Gobierno de Colombia

PROCOLOMBIA

EXPORTS TOURISM INVESTMENT COUNTRY BRAND

2026 **Legal Guide**
to doing business in Colombia

Government Relations

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It is not intended to constitute or serve as a substitute or replacement for specific legal advice regarding any particular matter or issue. Such legal advice should be obtained through direct consultation with specialized legal services. For this purpose, we suggest contacting one of the firms listed in the Investor Services Directory available on the ProColombia website.

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This section aims to provide an overview of the main interactions that foreign investors may have with the Colombian public administration in its expansion process in Colombia. The content revolves especially around the environmental regime, the energy market, state procurement, and sanitary regulation:

1. COLOMBIAN ENVIRONMENTAL REGIME

1.1. Colombia's participation in international environmental instruments

Colombian regulations have a strong influence and alignment with international instruments that are guiding global decisions on the environment and climate change. The main examples of this are listed below:

1.1.1. Escazú Agreement:

Adopted through Law 2273 of 2022, this agreement aims to guarantee transparency through access to information, public participation, and access to justice in environmental matters. Its objectives include the principles of non-regression, intergenerational equity, and precaution, as well as the dissemination of updated information that promotes informed public participation in environmental decision-making.

In relation to the right of access to information, the aim is for the different actors to comply with the obligations of accessibility, generation and dissemination, so that the response can be received within a maximum period of 30 days unless there is a shorter period stipulated in national legislation.

By virtue of the above, it is evident that companies must implement efficient internal systems to manage and disclose environmental information proactively. Likewise, both companies and environmental authorities must periodically generate, compile and disseminate relevant information on the matter.

The right to public participation consists of ensuring the possibility of submitting comments through appropriate means, as well as ensuring that such comments are taken into account before the adoption of the corresponding decision. It also requires that the public be informed in a timely manner about the decision taken, its reasons and grounds, and the manner in which its observations were considered. As for the communities, it seeks to guarantee their participation in activities that can generate significant impacts on the environment, including those that may affect health. Under this understanding, participation in decision-making on projects with environmental impact must be open, inclusive, effective, informed, and timely, also incorporating a differential approach in favor of groups and individuals in vulnerable conditions.

Finally, with regard to access to justice, the aim is to guarantee this right in both judicial and administrative instances, in order to safeguard due process. Article 8 of the Agreement establishes that such access must be granted under the guarantees of due process and highlights the importance of having specialized bodies in environmental matters.

1.1.2. On the scope of the Escazú agreement:

it seeks to implement principle number 10 of the 1992 Rio Declaration on Environment and Development, which enshrines the rights of access to information, public participation and access to justice in environmental matters.

Its objective is to guarantee the existence of minimum standards of environmental democracy. Although in Colombia there was no specific environmental regulation that comprehensively regulated the matters addressed by the Agreement, there is Law 1755 of 2015, applicable in environmental matters, which regulates in detail what is related to the request for information and the cases in which the authority is not obliged to deliver it for reasons of confidentiality. This is based on Article 74 of the Political Constitution of 1991, which establishes that all persons have the right to access public documents, except in cases of confidentiality determined by law.

Colombia is the country with the highest number of regulations on information, participation and environmental justice in the region. For this reason, it has multiple information systems and a robust amount of public data on biodiversity and environmental management stands out. In this regard, the existence of the Environmental Information System through Decree 1600 of 1994 is highlighted, which establishes the obligation to publish relevant information on the subject, such as environmental quality reports.

With regard to the right to public participation, it should be borne in mind that there has been significant regulatory and jurisprudential development in Colombia, especially through laws and rulings of the Constitutional Court. Participation mechanisms in the country include prior consultation with ethnic communities, regulated by Law 21 of 1991; the popular consultation, provided for in Law 134 of 1994; environmental public hearings, enshrined in Law 99 of 1993 and Decree 1076 of 2015; as well as the figure of environmental third parties.

In addition, at the constitutional level, there are provisions that enshrine the right to participation, as established in Article 2 of the Political Constitution, which indicates that among the essential purposes of the State is to facilitate the participation of all in the decisions that affect them.

Similarly, Colombian legislation regulates administrative and judicial procedures that allow citizens to protect their rights in environmental matters. Although there is no specialized jurisdiction in this area, there are constitutional actions, actions before the contentious-administrative jurisdiction and criminal actions that allow the defense of environmental rights, according to their nature. In this sense, Law 2111 of 2021 typifies environmental crimes, while Law 472 of 1998 regulates popular and group actions, aimed at the protection of collective rights and interests, including the environment.

Likewise, the tutela action constitutes an ideal mechanism for the protection of fundamental rights related to the environment, as well as the enforcement action, regulated by Law 393 of 1997.

1.1.3. Regarding the impacts of the Escazú agreement:

it is evident that, by virtue of what is enshrined in the agreement, administrative acts that seek to modify environmental control and management instruments imply greater obligations in terms of participation and environmental information for citizens. Companies must therefore strengthen their mechanisms for participation and disclosure of information.

In short, there is evidence of an increasing trend in requests for information, which requires a structured process to respond, which takes into account the necessary compliance with response times and the information subject to confidentiality, as well as the legal source that substantiates it.

Likewise, Law 2273 of 2022 establishes that the refusal or abstention in the delivery of information gives rise to the imposition of sanctions in accordance with the Colombian regulatory framework. The Code of Administrative Procedure and Administrative Litigation provides for disciplinary sanctions and fines for failure to comply with the duty to provide information and to receive requests made.

As a result, legal actions in environmental matters have been stepped up to guarantee access to environmental information as a fundamental right under Article 23 of the Political Constitution. This includes figures such as the tutela action, the contempt incident, the appeal of insistence and the complaint for non-compliance before the Attorney General's Office.

1.2. Paris Agreement:

Adopted under the United Nations Framework Convention on Climate Change, it is the main instrument to face this contingency. It is consolidated in 2022 with the finalization of two main operational mechanisms: the transparency framework and the rules on carbon markets and international cooperation.

Colombia has shown great leadership in climate commitment by presenting ambitious projects to reduce greenhouse gas emissions and promote carbon neutrality. In fact, in 2025 it submitted a nationally determined contribution to the United Nations, in which it commits to emit a maximum of 155 to 151 million tonnes of carbon dioxide equivalent by 2035, in addition to the commitment to reduce between 6,130 and 8,873 tonnes of black carbon emissions by that year. compared to the emissions recorded in 2014.

For companies, it is denoted that the credit of those dedicated to fossil fuels has decreased after the brakes imposed on their activity in different areas of the country. There are also new and more stringent obligations to report emissions and implement carbon reduction strategies.

On the other hand, it is clear that the early adoption of technologies that promote the energy transition facilitates access to green financing, reduces costs and strengthens its reputation with investors. In this regard, in the mining-energy sector, there is a roadmap for the just energy transition, which seeks to promote the incorporation of renewable energies, large-scale storage solutions, digitalization and regulatory modernization. In view of the above, hourly rates, energy demand response programs and diversification of sources will be promoted.

1.3. Belém Declaration:

was signed by the member countries of the Amazon Cooperation Treaty Organization (hereinafter “ACTO”) with the aim of reaffirming the regional commitment to the protection of the Amazon, so that the instrument seeks to strengthen environmental governance, promote regional integration and guarantee development policies that respect the principle of sustainability and the rights of local communities.

This instrument is strategic for coordinating concrete regional actions within ACTO, as it contains 113 commitments ranging from environmental governance to police and judicial cooperation to confront environmental crimes and illegal economies that affect the Amazon biome. Its implementation, through the Amazon Network for Integrated Fire Management and the Commission on Public Security and Cross-Border Crimes, has materialized through joint mechanisms and specialized work.

Colombia has a leading role in the implementation of the Declaration by reaffirming its commitment to reduce deforestation, improve environmental monitoring, and reduce certain projects in the Amazon, while also promoting sustainable projects in the region. In addition, it has reinforced its leadership by participating in the aforementioned mechanisms and in the preparation of the summit of presidents of the Amazon, which reaffirmed the urgency of protecting the Amazon, the need for energy transition and to confront the phenomena of deforestation, loss of biodiversity and expansion of illegal economies.

It is essential to take into account the regulations and decisions that Colombia has issued and is formulating as initiatives based on this Declaration. Historically, a total of 7 times the prohibition of the exploration and production of hydrocarbons in the Amazon has been proposed to the Congress of the Republic. Currently, Bill 4 of 2025 and a draft resolution of the Ministry of Environment and Sustainable Development are the two regulatory proposals that seek to prohibit both hydrocarbon exploitation and large-scale mining in the Amazon.

1.4. Colombian Environmental Authorities and their Competencies

To identify the most important environmental authorities in Colombia, it is necessary to address the National Environmental System. This system is composed of the set of guidelines, norms, activities, resources, programs and institutions that allow the implementation of Law 99 of 1993; that is, the General Environmental Law of Colombia. The actors involved in this are the state entities responsible for environmental policy and action, non-governmental organizations related to environmental problems and public, private or mixed entities responsible for the production of information, scientific research and technological development in the field. Its hierarchy includes the Ministry of Environment and Sustainable Development, regional autonomous corporations, departments, and districts or municipalities.

The main environmental authorities in Colombia are the following:

1.4.1. Ministry of Environment and Sustainable Development:

It is the governing body for the management of the environment and renewable natural resources. Its function is to formulate national environmental policy to guarantee the right to a healthy environment and the protection of the national heritage in this area. Mainly, it establishes the rules for environmental protection and integrates environmental proposals into national development programs.

Expert opinion:

The environmental sector is extremely dynamic and as it is a cross-cutting issue with potential impact on many productive sectors, it is essential to have strategic and updated information on this regulatory framework and the projects that the authorities propose to make adjustments to current regulations. To this end, it is advisable to carry out permanent monitoring of the process of issuance of decrees and resolutions of the Ministry in which the opportunity for citizen participation is guaranteed through the submission of comments prior to the final issuance of the new regulations. This monitoring makes it possible to anticipate the effects of regulatory changes and to formulate timely recommendations for informed decision-making.

Having allies such as the firms that prepare this guide can facilitate this proactive and preventive approach, in mitigating regulatory risks, identifying opportunities and ensuring regulatory compliance in a dynamic and constantly evolving regulatory environment.

1.4.2. The National Environmental Licensing Authority:

Autoridad Nacional de Licencias Ambientales

is the entity in Colombia in charge of evaluating, granting and monitoring the environmental instruments under which projects, works or activities are developed. It has a sub-directorate for the evaluation of environmental licenses, aimed at verifying compliance with legal terms in environmental procedures, and a sub-directorate for monitoring these instruments, in charge of issuing technical concepts to recommend the adoption of preventive measures, promote the initiation of sanctioning processes and support the judicial defense of the entity.

1.4.3. Regional Autonomous Corporations:

are collegiate entities made up of the territorial entities that constitute an ecosystem or a geopolitical, biogeographic or hydrogeographic unit. Its role is to manage the environment and natural resources within its jurisdiction.

By virtue of this, they guarantee that environmental risk is integrated into territorial planning and management. There are 33 entities throughout the national territory.

Source: Asocars

1.4.4. Indigenous authorities:

their main functions, when exercising autonomous government in their territories, consist of establishing their own taxes, designing and implementing economic, social, cultural and environmental development policies, and managing investments. They seek to preserve natural resources in accordance with their ancestral knowledge and represent their communities before the State.

1.4.4.1. Decree 1275 of 2024, which establishes the environmental competencies of indigenous authorities, among which are the following:

1

TERRITORIAL ENVIRONMENTAL PLANNING:
Indigenous environmental management plans and ecosystem plans and ecosystem protection projects

2

REGULATIONS AND SANCTIONING:
regulations to administer territories and sanction infractions under Indigenous justice

3

INTER-INSTITUTIONAL COORDINATION:
shared sanctions with state authorities for external infractions

4

FUNDING:
resources granted by the Ministry of Environment for Indigenous management

The purpose of the decree is to place indigenous authorities on a hierarchical level similar to environmental authorities, in order to enable them to formulate and develop regulations, as well as to exercise the management of environmental instruments. The main effects of the decree are the recognition of the autonomy of indigenous authorities, even though their integration into the existing legal system remains uncertain. In this regard, it is necessary for the Government to develop complementary instruments that allow for a practical and consistent application of what is enshrined in the decree, in order to reinforce certainty in this area to continue promoting foreign investment in Colombian territory with guarantees.

1.5. Environmental planning of the Colombian territory.

1.5.1. Indigenous territories

Decree 488 of 2025 regulates the conditions for the recognition of the legal functions of indigenous territories, as well as the aspects related to their financing through resources from the General System of Participations and the General System of Royalties. In order for the internal governance structure of indigenous peoples to be recognized, the following requirements are established:

1. *Coordination with other entities.*
2. *The administrative structure of their territory and life plan.*
3. *The confirmation act and operating rules of the Indigenous Council.*
4. *The specification of responsibilities they will assume.*
5. *Self-census and the proposal for the delimitation of their territory.*

The particularities of the application of the functions established in Decree 1275 of 2024 for indigenous communities, as well as the means that allow inter-institutional work between communities and the State, are still to be determined.

1.5.2. Protected Areas and the National System of Protected Areas (SINAP)

A protected area is a geographically defined area that has been designated, regulated, and managed in order to achieve specific conservation objectives. These areas contribute to the conservation of spaces that have or may have a significant ecological and landscape wealth, which provides environmental benefits and services to society as a whole.

National System of Protected Areas-SINAP: is the set of protected areas, social actors and management strategies and instruments that articulate them, to contribute as a whole to the fulfillment of the country's conservation objectives. It includes all protected areas of public, private or community governance, and of the national, regional or local management scope.

1.5.3. Temporary Nature Reserve Areas

Decree 044 of January 30, 2024, establishes the criteria under which the environmental authority may declare nature reserve areas temporarily. This figure arises from the need expressed in the Decree to temporarily reserve some areas so that the environmental authority, within a year, delimits areas excludable from mining as zones for the protection and development of renewable natural resources and the environment, so that they contribute to environmental mining management.

Expert opinion:

It is advisable to follow up on the declaration and creation of temporary reserve zones, with the aim of reducing situations of legal uncertainty that may affect the continuity of investments or local economies.

1.5.4. Forest Reserves, Moorlands (Páramos), Wetlands, Water Roundabouts and Strategic Ecosystems

WHAT IS A FOREST RESERVE AREA?	It is an area of public or private property reserved for the establishment or maintenance and rational use of producing, protective or producing-protective forest areas (Decree Law 2811 of 1974).
WHAT IS A MOORLAND OR PÁRAMO STRATEGIC ECOSYSTEM?	The páramos have special protection because they are areas of special ecosystem importance, and they have regulations that restrict the development of activities in the mining-energy sector in them. • **Law 99 of 1993:** moorland areas, sub-moors, water sources and aquifer recharge areas will be subject to special protection. • **Law 1930 of 2018:** the páramos were recognized as strategic ecosystems, establishing guidelines for their integral conservation, restoration, sustainable use and generation of knowledge. • On July 21, 2025, the Administrative Court of Santander ruled in the first instance on processes 680012333000-2018-00196-00 and 680012333000-2020-00138-00, declaring the Páramo de Santurbán subject to rights.
STRATEGIC WETLAND ECOSYSTEM	Wetlands are strategic ecosystems, and from a strictly regulatory point of view, they are Areas of Special Ecological Importance. The Constitutional Court and the Council of State have recognized the special importance of wetlands.

1.5.5. Determinants of territorial planning- Law 2294 of May 19, 2023

They are superior regulations that guide land use plans (POT) and determine where mining can or cannot be developed, according to environmental protection and risk criteria. They are used to define land use and its limitations, protect strategic ecosystems and natural resources, and prevent natural and social risks.

The determinants of territorial planning require that all projects in the mining-energy sector conform to territorial and environmental plans. By virtue of this, they are a tool aimed at preventing socio-environmental conflicts between communities, companies and the State.

Figure: ***Classification of the determinants Law 2294 of May 19, 2023***

Level 1

Environmental conservation, ecosystem protection, water cycle, natural resources, risk prevention, climate change and food sovereignty.

Level 2

Areas to guarantee the right to food within the agricultural frontier (Areas for Food Production Protection).

Level 3

Policies and regulations on the conservation and use of cultural heritage (historic, artistic, archaeological and architectural).

Level 4

Location of basic infrastructure and land-use planning guidelines within their areas of influence.

Level 5

These are the territorial planning components of the Integrated Metropolitan Development Plans.

Level 6

Special Tourism Projects and their associated infrastructure, as defined by the Ministry of Trade, Industry and Tourism.

EXAMPLES OF LEVEL 1 DETERMINANTS

Watershed Planning and Management Plans (POMCA): This is the instrument through which the planning of the coordinated use of watershed management is carried out, in which the population that lives in the territory of the basin participates, leading to the good use and management of such resources.

