

Client Alert

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New Opportunities for Foreign Investment Amidst the Prospect of Peace in Colombia

After nearly four years of negotiations, on June 23, 2016, the government of Colombia signed a bilateral ceasefire agreement with the Revolutionary Armed Forces of Colombia (“FARC”), presaging an end to the 52-year-old guerrilla conflict. Although a final peace agreement has not yet been signed and will require the approval of the Colombian people through a referendum, there is wide consensus that the world’s longest continuous guerrilla conflict may soon be coming to an end. A truce—and the stability that comes with it—will lead to greater investment opportunities in Colombia.

At a recent Pacific Alliance summit, Colombia’s President Juan Manuel Santos stated that a peace agreement with the FARC would boost the national economy by an extra percentage point per year; other analysts have been even more optimistic. According to a study conducted in 2015 by the government’s planning department DNP (Departamento Nacional de Planeación), Colombia’s potential economic growth could increase by 1.9 percent in the event of a successful agreement with the FARC, including tripling foreign direct investment. Despite this optimism, however, Colombia’s history of violence continues to cast a large shadow over its future development. Chief among the challenges facing Colombia is an endemic lack of a modern infrastructure, due in no small part to the guerrillas’ former presence in large areas of the country.

To address these challenges, in 2013 the Santos administration initiated a series of comprehensive infrastructure programs, including, most significantly, an ambitious road concession program to build and upgrade more than 8,000 kilometers of roadway and 3,500 kilometers of four-lane highways. To enable these projects, the government enacted Law 1508 of 2012, which for the first time regulated public-private partnerships (“PPPs”) in Colombia, facilitating the engagement of foreign private capital in the construction, operation and maintenance of all types of public infrastructure, including airports, ports, toll roads, railways and social infrastructure, such as schools, hospitals and prisons. Another important development in the last several years has been Colombia’s new arbitration law, Law 1563 of 2012, which added new regulations to international arbitration and adopted the UNCITRAL Model Law on International Commercial Arbitration, in addition to certain variations taken from the experience of other jurisdictions in international arbitration matters. As a result of these initiatives, on February 6, 2016, one of the highway projects under the infrastructure program—valued at US\$648 million—became the first to reach financial close.

In addition, since 2007, Colombia has entered into bilateral investment treaties or free trade agreements with 12 countries, as well as the European Union and the European Free Trade Association (“EFTA”). Similar agreements with eight other countries have been signed and are pending internal approval. More generally, Colombia stands to benefit from important strengths that may help spur investment following a peace accord. These include: (1) a strategic geographic location; (2) relative economic and political stability (Colombia has the oldest and most stable democracy in South America); (3) recovered foreign investor confidence during the last decade; (4) highly qualified and competitive human capital; and (5) modern and sophisticated cities. Finally, ProColombia, the government agency responsible for promoting nontraditional exports, international tourism and foreign investment to Colombia, maintains a website, www.investincolombia.com.co. It includes statistics, detailed investment information and tools to assist prospective foreign investors and businesses interested in establishing a presence in Colombia.

Given the precipitous decline in oil prices since 2014 and the uncertainty surrounding the implementation of a final peace agreement, it is still too early to predict with a high level of confidence what the effect of a truce will be on Colombia's appeal as a destination for foreign investment. Nonetheless, foreign companies and investors seeking new opportunities in Colombia should not underestimate the historic significance of the bilateral ceasefire agreement and the likelihood that a comprehensive peace agreement will be finalized in the near future.

The Latin America group at Hunton & Williams LLP will continue to closely monitor related developments. Please contact us if you have any questions or would like further information regarding the laws and regulations governing foreign investments in Colombia or new opportunities to invest in Colombia.

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