree 1517 was issued in 2016, effectively eliminating the "1x1" scrappage policy on June 26, 2019. As a result of these measures, since 2019, the heavy freight vehicles sector has evolved very positively, registering in 2019 a significant increase of 194% in the initial registration of new vehicles compared to 2018. The number of heavy freight vehicles registered in 2019 was 2.827 vehicles, and in 2018, 963 vehicles.
- On intellectual property rights, and specifically copyright protection, Colombia referred to Law 1915 of July 2018, which updated the copyright regulations in the country.
- On pharmaceuticals, Colombia reported that it has maintained a strict separation between health technology assessments and price determinations on one side and the marketing authorisation process on the other. In consequence, there are no cases of price determinations tied to market approvals. In addition, Colombia reiterated that there were no ongoing and new procedures on Declarations of Public Interest (DPIs) to regulate the price of drugs or active components of medicines in Colombia, nor additional requests to issue such DPIs.
- On trade facilitation, Colombia formally adhered to the WTO Trade Facilitation Agreement in August 2020.

27. The Trade Committee commended Colombia for the progress achieved and indicated areas on which they would welcome further information, including regarding the implementation of specific commitments in the areas of: public procurement; market authorisation of pharmaceuticals; the implementation of the spirits legislation at the provincial level; regulatory developments; intellectual property, compulsory licenses and trade facilitation.

28. At the 8 April 2021 meeting of the Trade Committee, Colombia subsequently reported on the following progress:

- Measures undertaken for regulatory improvement, including a review of Colombia's changes and advancements that is being prepared for consideration by the OECD Regulatory Policy Committee.
- In the area of public procurement, the government is updating the Guidelines for the use of Trade Agreements in Public Procurement Processes.
- On fiscal charges of spirits, the Colombian government has proposed further improvements in the implementation of Law 1816 of 2016 at the provincial level.
- On intellectual property rights, and specifically copyright protection, Colombia provided clarifications on applicable secondary regulation regarding copyright infringement and trademark counterfeiting.
- Colombia has committed to keep price determination and marketing approvals for pharmaceuticals strictly separate. A judicial challenge to the implementing regulation did not affect this commitment, as the separation is embedded in the National Development Plan, the legal framework setting out the President's policy priorities. A request for a

compulsory license regarding pharmaceuticals to treat Hepatitis C is under consideration, in accordance with the applicable regulatory framework.

- On trade facilitation, Colombia provided clarifications on the implementing regulation for the WTO Trade Facilitation Agreement, in particular concerning advance rulings, perishable products and *de minimis* thresholds for express shipments.

29. The Committee welcomed the progress made, including regarding the implementation of the WTO Trade Facilitation Agreement, protection and enforcement of intellectual property rights, as well as positive developments in transparency and simplification of processes in public procurement, but stressed the importance of continuing progress in the other areas.

30. Colombia further reported on progress made in implementing the Committee's recommendations in November 2021. The outcome of this reporting will be summarised in the next *Summary of Colombia's OECD Post-Accession Progress*. A further report on Colombia's progress will be presented at the spring 2022 meeting of the Trade Committee.

## 7. Fisheries

### *OECD post-accession recommendations*

31. In the course of its review of Colombia for purposes of accession to the OECD, the Fisheries Committee requested Colombia to report within two years after accession on the implementation of the following recommendations:

- Changes to the institutional structure and legal framework for fisheries and aquaculture management;
- Adoption of rebuilding and management plans in line with the principles set out in the Council Recommendation on Rebuilding Fisheries;
- Changes to the monitoring and enforcement system, notably in terms of registration and licensing of small-scale fishers and aquaculture farmers;
- Improvement of the information basis on which policies are designed for the sector.

### *Colombia's Progress*

32. Colombia is scheduled to report on progress made in implementing the Committee's recommendations for the first time in spring 2022.

## 8. Fiscal Affairs Committee

### *Timeframe for the Implementation of the Recommendation of the Council on the Determination of Transfer Pricing between Associated Enterprises [OECD/LEGAL/0279]*

33. At the time of accession, Colombia had requested a timeframe until end of 2019 for the implementation of the Recommendation of the Council on the Determination of Transfer Pricing between Associated Enterprises [OECD/LEGAL/0279] in order to adopt the necessary legislation to apply the transfer pricing regime to cross-border transactions carried out between associated enterprises and to overcome the existing administrative capacity constraints resulting from the lack of personnel with the necessary transfer pricing technical expertise in the tax administration.

### *Colombia's Progress*

34. In May 2021, Colombia submitted a written report with relevant updates, which was evaluated by the Secretariat and circulated to the Working Party No. 6 on the Taxation of Multinational Enterprises for their consideration, prior to being shared with the Committee on Fiscal Affairs.

### **9. Insurance and Private Pensions Committee**

#### *Timeframe for the Implementation of the Recommendation of the Council on Disaster Risk Financing Strategies [[OECD/LEGAL/0436](#)]*

35. At the time of accession, Colombia requested a timeframe until end of 2019 for the implementation of the Recommendation of the Council on Disaster Risk Financing Strategies [[OECD/LEGAL/0436](#)].

### *Colombia's Progress*

36. Colombia is scheduled to report to the Insurance and Private Pensions Committee on progress made in implementing this Recommendation in December 2021.