Effects of the declaration of a POMCA on the viability and development of Mining-Energy projects: the declaration of a POMCA generates direct implications for projects in the mining-energy industry, which must conform to the established guidelines, prioritizing the protection of the basin.

- *Imposition of additional charges that force the environmental instrument to be restructured. Environmental impact studies will have to comply with stricter criteria.*
- *Additional costs for reconfiguring infrastructure routes (roads, power lines, pipelines) to comply with restriction zones.*
- *Land use restrictions in environmental protection zones, which may restrict new projects.*
- *Overlapping of the operation with the declared area within the POMCA.*

Water rings: these are areas or strips of land adjacent to bodies of water that are intended to allow the normal functioning of the hydrological, geomorphological and ecosystem dynamics of these bodies of water.

The delimitation of the water rounds by the Environmental Authorities is oriented from the perspective of their functionality, which provides support for the establishment of environmental management measures. The main objective of the water rounds is to protect the riparian vegetation because it is the main source of food for aquatic and terrestrial fauna, key to ecological balance.

The water rounds are developed in Decree 1076 of May 26, 2015, particularly in *Article 2.2.3.2.3.1. Purpose and scope of application. "The water ring is constituted as a norm of superior hierarchy and environmental determinant.", Article 2.2.3.2.3.2. "Definitions- Water Round: Includes the strip parallel to the line of maximum tides or to that of the permanent course of rivers and lakes, up to thirty meters wide." And Article 2.2.1.1.18.2. "Protection and conservation of forests. In relation to the protection and conservation of forests, landowners are obliged to (...) A strip not less than 30 meters wide, parallel to the maximum tide lines, on each side of the riverbeds, streams and streams, whether permanent or not, and around lakes or water reservoirs."*

Figure: ***Phases for the Delimitation of a Water Ring Road***

- Preliminary actions
- Physical and biotic characterization
- Delineation of the permanent watercourse
- Sociocultural characterization

EXAMPLES OF LEVEL 2 DETERMINANTS

ZPPA: The Protection Zones for Food Production are prior declarations that allow areas to be territorially specialized, so that after a technical process and analysis of particular aspects of the territory, the APPAs can be identified in them.

APPA: are the Protection Areas for Food Production created as a determinant of territorial planning, mandatory for municipal authorities at the time of adopting the Territorial Planning Plans.

Municipalities with a single declared APPA

- *Concordia*
- *Fredonia*
- *Venecia*
- *Jericó*
- *Nemocón*
- *Sopó*
- *San Juan del Cesar*
- *Fonseca*
- *Distracción*
- *El Molino*
- *La Jagua del Pilar*
- *Villanueva*
- *Urumita*
- *Barrancas*

The illustration above lists the areas of Protection for Food Production (APPA) declared in Colombia, which add up to 14 municipalities grouped into three departments: Antioquia (4 municipalities), Cundinamarca (2 municipalities) and La Guajira – southern region (8 municipalities). This progress reflects the implementation of Resolution 377 of 2024 and Article 32 of Law 2294 of 2023, aimed at guaranteeing the human right to food and protecting strategic agricultural soils.

In total, these declarations cover approximately 118,300 hectares, consolidating themselves as determinants of territorial planning.

The declaration of an APPA can restrict or prohibit mining and energy activities within the delimited area, affecting both new initiatives and ongoing projects. The foregoing applies to all projects in the aforementioned sectors, since the declaration takes precedence by requiring the modifications that are necessary in order for its purpose to take effect.

Finally, current titles and contracts may require adjustments in environmental plans or even face partial suspension, respecting only acquired rights.

The determinants of territorial planning, especially those related to environmental protection and food production, can limit or condition the development of mining projects, forcing owners to adapt their plans and operations to new regulatory realities.

1.6. Permits, Authorizations and Concessions Regime

1.6.1. About the Environmental License:

In Colombia, the environmental license, in accordance with the provisions of Law 99 of 1993 and Decree 1076 of 2015, is defined as the authorization granted by the environmental authority for a project, work or activity that may cause serious deterioration to renewable natural resources or the environment, or introducing considerable or noticeable modifications to the landscape.

In mining, the environmental license must be global, which means that it implies all the permits, authorizations or concessions for the use, exploitation or affectation of renewable natural resources that are necessary during the useful life of the project, work or activity.

Projects subject to environmental license: Section 2 of Decree 1076 of 2015 indicates the projects, works and activities subject to environmental license, among others:

a. *Exploratory drilling for hydrocarbons.*
b. *Exploitation and transport of hydrocarbons by pipelines.*
c. *The exploitation of minerals.*
d. *The construction and operation of power generation plants, hydroelectric plants and renewable energy generation projects.*
e. *The installation of transmission and distribution lines of electrical energy.*
f. *The construction of sea and river ports, and road and rail infrastructure projects.*
g. *The manufacturing industry for the production of certain chemical products.*
h. *The treatment and use of hazardous waste.*

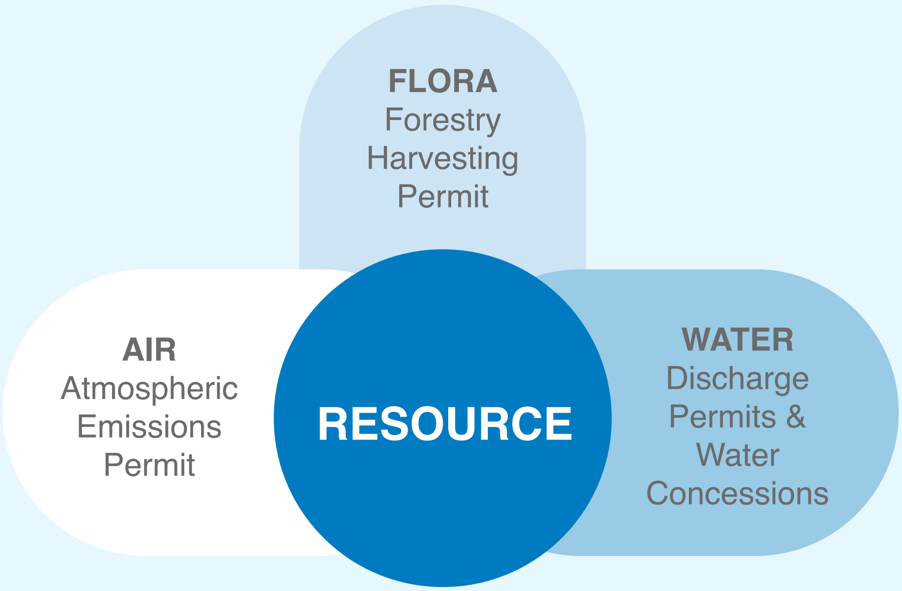
Environmental Impact Study: it is prepared in accordance with the general methodology for the presentation of environmental studies, provided for in Decree 1076 of 2015, and with the corresponding terms of reference. In the case of hydrocarbon exploratory activities, an environmental impact study must be carried out on the area of specific geological interest that is declared.

This study must contain the necessary elements to describe and characterize the physical, social and economic environment, as well as the measures for mitigation, correction and compensation of the identified impacts. This study is required whenever an environmental license is required for the execution of a project and the presentation of an environmental diagnosis of alternatives is not required.

Environmental Diagnosis of Alternatives - Decree 1076 of 2015 (Art. 2.2.2.3.4.1.) this contains the following:

a. *It provides information to evaluate and compare options under which it is possible to execute a project, work or activity.*
b. *Applies only in cases established by law.*
c. *It must take into account geographical environment, biotic, abiotic and socio-economic characteristics.*
d. *Comparative analysis of the effects and risks inherent to the work or activity.*
e. *Possible solutions and control and mitigation measures for each of the alternatives.*

1.6.2. Environmental permits and concessions



1.6.2.1. Dumping permit

A discharge is a final release into a body of water, a sewer or the ground, of elements, substances or compounds contained in a liquid medium (Art. 2.2.3.3.1.3, Decree 1076 of 2015) and according to Article 2.2.3.3.5.1. "Any person or legal entity whose activity or service generates discharges into surface waters, marine waters, or soil, must request and process the respective dumping permit before the competent environmental authority."

This permit is only required for wastewater discharges to surface, marine or ground water bodies and not for discharges to the public sewer. This was provided through Law 1955 of 2019 and the Council of State.

The dumping permit will be granted for a term not exceeding 10 years (Art. 2.2.3.3.5.7, Decree 1076, 2015) and its purpose is:

- *Prevention and control of water pollution.*
- *To regulate the uses of water and the destination of water resources.*
- *Guarantee the quality of water resources for different uses.*
- *Regulate the quality criteria of the discharges (discharge standard) generated into the water resource, the soil and the sewers to ensure the above purposes.*

In the event of dumping without first obtaining a permit, the regulation establishes the imposition by administrative act of the preventive measures and sanctions enshrined in Law 1333 of 2009 amended by Law 2387 of 2024, such as written warnings, fines of up to one hundred legal monthly minimum wages in force, closures of establishments, among others.

1.6.2.2. Water concession

It is the authorization granted by the environmental authority for the use and exploitation of water resources, whether from surface sources (rivers, streams, lakes) or underground sources (aquifers, wells). This permit grants the right to capture water for purposes such as domestic, agricultural, industrial, recreational, energy generation, mining, among others.

The surface water concession is the authorization granted by the environmental authority for the use and exploitation of water from sources visible on the earth's surface, such as rivers, streams, lakes and reservoirs, under specific conditions of flow, purpose and term.

The objective of this permit is the right to use the aforementioned water resource in various activities that require it, including supply in cases of diversion, irrigation, forestry and watering troughs, as well as industrial uses, power generation, mining and oil exploitation, transportation of wood, minerals and toxic substances. In addition to the above, agricultural, fishing, medicinal and other related uses are also used.

On the other hand, the groundwater concession is the permit to extract and use water stored in aquifers through wells or cisterns, regulating its exploitation to avoid overuse and guarantee the natural recharge of the resource, in accordance with the provisions of Law 99 of 1993 and Decree 1076 of 2015.

A process must be initiated through the single national form with all the documents that determine the identity of the subject, the right to the property or authorization of the owner of the property and the respective authorizations of the activity to be carried out.

Subsequently, the particularities for which the permit is requested must be described, being the type of water, its purpose, location, quantity, the method by which it will be extracted and how long the process is expected to take.

With regard to groundwater, the hydrogeological characteristics of the area, the relationship with other groundwater uses that exist in the area and a plan indicating the exploration area must also be indicated.

At the end of the groundwater concession permit, the subject has the obligation to submit within the following 60 working days the location of the well that has been drilled, the description of its drilling, its depth and the method used, the elevation of the site and the water quality through a physicochemical and bacteriological analysis, among other aspects.

1.6.2.3. Atmospheric Emissions Permit

It is the one granted by the competent environmental authority, by means of an administrative act, so that a natural or legal person, public or private, within the permissible limits established in the respective environmental standards, can make emissions into the air.

Article 2.2.5.1.7.2 of Decree 1076 of 2015 lists the following activities as those in which it is required to obtain an atmospheric emissions permit:

i. *Controlled open burns in rural areas.*
ii. *Discharges of smoke, gases, vapours, dusts or particles through ducts or chimneys of industrial, commercial or service establishments.*
iii. *Fugitive or dispersed emissions of pollutants from open-pit mining activities.*
iv. *Incineration of solid, liquid and gaseous waste.*

v. Storage, transport, loading and unloading operations in ports likely to generate air emissions.
vi. Operation of boilers or incinerators by an industrial or commercial establishment.
vii. Burning of fuels, in ordinary operation, from oil and gas exploitation fields.
viii. Processes or activities likely to produce emissions of toxic substances.
ix. Production of lubricants and fuels.
x. Refining and storage of oil and its derivatives; and petrochemical manufacturing processes.
xi. Operation of thermoelectric plants.
xii. Operation of Nuclear Reactors.
xiii. Activities that generate offensive odors.
xiv. Any other duties established by the Ministry of Environment and Sustainable Development, based on technical studies that indicate the need to control other emissions.

Expert opinion:

It is essential to identify the difference that the regulations make between fixed and mobile emission sources in order to process this permit. First, the fixed source is the source of emission located in a specific and immovable space, even if the discharge of pollutants occurs in a dispersed manner. The fixed point source is one that emits pollutants into the air through ducts or chimneys. On the other hand, the mobile source is the emission source that, by virtue of its use, is susceptible to displacement.

This permit is valid for a maximum of 5 years, being renewable indefinitely for equal periods of time.

1.6.2.4. Forest Harvesting

This is the authorization to extract products from the forest; from the moment they are obtained until they are transformed. It is also defined as the use, by humans, of timber and non-timber resources from wild flora and forest plantations. There are types of forest use, differentiated according to the criteria with which it is requested before the authority:

- ***Unique:*** *it is carried out only once in an area where studies demonstrate a better suitability of the use of the land, being different from forestry, or when there are reasons of public utility and social interest.*
- ***Persistent:*** *they are carried out with sustainability criteria and there is an obligation to conserve the normal yield of the forest through silvicultural techniques, i.e. forest management methods.*
- ***Domestic:*** *they are advanced only to satisfy the vital domestic needs without it being possible to market them in products.*

Carrying out forest harvesting without having processed the permit gives rise to the following preventive measures that may be imposed by the competent environmental authority depending on the specific case:

- *Preventive confiscation of products used to commit the offense.*
- *Preventive seizure of flora and fauna products.*

- *Suspension of the project when environmental damage may be caused by virtue of its actions.*
- *Behavioral studies to determine the nature of the damage.*

Additionally, the agent is exposed to the sanctions listed in Article 40 of Law 2387 of 2024, the most common being pecuniary sanctions, although the revocation or expiration of environmental instruments can also occur.

1.6.2.5. Channel occupation permit:

Article 2.2.3.2.12.1. of Decree 1076 of 2015 indicates that the construction of works that occupy the course of a stream or water reservoir requires authorization, which will be granted under the conditions established by the competent Environmental Authority. Permission will also be required when it comes to the permanent or transitory occupation of beaches.

Decree 2811 of 1974 indicates in Article 102 that anyone who intends to build works that occupy the course of a stream or water tank must apply for this permit. It is also required in case of permanent or transitory occupation of beaches. Even so, two scenarios are established in which the channel occupation permit is not required:

The first of these occurs when the Ministry of Transport must carry out dredging operations or build works that use water sources to maintain its mobility conditions.

The second scenario occurs in the face of subsistence fishing. In this scenario, the transit and occupation of beaches and riverbanks must be governed by the provisions on the use and exploitation of water, but the channel occupation permit is not necessary.

To apply for the permit, it is necessary to access the platform of the Single Window for Environmental Procedures -VITAL- and select the competent entity. Afterwards, the applicant must then appear before that entity with their identification document.

In the case of a legal entity, the certificate of existence and legal representation and, in the case of a public entity, a copy of the appointment resolution. Payment of the procedure must be made at the Integral Window for Environmental Procedures. With both the receipt and a copy of the applicant's original signature attached.

As additional attached documents to those listed above, there must be the certificate of freedom and tradition issued within the previous month and a document in which the description of the project, its location and other details of the work and the environment, the general location plans, the floor plan, the profile of civil works and details are reported. The information provided must be signed by a professional who certifies its suitability. It is essential to have the hydraulic and hydrological study.

Subsequently, the technical evaluation visit is conducted, in which the authority carries out an inspection to hide the physical conditions of the surface water source to be intervened and other factors by virtue of the information provided.

Subsequently, the authority issues a technical concept in which it evaluates the information presented in the light of the findings obtained during the visit and pronounces in the sense of granting, denying or requesting additional information. The authority may only request additional information once, by order, granting a period of 1 month for the applicant to make a decision.

Finally, the resolution granting or denying the authorization is subject to an appeal for reconsideration.

1.6.3. Prior Consultation

In Colombia, any project, work or activity that is intended to operate and that is likely to directly affect ethnic communities (indigenous, Afro-Colombian, Raizales, Palenqueras or ROM) must respect the fundamental and collective right to prior consultation, in accordance with the Political Constitution, ILO Convention 169 and national regulations.

This right is materialized through an administrative procedure in which the State, through the Directorate of the National Authority for Prior Consultation (hereinafter "DANCP"), guarantees:

Effective participation of ethnic communities (Indigenous, Afro-Colombian, Raizal, Palenqueras and ROM) through their representative authorities

Access to information about the projects, works or activities that are intended for their territories

Protection of their collective rights, ensuring that decisions are made based on dialogue and concertation

Practical aspects of prior consultation: prior consultation is a mandatory requirement for projects, works or activities that directly affect ethnic communities.

As it is a fundamental right, the legal action by nature filed for its protection is the tutela action.

Historically, the tendency of constitutional judges to protect the right to prior consultation has been to guarantee. In some cases, the absence of prior consultation has implied the suspension of the execution of projects, works or activities until the corresponding consultative process is carried out. Strategically, the suspension order corresponds to a precautionary measure that the judge adopts, acting in compliance with the standards of due diligence that will be set out below.

The exercise of the right to prior consultation does not give the consulted ethnic community the power to veto the execution of the project, work or activity. The foregoing, without prejudice to cases in which prior, free and informed consent is required, namely, when the intervention involves the transfer of ethnic communities, when the intervention is related to the exploitation of natural resources in the territories of ethnic communities, when the intervention represents a high social impact, when the intervention directly affects the subsistence of the community or its existence and/or, when it is a matter of large-scale development plans that have a greater impact within the territory of the ethnic communities.

Although the objective of prior consultation, in accordance with Convention 169 of the International Labor Organization (ILO) and the jurisprudence of the Constitutional Court, is to achieve the prior, free and informed consent of ethnic communities; such consent is not mandatory, except in the cases mentioned above.

There is an incorrect belief related to the fact that only direct impact that generates a negative impact on the ethnic community is susceptible to prior consultation. The jurisprudence of the Constitutional Court has established that the obligation to carry out prior consultation is appropriate when it directly affects a community, either because it imposes restrictions or burdens on it, or, on the contrary, it confers benefits.

Standards of due diligence in matters of prior consultation: although to date there are no regulations issued by the National Government or by the Congress of the Republic that define the duties of diligence in matters of prior consultation, the jurisprudence of the Constitutional Court has ruled in several judgments (SU 123 of 2018 and SU 121 of 2021) on the conducts that the proper development must observe. This suggests that, in the absence of regulation, companies should carry out a periodic review of the jurisprudence in this area.

The Constitutional Court, in reiterated jurisprudence, has indicated what conduct must be observed in the context of the development of prior consultation processes. These behaviors can be summarized in duties that must be fulfilled before, during and after the consultative process. These duties are aimed at avoiding effects that may arise from the execution of activities or projects without due prior consultation, as well as ensuring that ethnic communities receive complete and sufficient information on the impacts arising from the execution of projects in their territories. The observance of these duties is essential for the proper management of legal and reputational risks, as well as the suspension of projects in the pipeline.

1.7. On the Colombian environmental sanctioning regime

The environmental sanctioning regime is found in Law 1333 of 2009 that regulates the environmental sanctioning procedure. With Law 2387 of 2024, which modified some aspects of Law 1333, substantial and procedural elements are added that strengthen the procedure.

Among these modifications, fundamental definitions such as environmental damage, corrective measures and compensation are added. Additionally, the figure of early termination was created, which allows the process to be suspended for up to two years so that the offender implements corrective measures and, in this way, the sanctioning procedure is suspended.

Finally, the maximum value of the fines was modified from 5,000 minimum monthly wages -SMLMV- (USD $2,160,070 approx.) to 100,000 SMLMV (approximately USD $43,201,394), which generates a greater deterrent effect. Procedurally, Law 2387 adds the concept of early confession, another substantial aspect contained in Law 2387, includes a reduction of the fine by up to 30% if it occurs before the beginning of the procedure or 15% before the statement of charges.

By way of description of the procedure, Law 1333 of 2009 indicates that there will be a term for the preliminary inquiry and, after that, the procedure is formalized with the issuance of an order of initiation. Once the authority formulates the charges against the investigated, it is given a term for the presentation of the defense arguments; that is, the disclaimers. Subsequently, in the evidentiary stage, technical, environmental and documentary evidence is carried out.

Law 2387 added the closing arguments to the sanctioning procedure, a moment in the process in which the investigated has the opportunity to pronounce on the elements and facts proven in the process. Finally, the environmental authority will determine the responsibility and the pertinent sanction when issuing a reasoned administrative act.

In this area, Colombia has a variety of procedural rules, which simultaneously guide different actions depending mainly on the time at which they began and the stage in which the process is located. This is mainly due to the modifications and changes introduced by regulations such as Law 2387 of 2024 and Law 1333 of 2009. There are no special rules for the completion of environmental sanctioning processes initiated under the previous legal regime, so it is especially important to have adequate expert advice in case of having to attend to any sanctioning process initiated by the environmental authorities, as well as when estimating the risks in the due diligence for the acquisition of companies that are linked to processes of this nature.

Expert opinion:

Proper management of environmental issues is decisive to guarantee the normal operation and growth of companies that decide to develop activities in Colombia. Holland & Knight has identified fines of up to COP $7,042M during the year 2025, in this case it was a fine to a legal entity for forest exploitation without authorization or prior obtaining the modification of the environmental management and control instrument. With the growing environmental protection and interest in the fulfillment of the country's environmental commitments, inquiries and processes that seek to maintain environmental order are increasingly common, so clear internal policies, alarm systems and environmental compliance are increasingly essential for the normal development of business.

2. STATE CONTRACTING IN COLOMBIA

Within the framework of relations between the business sector and the State, public procurement is one of the most relevant mechanisms for materializing collaboration between the two. Understanding the regulatory structure, selection modalities, and institutional dynamics that govern government contracting is critical for any investor seeking to effectively engage with the public sector and take advantage of the opportunities that this market represents. Based on the above, it is essential to address the legal notion of state contracting, detailing its scope, its public nature and the regulatory parameters that condition its application.

2.1. Scope of application of the General Procurement Statute.

Contracts entered into by Colombian state entities are governed, as a general rule, by the relevant commercial and civil provisions (private law), unless there are special applicable provisions, contained, mainly, in the General Statute of Public Administration Contracting (hereinafter, the General Contracting Statute), Law 80 of 1993.

This regulatory scheme seeks to balance the autonomy of the contractual will with the protection of the public interest that characterizes state contracting. Article 13 of Law 80 of 1993 establishes that state contracts are based on the agreement of wills between the parties, from which the main obligations and legal effects emanate.

Not all state entities identified in Article 2 of Law 80 of 1993[1] are subject to the General Contracting Statute. Some have special contractual regimes established by law, and subsequent regulations have determined the inapplicability of the general regime for certain agencies. This is the case, for example, of public service companies (ESP), State Social Enterprises (ESEs), which correspond to public hospitals, universities and other entities with particular regulation. Before participating in a selection process carried out by a public entity, it is advisable to verify what is the specific contracting regime that applies to the contracting entity.

In general terms, every public procurement process has three fundamental stages:

- ***Planning:*** *The entity identifies its need, prepares preliminary studies, makes an analysis of the sector, defines technical specifications, prepares an official budget and proposes a risk matrix.*
- ***Selection:*** *Includes the publication of the call for proposals, presentation and evaluation of bids, and the award of the contract. The entrepreneur must submit his proposal complying with qualifying requirements (legal, technical, financial capacity) and offering elements that give him a score in the evaluation, under the terms set in the selection process.*
- ***Execution and settlement:*** *Once the contract has been awarded, its execution begins under the supervision of the entity. At the end, the contract is liquidated, verifying its total compliance.*

[1] Law 80 of 1993. Article 2. Definition of Public Entities, Servants and Services. For the sole purposes of this Law:
1°. The following are called state entities:
(a) The Nation, the regions, departments, provinces, the Capital District and special districts, metropolitan areas, associations of municipalities, indigenous territories and municipalities; public establishments, industrial and commercial enterprises of the State, mixed economy companies in which the State has a stake of more than fifty percent (50%), as well as indirect decentralized entities and other legal entities in which there is such majority public participation, whatever name they adopt, in all orders and levels.
(b) The Senate of the Republic, the House of Representatives, the Superior Council of the Judiciary, the Office of the Attorney-General of the Nation, the Office of the Comptroller General of the Republic, the departmental, district and municipal comptroller's offices, the Office of the Attorney-General of the Nation, the Office of the National Civil Registry, the ministries, the administrative departments, the superintendencies, the special administrative units and, in general, the agencies or dependencies of the State to which the law grants capacity to enter into contracts.
(…)

Diagram of interactions of state entities

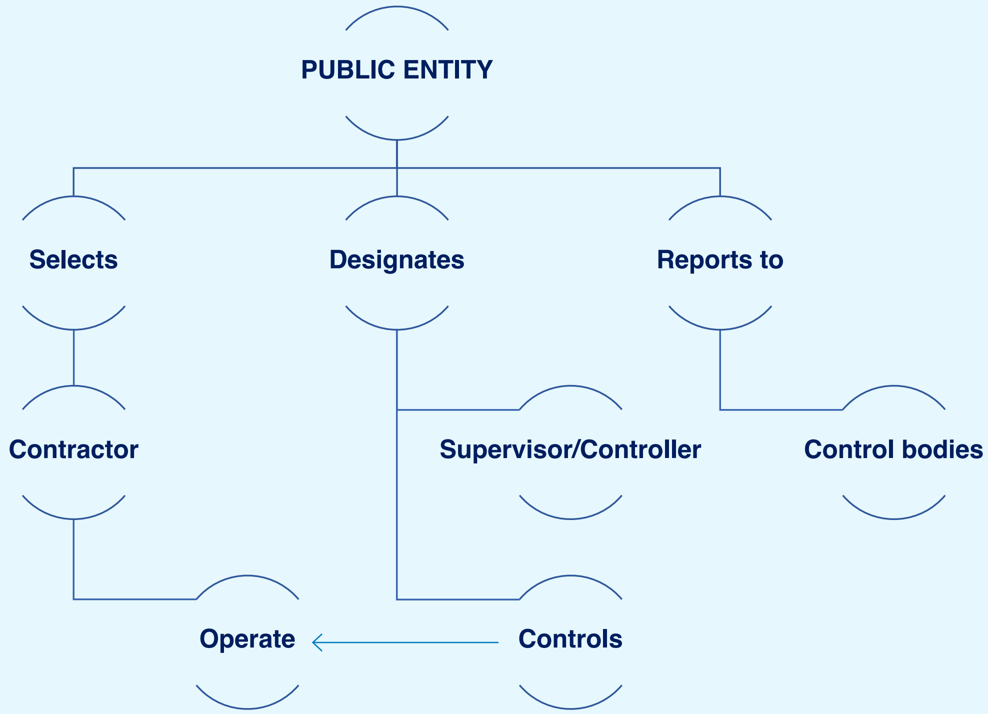
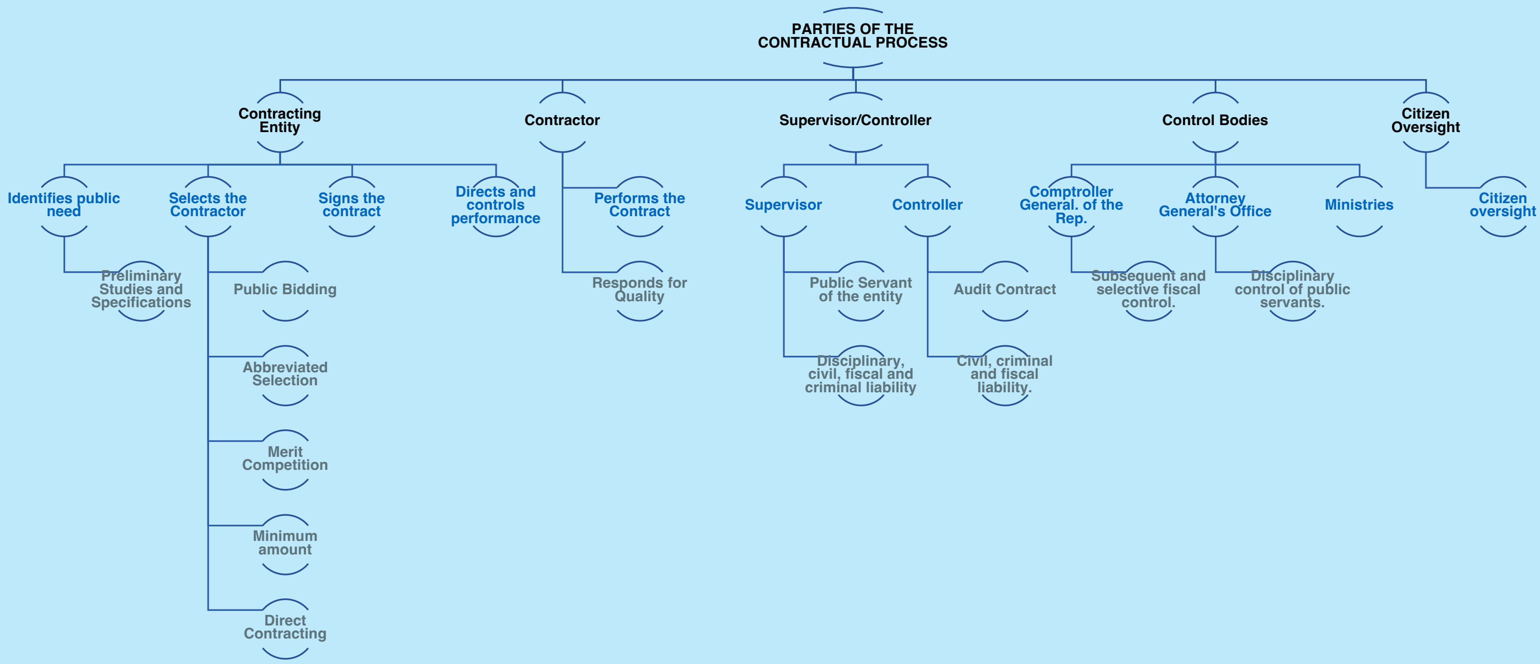


Diagram subjects of the contractual process



2.2. Principles of State Procurement

The "principles" are binding legal norms, contained in Law 80, which establish enforceable behaviors throughout the contractual process.

- ***Transparency:*** *Ensures that all processes are visible and accessible to the public. The entity must publish all the information in the Electronic Public Procurement System (SECOP), ensure equal treatment between bidders and that the reasons for its decisions are expressly stated.*
- ***Economy:*** *It requires the administration to use appropriate procedures according to its contracting regime and to optimize the use of public resources. For the contractor, this implies that the entity will seek the best cost-benefit ratio, prioritizing quality and technical compliance over the simple lowest price.*
- ***Responsibility:*** *It imposes on the entity the obligation to monitor the selection process during the pre-contractual stage and its due execution during the contractual stage. For its part, the contractor, during the pre-contractual stage, is obliged to warn about the inconsistencies that may be observed in previous studies or technical specifications.*
- ***Objective selection:*** *The entity must choose the contractor by applying previously established objective factors, ensuring that the evaluation is based exclusively on the published technical and economic criteria.*
- ***Planning:*** *Hiring must be scheduled, with complete preliminary studies, analysis of the sector and risk assessment before starting the process.*
- ***Good faith:*** *Both the entity and the bidders must act with loyalty, honesty and rectitude.*

2.3. Who can contract with the State?

Article 6 of Law 80 of 1993 establishes that contracts with state entities may be entered into by "persons considered legally capable in the provisions in force." This legal capacity is determined in accordance with Article 1502 of the Colombian Civil Code, which empowers the person to act without the intervention of another.

2.3.1. Natural Individuals

Individuals who wish to contract with the State must meet the following requirements:

- *To be of legal age (over 18 years old).*
- *Have full legal capacity.*
- *Present a citizenship card. If the interested party is a foreigner, they must present their foreign ID card when they are a resident in Colombia; if the interested party is not a resident, they must submit their passport.*

2.3.2. Legal Entities

Both, national and foreign entities, may enter into contracts with the state, unless the participation of foreigners in a specific selection proceeding is restricted for reasons of national security.

In this regard, the following requirements apply:

- *Legal entities shall be legally incorporated in accordance with Colombian laws or with applicable laws of their country of origin.*
- *Legal entities shall have the legal capacity to perform the scope of the contract.*
- *Legal entities shall comply with the qualification requirements established in the specifications or terms of reference of the public bid proceedings.*

2.3.3. Consortia

The consortium is a form of temporary association regulated by Law 80 of 1993, which allows two or more natural or legal persons to join together to participate in a selection process and execute a contract with the State, without creating a new legal entity. The main characteristics of the consortium are:

- *It does not constitute a legal person.*
- *Legal independence of its members.*
- *Joint and several liability in the full fulfilment of contractual obligations.*
- *Temporality associated with the duration of the selection process and the respective contract.*
- *Joint action of the members.*

A consortium allows the experience and capacity of several natural or legal persons to be added to execute a state contract, after joint participation in the respective bidding or bankruptcy process.

2.3.4. Temporary Unions

The temporary union shares the generic characteristics of the consortium but differs in key aspects related to the distribution of responsibilities. Thus, the companies that make it up can define the scope and participation of each one in the execution of the contract. Although they are all jointly and severally liable for the proposal and the contract, possible fines or sanctions fall solely on the company that incurs in the fault or non-compliance.

EXPERT OPINION:

When constituting a temporary union, it is essential to define precisely and clearly the percentages of participation of each member and the specific activities in charge of each one. This distribution must be documented in the conformation document and be consistent with the structure of the technical and economic proposal.

2.3.5. State contracting by foreign companies

Colombia adopted the OECD Convention on Combating Bribery of Foreign Public Servants, enacting Law 1778 of 2016 (Anti-Bribery Law) that establishes administrative sanctions for legal entities involved in transnational bribery conduct.

For the foreign company who contracts with the Colombian State, this means concrete obligations:

- *Implement transparency and business ethics programs that prevent corrupt conduct.*
- *Establish internal reporting and control mechanisms to detect and sanction irregular behaviour.*
- *Train employees on the prohibition of offering undue benefits to Colombian public servants.*
- *Maintain accurate accounting records with traceability of payments related to state contracts.*

Companies that do not implement anti-corruption compliance programs face economic sanctions, disqualification from contracting with the State, and even dissolution of the legal entity. The principle of good faith requires the contractor to report any irregularities detected during the process.

Colombia Compra Eficiente, the National Public Procurement Agency, requires contractors to declare that they have not engaged in corrupt practices and to commit to ethical conduct throughout the contractual relationship. For multinational companies, it is advisable to align these commitments with their corporate codes of ethics and global compliance systems, properly documenting the measures adopted.

Foreign companies may contract with the Colombian State on equal terms with national companies, in accordance with the principles of transparency and free competition established in Law 80 of 1993. The foregoing, except for express legal exception.

If the foreign company has a branch in Colombia, it must:

- *Register the branch in the Mercantile Registry of the corresponding Chamber of Commerce.*
- *Obtain NIT (Tax Identification Number) from the DIAN.*
- *Comply with tax and labor obligations like any company domiciled in Colombia.*
- *The branch will have the same legal capacity as a Colombian company for all contractual purposes.*

In the event that the foreign company does not have a branch in Colombia, it must:

- *Prove their existence and legal representation in accordance with the laws of their country of origin.*
- *Submit the documents duly apostilled (if the country is a party to the Hague Convention) or legalized at the Colombian consulate.*
- *Officially translate documents that are not in Spanish.*
- *Appoint a legal representative domiciled in Colombia or attorney-in-fact for notification purposes.*
- *Commit to paying taxes in Colombia on the income generated by the contract.*

Foreign legal entities domiciled abroad that establish businesses or wish to develop their corporate purpose in Colombia must constitute proxies with the capacity to represent them in court. To this end, they must register in a notary's office of the respective circuit the suitable proof of their existence, of the legal representation and of the corresponding power of attorney.

EXPERT OPINION:

The difference between a foreign company that operates with a branch and one that does so without a branch in Colombia is not limited to formal aspects. Choosing one or the other modality is a strategic decision that depends on various factors.

In many cases, once a government contract has been awarded, it may be necessary to set up a branch of the foreign company in order to enforce the contract in the country. In this scenario, the responsibility for enforcement falls directly on the parent company, since the branches do not have their own legal capacity.

Likewise, the branch does not have independent experience; this always corresponds to the parent company. Therefore, deciding on whether or not to participate in a selection process, or to enter into a contract with a Colombian state entity through a branch, or without a branch, or through the creation of a new company in Colombia does not have a single answer. The best alternative depends on a comprehensive analysis of the project, the structure and capabilities of the company, and the requirements of the state entity, among others.

EXPERT'S RECOMMENDATION:

Foreign companies may form consortiums or temporary unions with Colombian companies or with other foreign companies. This modality is frequent when: (i) The foreign company provides specific technology or experience; (ii) Local knowledge of the Colombian market is required; (iii) It seeks to meet the requirements of previous experience in Colombia; and (iv) It is intended to distribute risks between local and international partners.

For foreign companies that plan to participate in multiple selection processes in Colombia, it may be convenient to establish a branch. This simplifies administrative procedures, facilitates tax management and generates greater confidence in the contracting entities. For one-off participations or specific contracts, filing without a branch may be more efficient. In any case, it should be taken into account that the general rule is that, in order to carry out permanent activities in Colombia, and that may be the case with the execution of certain state contracts, foreign companies are obliged to incorporate a branch in the country.

2.4. Disqualifications and incompatibilities. ("Inhabilidades e Incompatibilidades")

Disqualifications are legal restrictions that prevent a person or a legal entity from entering into contracts with the State. These are objective situations established by law, which are intended to protect the public interest and guarantee transparency in procurement.

Disqualifications have several essential characteristics. They are of legal origin, which means that they can only exist when the law expressly establishes them. They work objectively, since they are automatically configured when the corresponding cause is presented. These disqualifications may occur before the conclusion of the contract, in which case they prevent the participation of the interested party in the selection processes. However, this does not mean that all of them must exist in advance, since they can also be configured as supervening incapacities.

On the other hand, incompatibilities are restrictions that prohibit certain people from entering into contracts with state entities when there are specific links or relationships that may generate conflicts of interest. Incompatibilities arise from the special relationship or bond that may exist between the contractor and the public entity or its officials. Its main purpose is to prevent conflicts of interest and ensure impartiality in procurement processes. These restrictions can be temporary or permanent, depending on the cause that originates them.

The grounds for disqualification and incompatibility are expressly established in the law. An extensive or analogical interpretation of these grounds is not appropriate. Only the situations expressly provided for by the legislator constitute disqualifications or incompatibilities. When a contractor enters into a contract while disqualified from doing so, or in a situation of incompatibility, it is exposed to possible serious consequences.

Table of main incompatibilities and disqualifications

GROUNDS FOR INCOMPATIBILITY	REGULATORY REFERENCE
Former members of the board of directors or governing council, or former public servants of the contracting entity (executive, advisory, or managerial levels). Term: 1 year from the date of departure.	**Art. 8.2.a Law 80/1993**
Relatives up to the 2nd degree of consanguinity, 2nd degree of affinity, or 1st degree of civil kinship of public servants at executive/advisory/managerial levels, board members, or whoever exercises internal or fiscal control of the entity.	**Art. 8.2.b Law 80/1993**
Spouse or permanent partner of a public servant at executive/advisory/managerial levels, of a board member, or of whoever exercises internal or fiscal control.	**Art. 8.2.c Law 80/1993**
Corporations, associations, foundations, (NGO´s in general) non-publicly traded stock companies, limited liability companies, and partnerships in which said public servants or their relatives hold equity interests or management or executive positions.	**Art. 8.2.d Law 80/1993**

GROUNDS FOR DISQUALIFICATION	REGULATORY REFERENCE
Members of the boards of directors or governing councils, with respect to the entity and its administrative sector.	**Art. 8.2.e Law 80/1993**
"Revolving door": persons who held executive-level positions in State entities, and the companies in which they participate, during the 2 years following their departure, when the subject matter relates to the sector. This extends to relatives within the 1st degree of consanguinity / 1st degree of affinity / 1st degree of civil kinship.	**Art. 8.2.f Law 80/1993, as added by Art. 4 Law 1474/2011**
Persons who are disqualified from contracting under the Constitution and the laws.	**Art. 8.1.a Law 80/1993**
Those who participated in bids or competitive processes or entered into the contracts referred to in the preceding subsection while disqualified.	**Art. 8.1.b Law 80/1993**
Those who gave rise to a declaration of forfeiture (caducidad).	**Art. 8.1.c Law 80/1993**
Those who have been disciplinarily sanctioned with removal from office.	**Art. 8.1.d Law 80/1993**
Those who, without just cause, fail to execute the awarded state contract.	**Art. 8.1.e Law 80/1993**
Public servants.	**Art. 8.1.f Law 80/1993**
Spouses or permanent partners and relatives within the 2nd degree of consanguinity or 2nd degree of affinity of another person who has submitted a proposal in the same bidding process.	**Art. 8.1.g Law 80/1993**
Companies other than publicly traded stock companies in which the legal representative or any of their partners has kinship within the second degree of consanguinity or second degree of affinity with the legal representative or any of the partners of a company that has formally submitted a proposal for the same bidding process or competitive process.	**Art. 8.1.h Law 80/1993**

GROUNDS FOR DISQUALIFICATION	REGULATORY REFERENCE
Partners of partnerships in respect of which forfeiture (caducidad) was declared, and partnerships they subsequently form. Term: 5 years.	**Art. 8.1.i Law 80/1993**
Natural persons convicted of crimes against public administration, crimes or offenses under Law 1474/2011, or conduct covered by anti-corruption conventions; legal entities held administratively liable for transnational bribery. This extends to companies in which they serve as administrators, legal representatives, board members, or controlling partners, as well as parent companies, subsidiaries, business groups, and foreign branches. Permanent in nature; applies preventively even if an appeal is pending.	**Art. 8.1.j Law 80/1993, as amended by Art. 2 Law 2014/2019 (formerly Art. 1 Law 1474/2011)**
Natural or legal persons who have financed campaigns for the Presidency, governorships, mayoral offices, or Congress with contributions exceeding 2.0% of the maximum allowable amount. This extends to the term of the elected official and to relatives within the 2nd degree of consanguinity / 2nd degree of affinity / 1st degree of civil kinship. These provisions do not apply to professional services contracts.	**Art. 8.1.k Law 80/1993, as amended by Art. 33 Law 1778/2016**
Persons convicted of crimes affecting goods of the property of the State, or for membership in / promotion of illegal armed groups, drug trafficking, or crimes against humanity: they may not enter into contracts with the State (permanent in nature, with no time limitation).	**Art. 122, final paragraph, Political Constitution (Constitutional Amendment 01/2004 and Constitutional Amendment 01/2009)**
General prohibition on public servants from entering into contracts with public entities, except as provided by law.	**Art. 127 Political Constitution**
Disqualification due to repeated non-compliance (fines and/or declarations of contractual non-compliance within the same fiscal year).	**Art. 90 Law 1474/2011**

GROUNDS FOR DISQUALIFICATION	REGULATORY REFERENCE
Persons listed in the Comptroller General's Bulletin of Fiscal Debtors (Boletín de Responsables Fiscales): disqualified from contracting as long as the uncompensated fiscal liability persists.	**Art. 60 Law 610/2000**
Persons listed in the Delinquent Child Support Obligors Registry (REDAM): disqualified from contracting with the State.	**Law 2097/2021**

Note: This table compiles, for reference purposes, the grounds for disqualification and incompatibility applicable to state contracting. Its main sources are Articles 8 and 9 of Law 80 of 1993 (as amended by Laws 1150 of 2007, 1474 of 2011, 1778 of 2016, and 2014 of 2019), supplemented by the Political Constitution and special laws.

The regime is exhaustive (numerus clausus) and of restrictive interpretation (Constitutional Court, Decision C-415 of 1994), and therefore each ground must be strictly verified against the applicable statutory text and the specific case. This table is illustrative and not exhaustive; moreover, it does not cover all case law developments or the various interpretations that the Constitutional Court, the Council of State, and legal scholarship have established regarding the scope of each ground, which should be consulted as supplementary sources.

The information reflects the consolidated regulatory status as of the date of preparation and may change due to subsequent reforms or court decisions.

EXPERT'S RECOMMENDATION:

Before participating in state contracting processes, companies must verify that they are not involved in causes of disqualification or incompatibility that prevent them from contracting with the Colombian State. These legal restrictions limit contractual capacity and may result from disciplinary, fiscal, or criminal sanctions. It is particularly relevant that, depending on the specific case, certain disqualifications may extend to companies, including foreign ones, in which sanctioned persons appear as administrators, legal representatives, members of the board of directors or controlling partners, including their parent companies.

It is recommended to carry out an exhaustive due diligence on the background of partners, administrators and those linked to the corporate structure before submitting proposals, consulting the public records of sanctions and verifying compliance with tax and parafiscal obligations. Implementing compliance programs is essential to protect the investment made in the preparation of bids and avoids disqualifications that may affect the entrepreneur's assets and commercial reputation.

2.5. Single Registry of Bidders (Registro Único de Proponentes – RUP)

The Single Registry of Bidders (RUP) is ruled, mainly, in Article 6 of Law 1150 of 2007. This instrument was conceived as a mechanism for verifying the contracting capacity of natural and legal persons to enter into contracts with the Colombian State, unifying and standardizing the accreditation requirements before all state entities in the country.

This record contains financial statements, technical capability, and certified expertise. The RUP -Unique Registry of Proponents- constitutes the formal proof of the above requirements, insofar as it is understood that its verification has been carried out by the Chamber of Commerce. However, such certification is not absolute or incontrovertible, since its content may be challenged, or questioned within the respective selection process.

All natural or legal persons, national or foreign, domiciled or with a branch in Colombia, who aspire to enter into a contract with state entities, except for those expressly exempted from the application of the Contracting Statute, must register in the RUP. Natural or legal persons who do not have a domicile or branch in Colombia are exempt from this obligation.

The general rule establishes that for all procurement selection processes, the bidder's RUP is required. As an exception to this rule, in the following cases it is not necessary for bidders to have the RUP: (i) Direct contracting selection processes, minimum amount; (ii) Execution of contracts for certain types of contracts, such as: contracts for the provision of health services, disposal of State assets, contracts for the acquisition of products of agricultural origin or destination that are offered in legally constituted product exchanges, among others.

The RUP contains the information related to the experience, legal, financial and organizational capacity of the proponent, which is established in accordance with the qualification and classification factors provided for in Decree 1082 of 2015. This information is presented by the interested party and verified by the Chambers of Commerce. The score resulting from the qualification of these factors is understood as the maximum contracting capacity of the registrant.

The certificate only certifies the conditions of experience, legal, financial and organizational capacity of the proponent that were verified, as well as its qualification and classification, constituting full proof in this regard.

2.6. Electronic Contracting

With Law 1150 of 2007, it was established that the actions of state contracting must be carried out publicly, and as a general rule, through electronic means. Consequently, the substantiation, the pre-contractual documents, the execution of the contract, and its settlement must be carried out through the use of official electronic platforms. To this end, its publication in the Electronic System for Public Procurement (SECOP) was developed and centralized.

In this context, SECOP (as the official platform of the public procurement system) is administered by Colombia Compra Eficiente. This entity, in addition to managing the tool, issues concepts and responds to queries on public procurement. Although these concepts are not binding, they operate as soft law, and in practice their criteria are usually taken into account by state entities and actors in the system.

In line with the above, the publication of contracts on the SECOP portal is a requirement of mandatory compliance and full formality. According to Decree 1082 of 2015, the following documents must be published as a minimum: studies and previous documents, notice of call, specifications or invitation, addenda, offer, evaluation report, contract, and any other document issued by the state entity during the contracting process or that is directly related to it.

E-procurement represents a significant opportunity for entrepreneurs, who can identify, consult and participate in online procurement processes. It also offers tools to suppliers and state entities that serve for the analysis of public procurement data, such as the following: (i) Interactive tools designed to visualize and analyze relevant data from the public procurement system; (ii) Reports and analysis of the public procurement system, such as development plans, annual procurement plan, expenditure analysis and contract history; and, (iii) Control board, infographics and relevant information on the monitoring of the different contractual instruments.

The electronic platforms materialize the principles of publicity and transparency of state contracting, and operate in two versions:

SECOP I is an informative platform on which documents that have been managed and executed in physical form are published. Its consultation is open and contains all documents related to public procurement, both in direct contracting and in competitive processes. The documents must be published within three days of their issuance, including the bid of the successful bidder in the procurement process. To consult SECOP I, interested parties should enter the following link: http://www.colombiacompra.gov.co/proveedores/consulte-en-el-secop-i

SECOP II is a modern transactional platform that allows the comprehensive management of the contracting process online and in real time.

The system enables the creation of users for public entities, supervisors, auditors and suppliers, as well as public viewing for interested third parties, which in principle would allow the digital management of the contract. As a general rule, procurement activities are conducted through this platform. Exceptionally, state entities can carry out actions, proceedings, hearings and even closures of selection processes in person. SECOP II improves traceability and aims at the transparency of contract management, through a model of active participation of suppliers, who must register and interact with state entities through the system. The platform allows entities and suppliers to manage procurement processes online. Although the platform streamlines and standardizes several stages of the process and promotes the paperless strategy, not all functionalities are automatic, as the preparation of documents and evaluation reports continue to depend on the performance of the state entity.

For entrepreneurs, SECOP II expands the opportunities to contract with the State, allows online contracts to be made by reducing the use of paper, and makes public their contract management, which is an effective strategy to promote their reputation, their services and their reliability in the market. In the registration that suppliers must make to access the SECOP platform, they must indicate the type of goods and services they offer, the value of contracts of their interest and the regions in which they can provide goods and services. The registration form is available at the following link: https://community.secop.gov.co/Public/Users/UserRegister/Index?Page=login&Country=CO&SkinName=CCE

EXPERT'S RECOMMENDATION:

For the search for business opportunities on the SECOPII platform, Colombia Compra Eficiente, the National Public Procurement Agency of Colombia, has made available free of charge the "areas of interest" tool, which makes it easier to link the business offer with the demand of public entities.

To access the tool, once registered in SECOPII, through your company profile, in supplier settings, you can enter areas of interest, including the parameters corresponding to: (i) Classification of goods and services with UNSPSC codes; and, (ii) Filters related to the maximum amount of the selection process or maximum contract values, geographical area in which the commercial activity is carried out, and whether there is a particular interest in a state entity. Multiple core areas of interest can be entered, allowing different lines of business to be specified.

In this way, when SECOPII identifies that a selection process that matches the parameters described in the area of interest is published, it will notify the company's registered email about this new business opportunity.

In addition to this free SECOP II functionality, there are also some private, paid tools on the market that offer similar services for searching and tracking opportunities.

2.7. Annual Procurement Plan.

The Annual Procurement Plan (PAA) is a contractual planning instrument that state entities prepare for the purpose of identifying their needs and determining the applicable selection process, the month foreseen for its execution and the estimated amount of each contract. Though the PAA is indicative in nature and not mandatory for compliance, it shall be published on the entity's website and in SECOP. Its publication allows suppliers to know in advance the list of goods and services that the entity intends to acquire during the respective year.

For the entrepreneur interested in contracting with the Colombian State, the PAA represents a strategic tool for commercial planning. Regular consultation of these plans allows interested parties to identify business opportunities aligned with their portfolio of products or services, prepare competitive offers well in advance, optimize resources and technical capabilities, and direct commercial efforts towards entities with specific needs in their sector. The transparency and accessibility of the PAA facilitate informed decision-making about which processes to participate in and when to do so.

2.8. Apostille and Consularization of Public Documents

State entities may only require legalization by apostille in accordance with the Hague Apostille Convention of October 5, 1961 (hereinafter referred to as the Convention) or, for those countries that are not parties, the consularization of public documents issued abroad. This type of legalization is not appropriate for private documents. When in a procurement process a bidder presents a public document legalized in accordance with the Convention, the state entity should not request additional legalizations, authentications or ratifications from any national or foreign authority, since the apostille procedure is sufficient to certify the authenticity of the document by itself.

National public and private documents are presumed to be authentic. State entities should not request authentications, recognition, personal presentation, or additional procedures for documents submitted to contracting processes, except when expressly required by law. This presumption of authenticity significantly reduces the administrative burdens for foreign suppliers, facilitating their participation under conditions of efficiency and legal certainty.

According to the Manual for the Practical Operation of the Apostille Convention, the country of origin of the document may have an authority that verifies and certifies certain public documents (intermediate authority) and another centralizing authority that is the one that issues the apostille. Consequently, state entities must accept the apostille issued by the corresponding centralizing authority.

Documents in a language other than Spanish must be submitted in their original language, accompanied by the corresponding translation. The bidder may submit with the bid a simple translation into Spanish. If the bidder is awarded, it must submit the official translation into Spanish of the documents submitted in a foreign language. The official translation must correspond to the same text initially submitted. This mechanism allows foreign suppliers to participate in selection processes without incurring upfront official translation costs, optimizing resources until the contract is awarded.

2.9. National Treatment

Article 20 of Law 80 of 1993 enshrines the principle of reciprocity in government procurement, understood as the commitment assumed by the Colombian State to provide suppliers of goods and services of foreign origin with treatment similar to that granted to Colombians in other States.

National treatment consists of the special consideration in the assignment of points that is awarded to Colombian bidders, goods and services in selection procedures, but which, by virtue of the principle of reciprocity, is extended to foreign bidders, goods or services. This privilege can come from one of three sources:

The first is an international trade treaty or agreement signed by Colombia, by virtue of which foreign bidders, goods and services of the States Parties are treated as nationals, provided that the procurement falls on the goods, services or suppliers covered by said instrument and that the agreed value thresholds are reached or exceeded. By way of illustration, the FTA with the Northern Triangle of Central America (clause 11.2) and the FTA with the United States (Article 9.2) enshrine the obligation to accord treatment no less favourable than that accorded to each party's own goods, services and suppliers.

The second source is the Reciprocity Certificate, which is issued by the Ministry of Foreign Affairs when there is no trade agreement in force, but it has been verified that Colombian bidders enjoy equivalent treatment in the foreign country; currently Argentina, Vietnam, Indonesia, Ecuador, New Zealand and Panama have valid certificates. The National Treatment Certificates for reciprocity can be consulted on the Colombia Compra Eficiente platform at the following link: https://www.colombiacompra.gov.co/secop/secop-ii/formatos-para-compradores-y-proveedores-del-secop-ii/certificados-de-trato-nacional-por-reciprocidad.

The third source is Andean regulation: according to Article 4 of Decision 439 of the Andean Community, Colombian state entities must grant national treatment to services provided by suppliers from other CAN Member Countries, in application of the principle of reciprocity that governs that community bloc.

Efecto del Trato Nacional: the effect of national treatment is the assignment of the score provided for in Law 816 of 2003, which requires in its Article 1 that state entities, in the selection procedures they carry out and regardless of the contractual regime that is applicable to them, adopt criteria that support the national industry. When the supply of foreign goods and services enjoys national treatment from any of the three sources analyzed, it must benefit from obtaining a score between 10% and 20%, as defined by the contracting state entity. This benefit allows foreign suppliers, in the cases indicated, to compete under conditions equivalent to those of national bidders, equalizing with national bidders their possibilities of being awarded in public procurement processes.

2.10. Selection Modalities and Contractual Typologies

The Colombian legal system establishes the principle of objective selection as the basis of the state contracting process. According to Article 29 of Law 80 of 1993, this principle guides the choice of the contractor towards "the most favorable offer to the entity and to the purposes it seeks, without taking into consideration factors of affection or interest and, in general, any kind of subjective motivation".

Scope and guarantees of the principle. Objective selection is a fundamental guarantee for participants in public procurement processes, by establishing clear, measurable rules that provide legal certainty and competitive predictability. This principle goes beyond the simple determination of the most favourable proposal. It covers from the preliminary studies and planning phase, to the verification of qualifying requirements and the comparative evaluation that allows identifying the most convenient offer for the entity.

The pre-contractual stage integrates two essential phases: i) Preliminary studies and planning; and ii) Objective selection itself, which includes the admissibility and favorability of the proposals, culminating in the award in a public hearing. Both phases ensure that the final decision responds to predetermined technical and economic criteria.

EXPERT RECOMMENDATION:

The documents of the pre-contractual stage, in Colombian public procurement procedures, have binding force for state entities, bidders and contractors, constituting a legal framework of mandatory compliance, which extends throughout the contractual execution. The specifications constitute "law for the parties" according to the jurisprudence of the Council of State, which implies that the rules, conditions and requirements established must be complied with by the addressees and by the administration itself. Contractors may demand compliance with the established conditions, this document being a source of reciprocal rights and obligations. Likewise, the previous studies and documents are binding as they constitute "the support for preparing the draft specifications, the specifications and the contract".

Colombia Compra Eficiente, in its Concept C-053 of 2024, specifies that the previous studies "serve as motivation for the documents issued unilaterally by the State Entity; such as the administrative act of opening, the specifications and the act of award", so that the conditions established therein cannot be unilaterally ignored during the contractual execution. The principle of contractual good faith reinforces this binding, since "after the signing of the contract, the entity must not act unilaterally, but must respect contractual good faith and proceed in accordance with what has been agreed", guaranteeing that the conditions established in the pre-contractual documents maintain their binding force and are enforceable by the contractor in the event of possible unjustified unilateral modifications.

Particularities according to the type of contract. The objective selection criteria vary according to the applicable modality. In the abbreviated selection for goods and services with uniform technical characteristics and common use (Article 5, paragraph 3, Law 1150 of 2007), price is the only evaluation factor. Therefore, in mechanisms such as reverse auctions, product exchanges and catalog purchases derived from price framework agreements, it is not necessary to assign points to the price, since there are no other factors to be considered.

This same logic operates in the minimum amount modality, where paragraph c) of numeral 5 of article 2 of Law 1150 of 2007 establishes the lowest price as the only selection criterion, beyond compliance with qualifying requirements.

In the merit-based competition, the second paragraph of numeral 4 of Article 5 of Law 1150 of 2007 expressly prohibits assigning points to price as a determining factor for the selection of consultants. However, the entity may use scoring systems to evaluate permitted criteria, such as experience of the proponent and its team, as well as academic training (Article 2.2.1.2.1.3.2 of Decree 1082 of 2015).

Direct contracting, due to its non-competitive nature, does not require scoring systems either. Its admissibility is determined by the configuration of one of the exhaustive grounds of numeral 4 of article 2 of Law 1150 of 2007. In any case, entities must carry out an analysis of the sector that demonstrates that the value of the contract corresponds to market prices and is compatible with the assigned budget, in accordance with numeral 3 of article 2.2.1.2.1.4.1 of Decree 1082 of 2015.

Understanding the particularities of each modality allows companies to structure competitive offers adjusted to the applicable criteria, optimizing resources and maximizing award possibilities within a transparent and equitable framework. The correct interpretation of the evaluation factors in each process is a strategic element for successful participation in Colombian public procurement.

The selection modalities established in the Colombian legal system are described below, this classification obeys criteria of amount, contractual typologies and/or market conditions. With respect to the amounts, state entities must set each year, in their Annual Procurement Plan, the value corresponding to the lowest amount, in accordance with their annual budget and the criteria of Article 2 (b) of Law 1150[2]. From this, the minimum amount will be up to 10% of the maximum value of the smallest amount, while the highest amount will correspond to the values that exceed the smallest amount. These amounts are calculated in current legal monthly minimum wages.

Each one has specific procedures, requirements and evaluation criteria that respond to the nature and amount of the contract. Knowing these modalities is essential for entrepreneurs to identify the applicable procedure according to the object and value of the contract they seek to enter into with state entities.

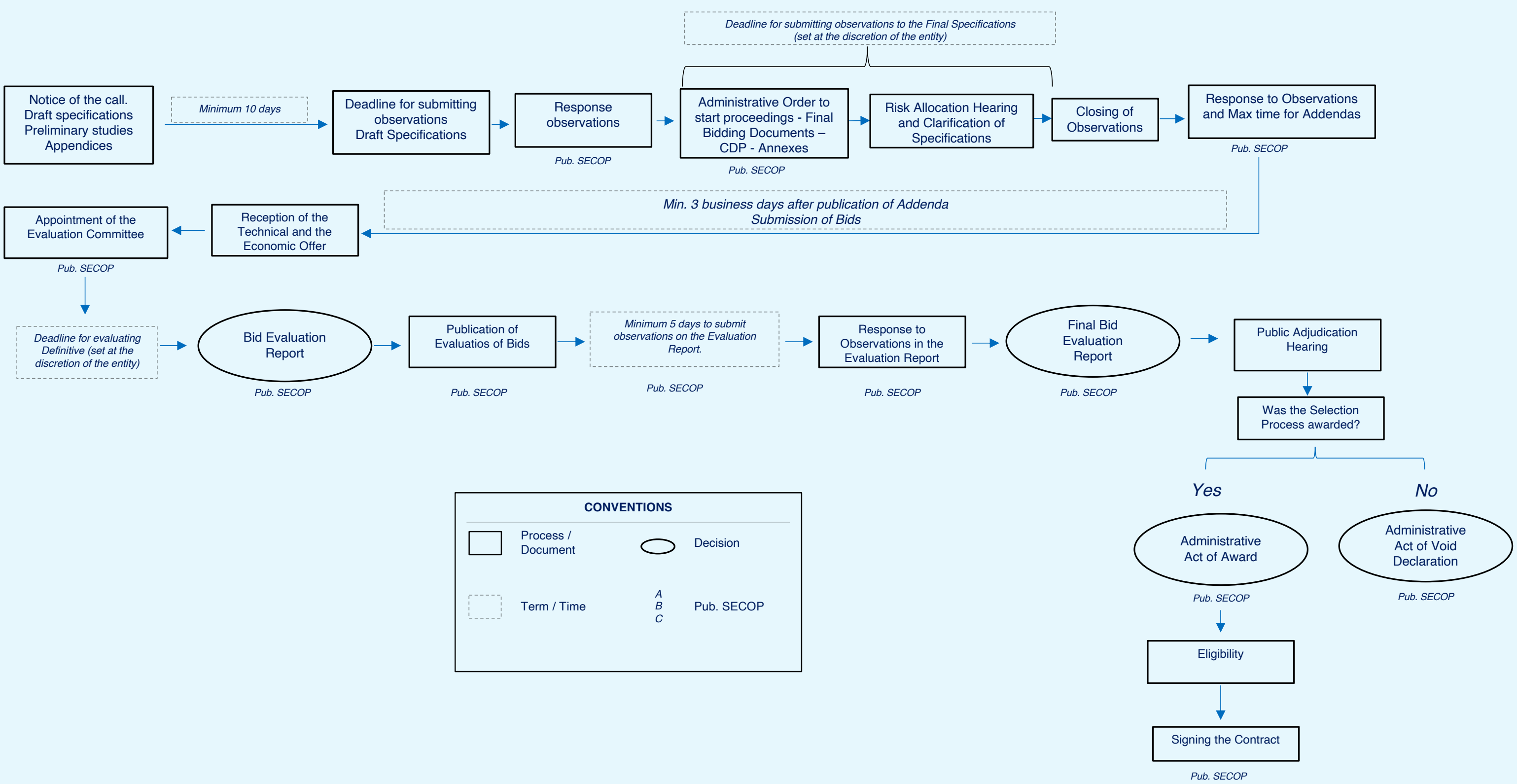
[2] *Article 2. Selection modalities. The selection of the contractor shall be made in accordance with the modalities of selection of public bidding, abbreviated selection, merit-based competition and direct contracting, based on the following rules: (...) b) Contracting of a small amount. A smaller amount shall be understood as the values listed below, determined on the basis of the annual budgets of public entities expressed in monthly legal minimum wages.*
For entities that have an annual budget greater than or equal to 1,200,000 legal minimum monthly wages, the lowest amount will be up to 1,000 legal minimum monthly wages.
Those with an annual budget greater than or equal to 850,000 monthly legal minimum wages and less than 1,200,000 monthly legal minimum wages, the lesser amount will be up to 850 monthly legal minimum wages.
Those with an annual budget greater than or equal to 400,000 legal minimum monthly wages and less than 850,000 monthly legal minimum wages, the lesser amount will be up to 650 monthly legal minimum wages.
Those with an annual budget greater than or equal to 120,000 legal minimum monthly wages and less than 400,000 legal minimum monthly wages, the lesser amount will be up to 450 legal minimum monthly wages.
Those with an annual budget of less than 120,000 legal minimum monthly wages, the lowest amount will be up to 280 legal minimum monthly wages;

2.10.1. Public Tender (“Licitación Pública”):

Public bidding is the general procedure for the acquisition of goods, contracting of services or execution of works by state entities, generally applicable, unless the law establishes another specific modality. The process begins with a public invitation through which the entity calls for interested parties to submit proposals in accordance with the specifications, in order to select the most favorable offer according to institutional needs.

The award must be made in a public hearing, by means of a reasoned resolution that is understood to have been notified to the favored bidder in said act. When a public bidding process is declared void, the entity must initiate an abbreviated selection within the following four months, in accordance with paragraph d) of numeral 2 of article 2 of Law 1150 of 2007.

Public tender diagram



2.10.2. Abbreviated selection ("Selección Abreviada")

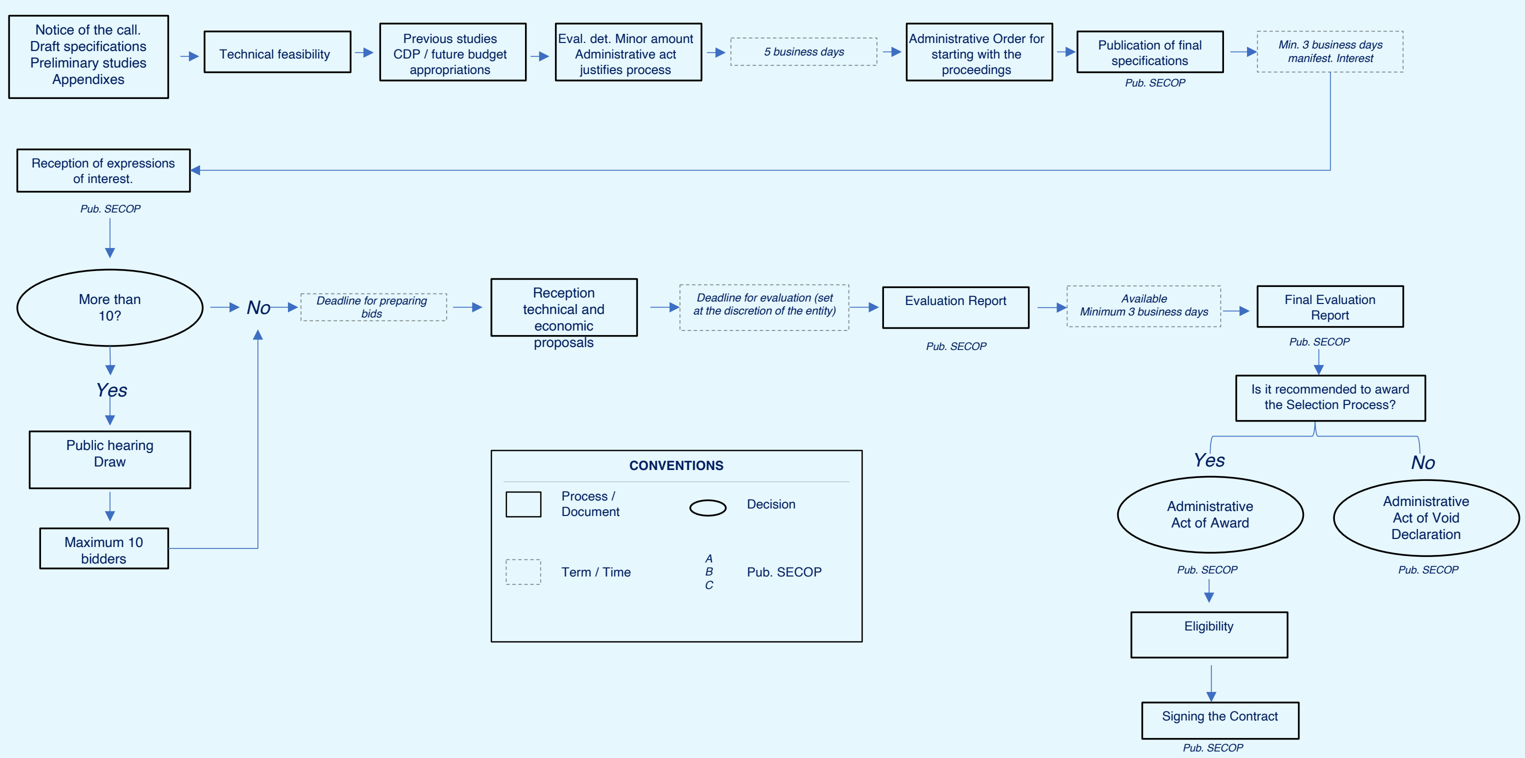
It is a shorter public selection procedure compared to public bidding, applicable to processes in which it is necessary to acquire goods and/or services whose value is within the range of the lowest amount established in the Annual Procurement Plan of the contracting state entity. Likewise, this abbreviated selection procedure is used in the following cases:

Reverse Auction ("Subasta Inversa"): Procedure used for the acquisition of goods and services with uniform technical characteristics and common use, where all suppliers offer products with standardized technical specifications. The award is determined by the progressive reduction of the initial price in percentages established in the tender specifications. This modality is applicable regardless of the value of the contract.

Framework Price Agreement ("Acuerdo Marco de Precios"): Demand aggregation instrument managed by the Colombia Compra Eficiente Agency, which establishes conditions and prices previously negotiated with multiple suppliers. State entities publish their needs in the Virtual Store of the Colombian State and select the most favorable offer among the suppliers adhering to the agreement, streamlining the contracting process without requiring independent bidding.

In addition to the above cases, the abbreviated selection is applicable in the following circumstances: (i) Acquisition of goods and services of common use; (ii) Agricultural products offered in legally constituted commodity exchanges; (iii) Provision of health services; (iv) Disposal of state assets, except those related to state participation in the capital of companies; (v) Commercial and industrial activities of state-owned enterprises; (vi) Contracts for defense and national security; (vii) Public bidding processes declared void; and, (viii) Contracting by entities in charge of programs for the protection of threatened persons.

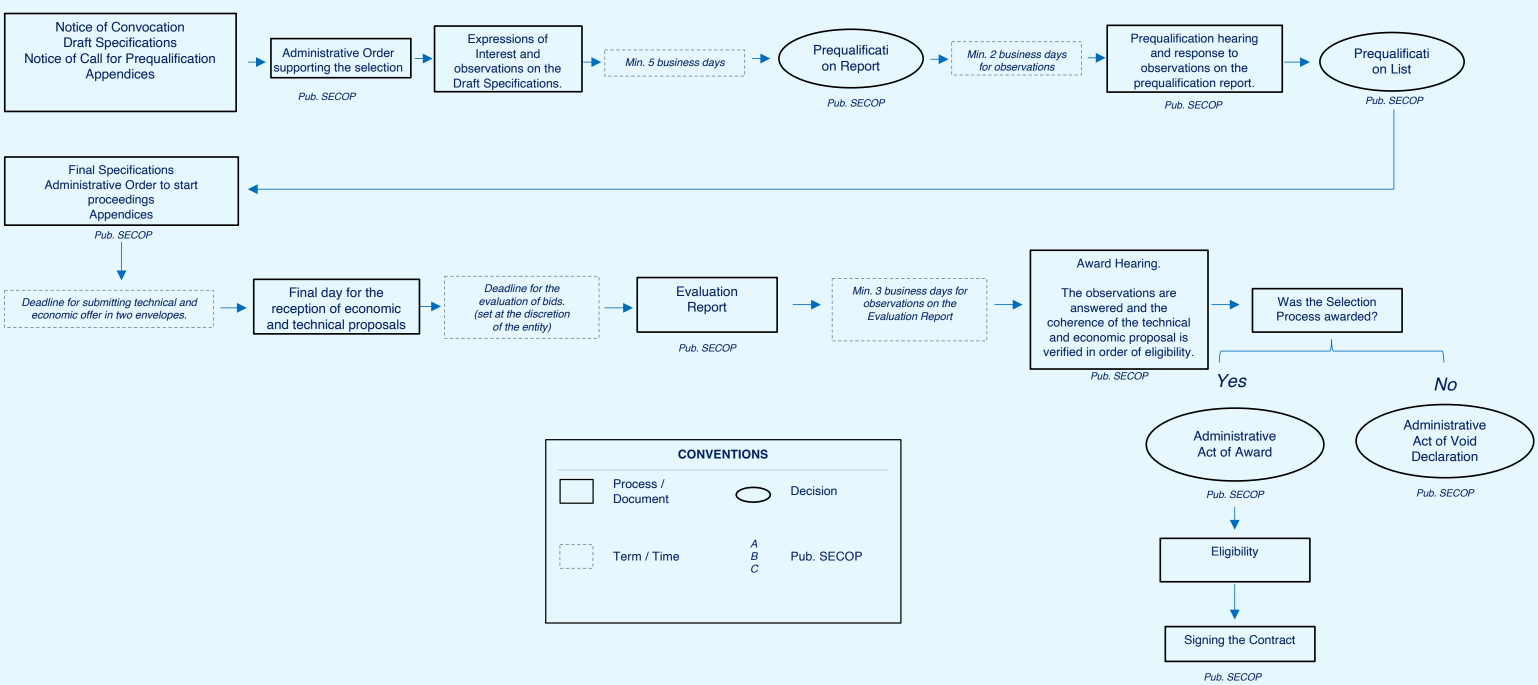
Diagram abbreviated selection of small amount



2.10.3. Merit-Based Competition ("Concurso de Méritos)

The merit-based competition is the modality applicable to the selection of consultants or auditors in activities of technical advice, coordination, control, supervision, construction or project management, as well as for the execution of designs, plans, preliminary projects and architectural or engineering projects. In accordance with Article 2.2.1.2.1.3.2 of Decree 1082 of 2015, the entity must establish criteria for the qualification of the experience of the proponent and its work team, as well as its academic training and technical or scientific publications. Additionally, the entity must verify that the economic offer is within the value estimated in the previous studies and the budget assigned for the contract.

Diagram merit contest with prequalification



2.10.4. Minimum Amount ("Mínima Cuantía")

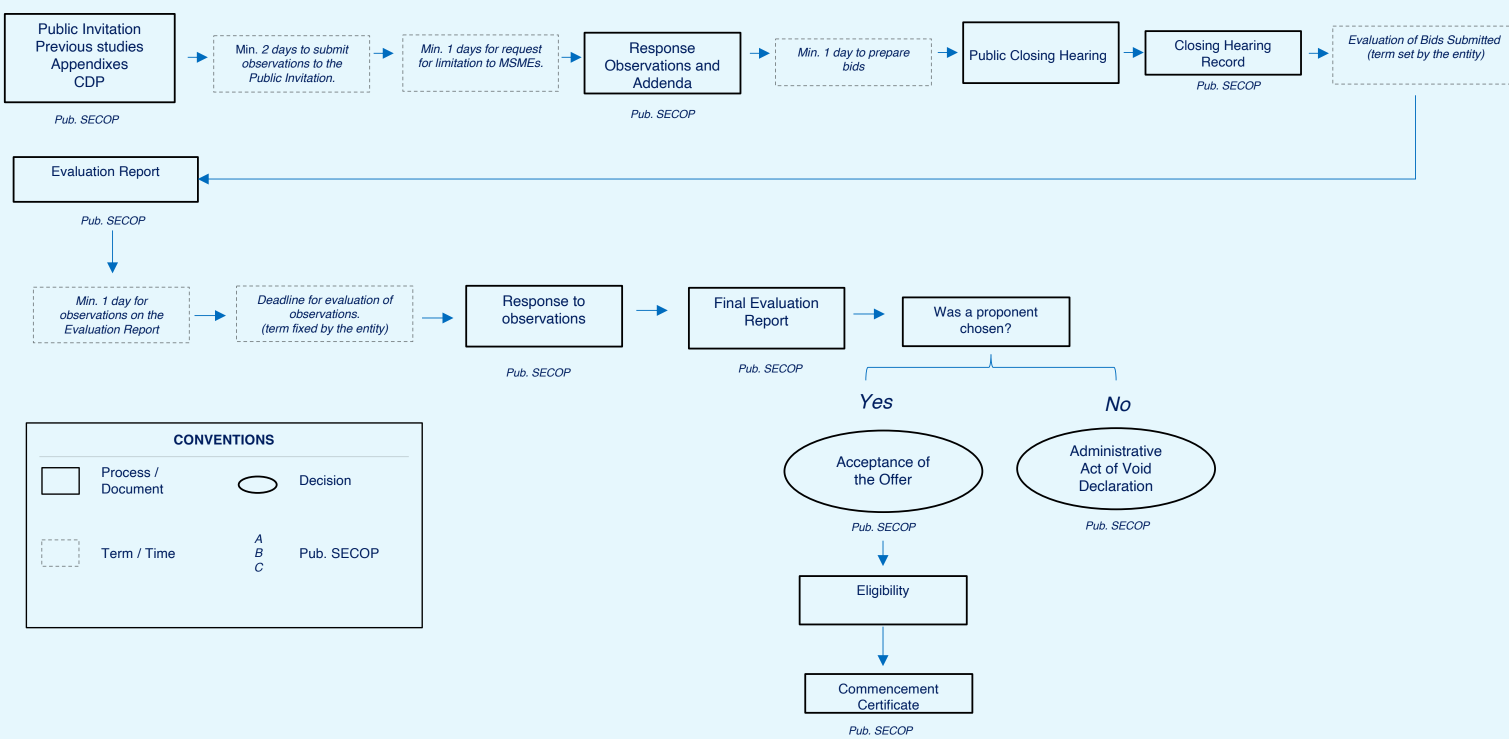
Minimum amount contracting is a simplified procedure applicable when the value of the contract is equal to or less than 10% of the lowest amount of the entity, regardless of its contractual object. Within this modality are purchases in large stores through the Virtual Store of the Colombian State.

Law 2069 of 2020 (Entrepreneurship Law) modified this modality by allowing public entities to acquire goods and services from micro, small and medium-sized enterprises (MSMEs), establishing differentiated tie-breaking criteria with respect to those contemplated in Decree 1082 of 2015 (See Annex Minimum Amount Selection Process).

Law 1882 of 2018 established the obligation of the National Government to adopt standard documents for the specifications in state contracting processes. Subsequently, Law 2022 of 2020 empowered the Colombia Compra Eficiente Agency to issue mandatory standard documents for entities subject to the General Statute of Public Administration Contracting in public works selection, auditing and consulting processes. Proposers retain the right to submit comments from the publication of these documents.

Law 2195 of 2022 extended the application of the standard documents to contracts entered into by state entities with autonomous assets or with natural or legal persons under a special or private contractual regime, except for public higher education institutions, state social enterprises, mixed economy companies and industrial and commercial companies of the State.

Minimum amount diagram



2.10.5. Direct contracting

Direct contracting is an exceptional modality that allows public entities to enter into contracts without a competitive selection process, applicable only in situations exhaustively established in numeral 4 of article 2 of Law 1150 of 2007. These grounds include: contracting of public credit, manifest urgency, provision of professional services and management support, acquisition of goods or services from an exclusive supplier or sole holder of intellectual property rights, and contracting that requires confidentiality in the defense sectors, National Intelligence Directorate and National Protection Unit.

Law 2160 of 2021 added paragraphs l) and m) to Article 2 of Law 1150 of 2007, expanding the grounds for direct contracting. Paragraph l), subsequently amended by Law 2294 of 2023, authorizes state entities to enter into contracts with indigenous councils and other recognized indigenous organizations for projects aimed at strengthening their self-government, cultural identity, autonomy, rights, provision of public services, and execution of public works.

Paragraph (m) authorizes direct contracting with community councils of black communities regulated by Law 70 of 1993, provided that they are registered and updated in the National Unified Registry. These contracts should focus on strengthening their self-government, cultural identity, autonomy, and territorial rights.

EXPERT'S RECOMMENDATION:

For foreign companies interested in contracting with the Colombian state, it is essential to understand that state entities exercise exceptional powers called "exorbitant clauses", regulated in Article 14 of Law 80 of 1993. These powers—which include unilateral modification, unilateral interpretation, unilateral termination, unilateral liquidation, and expiration—depart from the rules of ordinary law applicable to contracts between individuals, granting the administration powers to derogate private law that require express legal authorization.

Investors are recommended to consider that, although these powers operate in the public interest under exceptional circumstances classified as serious, their exercise is not arbitrary: it must be carried out by means of a reasoned administrative act, respecting the economic balance of the contract and guaranteeing compensation when appropriate. In particular, if a unilateral modification alters the value of the contract by 20% or more, the contractor may waive the execution without penalties and with the right to compensation for damages caused. Properly evaluating this exceptional regime allows companies to structure bids with appropriate guarantees, contingency provisions, and risk mitigation strategies specific to Colombian public procurement.

2.10.6. Public-Private Partnerships

Public-Private Partnerships (PPPs) are contractual instruments for the development of strategic infrastructure projects through the participation of the private sector, balancing public interest with economic viability for private investors. The contractor's remuneration is structured through the right of economic exploitation of the infrastructure or service during the agreed contractual term, complemented by state contributions when the nature of the project requires it.

Law 1508 of 2012 contemplates two types of PPPs: (i) public initiative, originated by state entities that publish open calls for the submission of bids; and (ii) private initiative, where private investors identify infrastructure opportunities and submit unsolicited proposals to the competent authorities. Foreign entrepreneurs can participate in both modalities, as seen in this chapter. To this end, companies can consult and register PPP initiatives that are underway, see their progress and development, in the Single Registry of Public-Private Partnerships (RUAPP), available in www.dnp.gov.co, of the National Planning Department.

Public Initiative PPPs

As their name indicates, they are projects in which the competent state entity develops complete technical, financial, environmental and legal studies, structuring the project before publishing the call. The contractor is selected through the public bidding process, and this may include a pre-qualification phase that limits the number of bidders according to criteria of legal and financial capacity and experience in investment or structuring of similar projects.

To this end, an evaluation of technical and economic factors weighted in the specifications is carried out, seeking the best cost-benefit ratio. The criteria include service levels, quality, present value of income, required state contributions and compensation offered. Foreign entrepreneurs compete on equal terms with national bidders and must demonstrate sufficient technical and financial capacity to execute the project.

Private initiative PPPs

Unlike the public initiative, the private initiative allows investors, hereinafter referred to as the originators, to identify infrastructure opportunities and present unsolicited projects to the competent entities. These initiatives fall into two categories: projects that require public resources and projects financed exclusively with private capital. In both cases, the private originator assumes all the costs of structuring the project, developing it in two stages: pre-feasibility and feasibility.

During the pre-feasibility stage, the conceptual design of the project must be presented, including the technical description, preliminary demand studies, cost estimation, and possible sources of financing. The competent entity analyzes the proposal and issues a feasibility concept that authorizes the originator to advance to the feasibility phase. This initial concept does not grant acquired rights or generate commitments for the state.

In the feasibility stage (maximum 24 months), the originator documents its legal and financial capacity, experience in similar projects, detailed engineering, complete environmental and social studies, risk sharing proposal and draft contract. Once the National Planning Department issues a favorable concept, the state entity opens a public tender (if it requires public resources) or publishes in SECOP (if it does not require public resources). The originator participates in the tender with competitive advantages derived from its knowledge of the project, although it must compete with other bidders.

The total structuring and evaluation costs cannot exceed 0.2% of the investment value of the project (Capex), and are assumed entirely by the originator in accordance with Law 1882 of 2018. If the initiative is rejected, the entity may acquire the studies carried out by recognizing the originator for the costs incurred, after verifying that they correspond to market values. This modality offers significant opportunities for foreign entrepreneurs with the ability to identify infrastructure needs and develop technically and financially viable proposals.

Public-Private Partnerships are a business opportunity for collaboration with the Colombian State where the investor preserves his economic interest through contractual schemes that guarantee return on investment through the exploitation of infrastructure or services. Participation in these projects requires technical and financial capacity and a willingness to take long-term risks under performance-conditional remuneration schemes. Foreign companies can take advantage of both public initiative calls and submit unsolicited proposals when they identify viable infrastructure opportunities. Success in these projects requires rigorous structuring, in-depth understanding of the distribution of contractual risks and constant monitoring of the opportunities published in the RUAPP, an essential platform to monitor the portfolio of projects available in the Colombian market.

3. HEALTH REGIME

Sanitary Registration and processes before INVIMA

The INVIMA Registry is a document issued by the health authority, through which a natural or legal person is authorized to manufacture, package and import food, beverages, medicines, biological products, medical devices, cosmetics, toiletries and pesticides for human use and/or consumption.

The INVIMA Certification is a validation with respect to compliance with specific quality standards that certain processes for the manufacture of products for human consumption must meet.

Obtaining registrations for these products is divided into four broad categories, within which the following registrations can be requested:

Food and alcoholic beverages

- *Sanitary registration for alcoholic beverages manufactured, hydrated or packaged at the national level.*
- *Sanitary registration for imported alcoholic beverages.*
- *Sanitary registration, sanitary permit, sanitary notification for food.*
- *Sanitary registration, sanitary permit, sanitary notification for imported food.*

Medicines and biologics

- *Sanitary registration of dietary supplements of national manufacture.*
- *Sanitary registration of imported dietary supplements.*
- *Sanitary registration of new nationally manufactured medicines and/or renewals included in Colombian pharmacological standards.*

- *Sanitary registration of simple homeopathic medicines of non-simplified regime and complex homeopathic medicines of national manufacture.*
- *Sanitary registration of simple homeopathic medicines of non-simplified regime and imported complex homeopathic medicines.*
- *Sanitary registration of pharmaceutical preparations based on medicinal plants and traditional phytotherapeutic products of national manufacture.*
- *Sanitary registration of pharmaceutical preparations based on imported medicinal plants and traditional phytotherapeutic products.*
- *Sanitary registration of simplified regime of national and imported simple homeopathic medicines.*
- *Sanitary registration or renewal of imported medicines included in Colombian pharmacological standards.*

Medical devices and reagents

- *Automatic sanitary registration for medical devices and biomedical equipment that are not controlled technology of domestic manufacture and imported class I and IIA.*
- *Sanitary registration for medical devices of national manufacture and imported classes II B and III.*
- *Automatic sanitary registration of imported in vitro diagnostic reagents in category I and II.*
- *Sanitary registration and automatic renewals for in vitro diagnostic reagents categories I and II, orphan in vitro reagents for diagnosis, in vitro reagents analytical grade and specific analyte, reagents for general use in the laboratory and in vitro reagents for research, manufacturing, domestic and imported.*

Cosmetics, toiletries and pesticides

- *Mandatory Health Notification – NSO for cosmetic, household hygiene and hygiene products and absorbents for personal hygiene.*
- *Sanitary registration for pesticides for domestic use or for use in public health of national manufacture and imported.*

On the other hand, obtaining the certifications of these products is divided into four large categories, within which the following certifications can be requested:

Food and alcoholic beverages:

- *Certification of implementation of the Hazard Analysis and Critical Control Points (HACCP) hazard analysis system in the food industry and/or certification of animal processing plants according to their classification.*
- *Certification for food and alcoholic beverage processing establishment in sanitary conditions and Good Manufacturing Practices (GMP).*
- *Certificates of production capacity, storage, conditioning, technical concept of sanitary conditions, Good Practices and Good Manufacturing Practices (GMP).*
- *Certification of the Hazard Analysis and Critical Control Point (HACCP) System on motor vessels or fishing vessels bound for the European Union.*

Medicines and biologics

- *Certification of Good Clinical Practices (GCP) in health service provider institutions where research with drugs is carried out on human beings, through use or application.*
- *Certification, extension or renewal of compliance with Good Manufacturing Practic-*

es (GMP), Good Manufacturing Practices (BPE), Good Laboratory Practices (GLP) or Good Bioavailability (BD) and Bioequivalence (BE) Practices.
- *Certification of compliance with good practices for tissue and bone marrow banks, verification of requirements, or verification of temporary tissue storage centers.*
- *Certification of compliance with the sanitary conditions of tissue and bone marrow banks.*
- *Certification of compliance with the sanitary conditions for the opening of a new area or expansion of a line of tissue or bone marrow banks.*
- *Export certificate for medicines and pharmaceutical preparations based on natural resources.*
- *Product quality certificates, laboratory analysis and batch release.*
- *Certificate of compliance with Good Manufacturing Practices (GMP), Good Manufacturing Practices (BPE) or Good Laboratory Practice (GLP) Certificate.*

Medical devices and reagents
- *Good Manufacturing Practices (GMP) certification for medical device and in vitro diagnostic reagent manufacturing establishments.*
- *Certification and expansion of the opening and operation of custom-made medical device establishments (external orthopedic technology, hearing aid).*
- *Certification of storage capacity and/or conditioning of in vitro diagnostic reagents.*
- *Certification of storage capacity and/or conditioning of medical devices.*
- *Certification of production capacity to establishments manufacturing medical devices tailored to visual and eye health.*

Cosmetics, toiletries and pesticides
- *Certificate of Good Cosmetic Manufacturing Practices - BPMC.*
- *Certification or expansion of production capacity in establishments of cosmetic, household hygiene or absorbent personal hygiene products. Visit to verify compliance with sanitary conditions and verification of compliance with sanitary conditions by extension to establishments that manufacture pesticide products for domestic use.*
- *Certification of technical manufacturing standards for establishments that manufacture toiletries, hygiene and cleaning products for domestic use.*

Now, to process a sanitary registration or certification before INVIMA, it is important to bear in mind that each type of product (food, medicines, cosmetics, medical devices, etc.) has specific requirements and its own procedure. However, there are basic documents that are essential in any application:

- *Official application form filled out according to the product category.*
- *Proof of payment of the corresponding fee.*
- *Certificate of existence and current legal representation (Chamber of Commerce).*
- *Technical data sheet and complete product labeling, in accordance with Colombian regulations.*
- *Certificates of Good Practice (GPM, GPL, BPC), when applicable.*
- *For imported products: certificate of free sale in the country of origin and authorization from the manufacturer.*

Finally, it is important to highlight the InvimÁgil initiative. InvimÁgil is INVIMA's new digital platform designed to simplify and speed up health procedures, allowing registrations, permits and notifications to be managed 100% online.

The tool offers modules for user creation, company registration, registration of activities and digital obtaining of marketing authorizations, with document upload and real-time monitoring.

Its main advantage is the drastic reduction in response times: it allows automatic authorizations within one day and semi-automatic processes in 15 to 30 days, replacing procedures that previously took months. In addition, it strengthens transparency and facilitates access for micro, small and medium-sized enterprises, which have benefited the most in its initial implementation.

4. ENERGY REGIME

4.1. Public Electric Power Service

The regime for the provision of the domestic public electricity service in Colombia is defined in Laws 142 and 143 of 1994. These regulations established the regime for domestic public services and the framework for the generation, interconnection, transmission, distribution and commercialization of electricity. Consequently, the provision of the electric energy service and each of the activities that comprise it are carried out within the framework of these two laws and the regulations issued by the Energy and Gas Regulatory Commission (CREG), in compliance with its legal mandate.

As for the domestic public electricity service, Article 14.25 of Law 142 of 1994 defines it as the transmission of electricity from the transmission networks to the end user, including connection and metering. Article 15 of the same law also specifies the entities authorized to carry out these activities. Particularly relevant is the legal figure of Public Services Company (E.S.P.), which enables the provision of domestic public electricity services in the national territory.

For its part, Article 5 of Law 143 of 1994 establishes that the activities of generation, interconnection, transmission, distribution and commercialization of electricity constitute essential public services, designed to satisfy collective needs on a permanent basis. According to Article 7 of the same law, the commercialization of electricity can only be carried out by agents participating in generation or distribution, or by independent agents that comply with the regulations of the CREG.

This law also states that electricity marketers can serve regulated or non-regulated users[3], and must register their transactions in the wholesale market. In addition, the CREG has issued various resolutions that regulate different aspects of these activities, from marketing to connection charges and the corresponding remuneration[4].

In the same sense, Article 4 of Law 143 establishes that the State must guarantee the supply of electricity in an economical and viable manner, maintaining the efficiency and security of the sector. For this reason, Article 20 provides that the main objective of the regulation is to ensure a quality, efficient and reasonably cost service, with the CREG being the entity responsible for defining the technical conditions for both regulated and non-regulated users. In turn, in accordance with Article 23, the CREG has the function of defining and applying technical criteria of quality, reliability and safety, as well as establishing the operating regulations for the National Interconnected System (Sistema Interconectado Nacional or SIN), in coordination with the National Operation Council (Consejo Nacional de Operación or CNO).

Based on the above, the main regulatory authorities of the sector and their respective functions are as follows:

i. *The CREG, in accordance with article 75 of Law 142 of 1994, is an entity attached to the Ministry of Mines and Energy (Ministerio de Minas y Energía or MME) that regulates the domestic public services of electricity, natural gas, liquefied petroleum gas (LPG) and liquid fuels.*
ii. *The Superintendence of Domestic Public Services (Superintendencia de Servicios Públicos Domiciliarios or SSPD), by virtue of article 79 of Law 142 of 1994, is responsible for supervising the provision of aqueduct, sewerage, sanitation, energy and fuel gas services.*
iii. *The Mining and Energy Planning Unit (Unidad de Planeación Minero Energética or UPME), created by Law 143 of 1994 as a special administrative unit of a technical nature, is the Colombian entity in charge of planning the development and use of the country's mining and energy resources. Its functions include the preparation of electricity system expansion plans, natural gas planning and the promotion of energy efficiency and renewable energies, in order to ensure the supply, reliability and sustainability of the mining and energy sector.*

Other important entities in the sector include XM, which is in charge of operating the SIN and administering the Wholesale Energy Market (Mercado de Energía Mayorista or MEM), for which it performs the functions of National Dispatch Center (Centro Nacional de Despacho or CND), Administrator of the Commercial Exchange Sys-

[3] Regulated market: Corresponds to households and small businesses, with consumption of less than 55,000 kWh/month and Non-regulated market: Corresponds to large companies, with consumption of more than 55,000 kWh/month.
[4] Note, for example:
Resolution CREG 054 of 1994: Establishes the rules for the activity of commercialization of electric energy in the SIN.
Resolution CREG 055 of 1994: Regulates the activity of electricity generation in the SIN.
Resolution CREG 056 of 1994: Adopts general provisions on the public service of electric energy.
Resolution CREG 135 of 1997: Establishes the mandatory registration of information related to all energy purchase agreements between marketers and non-regulated users.
Resolution CREG 225 of 1997: Regulates the charges associated with the connection of the residential public electricity service for regulated users in the SIN.

tem (Administrador del Sistema de Intercambios Comerciales or ASIC) and Liquidator and Account Administrator (Liquidador y Administrador de Cuentas or LAC) of the charges for the use of the SIN's networks. Likewise, there is the CNO for Electric Energy and Natural Gas, whose main function is to agree on the technical aspects that guarantee that the integrated operation of the SIN is safe, reliable and economical, and to act as the executing body of the operating regulations.

In addition, there is the Institute for Planning and Promotion of Energy Solutions (Instituto de Planificación y Promoción de Soluciones Energéticas or IPSE), which is empowered to structure, present and make projects available to public investment funds in the electricity sector, such as the Fund for Non-Conventional Energies and Efficient Energy Management (Fondo de Energías No Convencionales y Gestión Eficiente de la Energía or FENOGE).

4.2. Tariff control

In this regard, Article 2 of Law 142 of 1994 provides that the State shall intervene in public services, in accordance with the rules of competition and within the framework of the provisions of Articles 334, 336 and 365 to 370 of the Political Constitution, in order to establish a proportional tariff regime for low-income sectors. In accordance with the precepts of equity and solidarity.

In this sense, there is currently a regime of regulated and supervised freedom against tariffs. This means that the CREG, by virtue of Decree 958 of 2001 and Article 74 of Law 142 of 1994, establishes the criteria and methodology according to which domestic public service companies may determine or modify the maximum prices for the services offered to the user or consumer. Consequently, it is not the regulator who directly sets the prices to be charged to users; on the contrary, companies freely determine the tariffs to the end user based on criteria that encourage efficiency.

The tariff regime is guided by the criteria of economic efficiency, neutrality, solidarity, redistribution, financial sufficiency, simplicity and transparency. These principles are embodied in the fact that the CREG determines the rates taking into account the following general aspects:

i. *The regime of regulation or freedom.*
ii. *The subsidy system, which is granted so that people with lower incomes can pay the rates of household public services that cover their basic needs.*
iii. *The rules relating to tariff practices that restrict free competition and imply abuse of a dominant position.*
iv. *The rules relating to procedures, methodologies, formulas, structures, strata, billing, options, values and, in general, all aspects that determine the collection of fees.*

For its part, in terms of tariff control, the SSPD monitors, inspects and controls the correct application of the tariff regime established by the CREG by the providers. In this regard, the Superintendence publishes tariff bulletins for the sector where the components and regulated tariffs published by the SIN marketers are analyzed, calculated in accordance with the methodology established by the Commission in Resolution CREG 119 of 2007 (for the SIN), including its modifications and updates, or Resolution CREG 91 of 2007 (for Non-Interconnected Zones - ZNI). including its modifications and updates.

At this point, it should be noted that the tariff formulas that allow electricity marketing companies to calculate the unit costs of providing the service and the tariffs applicable to end users regulated in the SIN are valid for five years, unless there is a prior agreement between the provider company and the CREG to modify them. The foregoing does not ignore the provisions of Article 126 of Law 142 of 1994 and paragraph 1 of Article 290 of Law 1955 of 2019, which establish that the CREG has the power to modify the tariff formulas during their validity when necessary and motivated by the inclusion of new agents. activities or technologies, complying with the regulatory criteria for the implementation of the new tariff formula.

4.3. *National Interconnected System (SIN[5]) and Non-Interconnected Areas (ZNI)*

A ZNI is any geographical area where the service is not provided through the SIN, without this classification implying any type of discrimination or exclusion. Under this budget, the CREG has developed the regulation for ZNI, mainly provided for in Resolution CREG 091 of 2007. In the same vein, Article 1 of Law 855 of 2003 delimits the ZNI indicating that they correspond to all municipalities, townships, localities and hamlets not connected to the SIN.

It is important to mention that in the current regulation there are no restrictions on an agent who carries out any activity in the chain of provision of the domestic public electricity service, or its complementary activities in the SIN, to carry out activities in the ZNI. This is because Article 15 of Law 142 of 1994, which indicates who can provide public services, is applicable both in the SIN and in the ZNI.

It is also necessary to indicate that public electricity service providers have the obligation to inform the SSPD of the start of activities and make their respective registration in the Single Registry of Providers. In this sense, any public service company that is incorporated, or that is already incorporated, can provide the service in a ZNI and must comply with the current regulation.

Regarding the distinction or regulatory classification for the SIN and the ZNI, we find the following differentiations:

[5] SIN: system composed of the following elements connected to each other: generation plants and equipment, the interconnection network, regional and interregional transmission networks, distribution networks, and users' electrical loads.

Table 1. ***Own elaboration.***

SIN	ZNI
1. Law 143, Articles 11, 42, 44, 46, 47, 54, 57, 85 etc. 2. Law 142, title VIII (public service contract) articles 128 to 159. 3. Single Regulatory Decree 1073 of 2015. 4. Law 1715 of 2014. 5. Law 2099 of 2021. 6. Resolution CREG 31 of 1997 (regulated users). 7. Resolution CREG 131 of 1998 (non-regulated users). 8. Resolution CREG 107 of 1998 (protection of users). 9. Resolution CREG 156 of 2011 (marketing regulations). 10. Resolution CREG 038 of 2014 (measurement code). 11. Resolution CREG 24 of 2015 (large-scale self-generation). 12. Resolution CREG 098 of 2018 (response to the complaint). 13. Resolution CREG 80 of 2019 (rules of behavior). 14. Resolution CREG 174 of 2021 (small-scale self-generation). 15. Resolution CREG 135 of 2021 (mechanisms for the protection of users who exercise self-generation PE. 16. CREG Resolution 101001 of 2022 (AMI).	1. Law 143 of 1994, Article 11. 2. Law 142 of 1994, title VIII (public service contract), articles 128 to 159. 3. Single Regulatory Decree 1073 of 2015. 4. Law 1715 of 2014 Articles 34, 35, 36, 37, 39 and 40. 5. Law 2099 of 2021 Articles 26, 27, 28, 29, 30, 31, 32, 33, 34 and 35. 6. Tariff regulation: Resolution CREG 91 of 2007 (Free Initiative Areas). 7. Resolution CREG 076 of 2016 (exclusive service areas). 8. Resolution CREG 038 of 2018 (self-generation).

In conclusion, there is a broad regulatory framework that allows the provision of the service for both the ZNI and the SIN. At this point, it is important to note that with the issuance of Law 2099 of 2021, the promotion of renewable energies in the electricity projects that are developed in the ZNI was achieved, mainly because this law, in its chapter V (On the public electricity service in the ZNI), establishes various mandates, among which the following stand out: i) new institutional functions in ZNI through IPSE, ii) incentives for renewable energy projects, iii) individual solutions in ZNI, and iv) reliability of the electric service through generation support.

As a recent regulatory aspect on this issue, it should be borne in mind that the MME issued Resolution 40631 of 2025, through which the

National Plan for Rural Electrification (PNER) for the ZNI and the SIN is adopted. This public policy instrument seeks to expand and guarantee access to electricity service in the country.

4.4. Milestones in the consolidation of Non-Conventional Renewable Energy Sources (FNCER) projects

The Colombian electricity sector has undergone various modifications and regulatory advances aimed at strengthening the country's electricity matrix and allowing the inclusion of more and better forms of generation. This section presents the main and most recent developments in the sector.

Through Decree 1186 of November 10, 2025, the National Government of Colombia developed a regulatory framework for the optimization of the granting of environmental licenses to wind energy projects (LAEólica). This standard applies to projects with an installed capacity equal to or greater than 10 megawatts (MW) and up to a capacity of less than or equal to 100 MW.

With the issuance of this decree, the Colombian Government seeks to promote an environmental model that optimizes evaluation processes, strengthens the protection of biodiversity and guarantees the participation of communities in the implementation of clean energy.

In a similar vein, in September 2025, Decree 1033 was published with the intention of implementing a solar environmental license with optimized design (LASolar) for projects with installed capacity from 10 MW to 100 MW, allowing the respective environmental license to be obtained more efficiently.

With the implementation of these measures, the Colombian Government seeks to generate a more favorable scenario for the materialization of this type of project, so that they can effectively meet the objectives for which they were designed.

On the other hand, it is relevant to indicate that the First Offshore Wind Round is being carried out in Colombia, with the aim of granting individuals the temporary occupation permit on offshore areas destined for the development of wind energy generation projects. This initiative, aligned with the objectives of the current government, would allow the so-called Just Energy Transition (TEJ) to continue and diversify energy sources in Colombia.

Another important milestone in the consolidation of FNCER projects is the issuance of Resolution MME 40358 of 2025, which modifies Resolution MME 40303 of 2022, which regulated the guidelines to facilitate the coexistence of projects in the mining-energy sector in the event of possible partial or total overlaps. In this context, when there is competition in the same area of activities, works or infrastructure under development or to be developed by two or more hydrocarbon, mining and/or energy projects, a direct negotiation of operational coexistence agreements must be reached.

The most relevant thing is that cases are now listed in which it is not necessary to sign an operational coexistence agreement, that is, despite the existence of a conflict, it is not necessary for an incoming project to process an operational coexistence agreement when: i) the existing project has an environmental license, but the incoming project does not require an environmental license; ii) the existing project with activities in the subsoil invokes incompatibility with a surface development project without proving authorization or right granted by the occupant, holder, possessor, owner or legitimate holder of the surface area; iii) the overlap is limited only to the overlapping of areas defined in the respective environmental studies; and iv) the project that alleges incompatibility does not provide specialized studies that demonstrate, with scientific and methodological basis, the material impossibility of coexistence of the activities planned in the area of overlap.

Another outstanding milestone from a regulatory point of view is the issuance by UPME of Resolution 749 of 2025, which establishes the new procedure and new requirements for the registration of generation projects to operate in the SIN. This resolution replaces Resolution UPME 0520 of 2007, modified by Resolutions UPME 0638 of 2007 and 0143 of 2016, in relation to the information required for the different stages of the projects, as well as the formats that make up these phases of registration.

That said, the milestones that a developer must take into consideration to advance and materialize this type of project are the following[6]:

1. *Registration for the UPME project.*
2. *Environmental license and permits.*
3. *Prior consultation (ethnic communities).*
4. *Community participation.*
5. *Land negotiation (direct, easement or expropriation).*
6. *Land use licenses.*
7. *Constitution as a provider of public services.*
8. *MEM Registration.*
9. *Prior notification of the start of activities to the CREG.*
10. *Registration with the SUI (Superintendence of Public Services).*
11. *Connection procedure.*

4.5. Renewable energy auctions

In the Colombian electricity sector, policies have been defined aimed at supplying the demand for electricity through renewable energy auctions, in order to implement mechanisms that promote the long-term contracting of this type of project. The renewable energy auction market is materialized through auctions of long-term 15-year bilateral renewable energy contracts, where generators and marketers participate.

The initial regulatory framework included Decree 570 of 2018 and Resolutions MME 40795 of 2018 and MME 40590 of 2019, rules that established the principles, rules and methodologies for auctions of long-term electricity contracts, including FNCER. However, the first auction was not awarded because at the time of the award process the procedures established by the CREG were not followed; In other words, what was awarded corresponded to very little energy and this was distributed among a few marketers.

Additionally, the Council of State in 2023 declared the nullity of the public policy guidelines for the contracting of electricity generation projects, due to the fact that the competition advocacy process was not carried out. Consequently, Decree 570 of 2018 and its provisions compiled in the Single Regulatory Decree of the Administrative Sector of Mines and Energy, as well as Resolutions MME 40791 of 2018 and MME 40795 of 2018, were declared null and void.

The second auction, more focused on renewable projects, was held within the framework of MME Resolutions 40678 of 2019, 40591 of 2019 and 40725 of 2019. Before this second auction, it should be remembered that Article 296 of

[6] The main rules for developing generation projects are listed, some of these rules may vary for a developer of marketing, transmission, storage or distribution projects.

Law 1955 of 2019 was regulated by Resolution MME 40715 of 2019, which established that in 2022 marketers that serve regulated demand must have 10% of that demand covered with long-term contracts (greater than or equal to 10 years) from FNCER. This obligation became an incentive for marketers to actively participate in the auction, given that it was practically the only market mechanism for the contracting of renewable energy at that time.

Subsequently, the third auction was held under the framework of MME Resolutions 40141 of 2021, 40179 of 2021, 40305 of 2021 and 40060 of 2021. This auction was similar to the second, but with the novelty that marketers who met unregulated demand could participate.

Recently, the MME, in compliance with the objectives and guidelines established in article 1, numeral 2.2.3.8.10.1 of Decree 1091 of 2025, published until February 3, 2026 a draft resolution that defines a new mechanism for long-term contracting of electricity through auction. This contractual aspect will be developed later in the section on main contracts.

This does not imply that more auctions are not held in the Colombian electricity market; on the contrary. For example, the CREG issued Resolution 101 079 of 2025, which makes the auction for the allocation of firm energy obligations (obligaciones energéticas firmes or OEF) of the reliability charge[7], in order to guarantee the supply of electricity in the country and especially cover the projected demand for the period 2029-2030, according to the estimates made by the UPME.

4.6. Energy storage

The regulatory framework of the Colombian electricity sector has addressed key aspects to encourage the integration of storage systems, such as batteries, with the aim of providing support to the grid in cases of failure or insufficiency in transmission capacity, as well as to mitigate cost overruns due to restrictions.

In this sense, in order to maximize the use of this technology and benefit the user, the legal system has been oriented in that direction. Therefore, currently the provisions contained in Resolution CREG 098 of 2019 constitute an indispensable starting point to issue key signals to those interested in incorporating storage systems in order to mitigate inconveniences derived from the lack or insufficiency of energy transmission networks in the SIN.

Similarly, Resolution MME 40283 of 2022 established the guidelines for the incorporation of Energy Storage Systems (Sistemas de Almacenamiento de Energía or SAE) in the Colombian electricity system. In addition to this, Resolution MME 40042 of 2024 also contains provisions on electricity storage and the acquisition of SAE for various cases, such as storing excess generation or reducing peak demand.

On the other hand, the most recent regulatory advances on the matter should be taken into account, including: i) the CREG published, until October 19, 2025, for comments a draft Resolution CREG 701 103 defining the mechanisms for incorporating SAE with batteries in the SIN;

[7] The reliability charge is a remuneration scheme that makes it possible to invest in the electricity generation resources necessary to efficiently guarantee the supply of energy demand in critical supply conditions, through long-term signals and the stabilization of the generator's revenues.

ii) the MME, until December 11, 2025, published for comments a draft resolution on public policy guidelines for the integration of SAEs in the SIN and in the ZNI; and iii) the MME, in the same sense, on April 21, 2026, issued resolution 40208 to define long-term contracting mechanisms for electricity that integrates energy storage as a key component.

The inclusion of Battery Electrical Energy Storage Systems (SAEB) in generation projects, both from the structuring of the project and in the face of a possible need to modify the connection concepts, is being taken into consideration mainly because it seeks to face challenges related to growing demand and expansion limitations, among others.

In this way, it is clear that the implementation of storage technologies, whose installation costs have shown a decreasing trend in recent years, constitutes a fundamental enabling technology for the accelerated expansion of renewable energies and the advancement of the Just Energy Transition, guaranteeing the reliability of energy systems and the fulfillment of environmental commitments, such as the reduction of Greenhouse Gas (GHG) emissions.

4.7. Self-generation and energy communities

4.7.1. Large-scale self-generation (installed capacity greater than 1 MW)

Large-scale self-generating users are those who have installed power in the self-generation system higher than the limit defined in the first article of Resolution UPME 281 of 2015, which is currently set at 1 MW. It should be remembered that the self-generation activity is carried out by natural or legal persons who produce electricity mainly to meet their own needs. In any case, regulation allows them to sell any surplus energy.

Large-scale self-generation activity is regulated in Resolution CREG 024 of 2015, which defines the technical conditions for connection and metering, backup and energy supply conditions, and conditions for delivering surpluses. The technical conditions for the connection of the self-generator are found in Article 4 of said resolution and do not make a distinction between the type of generation.

For the delivery of surplus energy, the large-scale self-generator must be represented by a generator on the wholesale market, in which case the parties will freely agree on the conditions of such representation. The conditions established for plants not centrally dispatched will be applied if the maximum declared power is less than 20 MW (Resolution CREG 086 of 1996 and Resolution CREG 096 of 2019), and otherwise, those established for centrally dispatched plants. It should be clarified that the self-generating user may or may not be the owner of the self-generation assets.

As a key regulatory aspect, the MME, through Resolution 40379 of 2025, defined the rules, requirements and enabling obligations for self-generators to use the SIN networks and to be able to deliver their surpluses or consume the energy they produce in sites other than those of production.

Similarly, the CREG recently issued Resolution 101 099 of 2026, which regulates the aspects required for the development of the activity of remote self-generation (AGFR) and the activity of remote marginal producer with the attention of users remotely (Productor Marginal Remoto con Usuarios de Forma Remota or PMRUFR).

4.7.2. Small-scale self-generation (Autogeneración a Pequeña Escala or AGPE) and Distributed Generators (Generadores Distribuidos or DG)

An AGPE is a self-generator that has an installed or nominal capacity of less than or equal to 1 MW. This activity is carried out by natural or legal persons who produce electricity mainly to meet their own needs. Regulation allows them to have surplus energy.

On the other hand, a DG is a legal entity that generates electricity near consumption centers, is connected to the Local Distribution System and has an installed power of less than 1 MW.

The activity of AGPE and GD in the SIN was regulated in Resolution CREG 030 of 2018, updated by Resolution CREG 174 of 2021. This regulation contains the connection application process (Article 14 and Annex 5, where technical requirements are applied according to the installed or nominal capacity and its impact: delivery or non-delivery of surpluses), the technical requirements for metering (Article 19) and the process of remuneration of surplus (AGPE case) and sale of energy (GD case), which is explained below. It should be clarified that, once the connection and measurement procedure of the aforementioned resolution has been completed, the sale of energy will be available.

It should be noted that this regulation provided benefits in terms of simplified connection procedures for small-scale self-generators (installed capacity less than or equal to 1 MW) and distributed generators (installed capacity less than 1 MW).

Likewise, for large-scale self-generators, the connection procedures for plants with a declared maximum power of less than 5 MW were also simplified.

Regarding the energy sale mechanism, starting with the DGs, they will be able to sell their energy in accordance with Article 22 of Resolution CREG 174 of 2021, which determines two options: 1) according to the marketing rules for plants of less than 20 MW (Resolution CREG 096 of 1996, modified by Resolution CREG 096 of 2019, as mentioned above); and 2) directly to the marketer integrated with the network operator where the DG is connected.

In the case of AGPEs, the energy trading rules are found in Articles 23 and 25 of Resolution CREG 174 of 2021. Article 23 defines that energy can be sold to a marketing agent or to a generating agent that uses or does not use FNCER. Article 25 establishes that the AGPE user with FNCER can apply a benefit for the energy injected into the grid, called an energy credit, where the surpluses will be recognized as energy credits to the AGPE used by FNCER.

4.7.3. Energy communities

Energy communities emerge as an innovative legal instrument with the potential to empower citizens and redefine their role in the energy chain. This paradigm shift is evidenced in the transformation from passive to active consumers, demonstrating that citizen participation can be key to mitigating global challenges such as climate change, pollution, and environmental sustainability.

Energy communities, by facilitating participatory energy management, production and consumption, offer significant benefits. From providing local electricity services and promoting energy efficiency to boosting the use of renewable energy, these communities are positioned as agents of change for sustainable development. In addition, by encouraging democratic citizen participation, they contribute to the strengthening of communities and the creation of new sources of income.

Colombia has taken a significant step by integrating energy communities into its legal framework, recognizing the crucial role of citizen participation in the energy transition. Energy communities in Colombia are seen as an innovative element for the transition to a decentralized energy model.

In the exercise of regulatory power, the National Government issued Decree 2236 of 2023, through which Decree 1073 of 2015 was added in order to partially regulate Article 235 of Law 2294 of 2023 (National Development Plan 2022-2026). In this article, energy communities were defined as those in which users or potential users of energy services can be constituted as energy communities to generate, market and/or efficiently use energy through the use of non-conventional renewable energy sources (FNCER), renewable fuels and distributed energy resources.

These communities are constituted as one of the new legal instruments suitable for harnessing local energy resources, allowing demand to play a more active role in the supply chain of energy services and providing access to electricity services to economically vulnerable populations. By empowering these populations through collective partnership schemes, energy communities become key legal instruments to ensure equitable access to electricity services and promote the efficient use of energy.

In this sense, considering that with the approval of Law 1715 of 2014, the integration of renewable energies into the electricity sector was declared to be of national interest, the role of self-generation was redefined, which went from being exclusively intended for user consumption to mainly allowing the delivery of surplus energy to the system. The law also establishes small- and large-scale self-generation, and distributed generation as new activities in the supply chain, with specific regulatory conditions to facilitate their integration into the system and provide new instruments that facilitate demand-side decision-making. This implies a more active demand in the development of an efficient and competitive market.

In the regulatory framework, in addition to Decree 2236 of 2023, there is Law 2294 of 2023, Resolution MME 40509 of 2024, Resolution MME 40136 of 2024, Resolution MME 40137 of 2024, Resolution UPME 501 of 2024 and Resolution CREG 101 072 of 2025. These rules currently allow energy communities, among other powers:

i. *Authorization to generate, market and use energy from renewable sources.*
ii. *Promotion of the use of non-conventional energy sources and efficient use of energy, as well as a procedure for their registration.*
iii. *Criteria for classifying energy communities in Colombia.*
iv. *Conditions associated with the terms of service provision and rules for the integration of energy communities into the National Energy System.*
v. *Formalization and legal establishment of energy communities as an essential process to guarantee their operability and access to legal and regulatory benefits.*

Additionally, it is important to note that Decree 972 of 2025 created the Colombia Solar Program as an energy policy led by the MME and its affiliated entities, aimed at promoting self-generation with solar energy, in any of its modalities, for users of strata 1, 2 and 3 of the SIN and the ZNI. as an alternative to the existing subsidy for the electricity consumption of these users, within the framework of the Just Energy Transition.

On 30 January 2026, the MME published for comments the draft resolution regulating the pro-

gramme. This project establishes the contractual, technical and financial instruments for its effective implementation, as well as the rules for the ownership, operation and maintenance of the solar infrastructure, guaranteeing its sustainability for a period of up to 25 years. The measure also defines clear targeting and prioritization criteria, with an emphasis on multidimensional poverty, energy poverty and service costs.

It is relevant to mention that the program was declared a Project of National and Strategic Interest (PINES), which implies that it has technical, fiscal and budgetary feasibility. This declaration constitutes an additional tool to advance in the country's Energy Transition.

4.8. Main contracts

In the Colombian electricity market, different types of transactions are entered into that vary depending on whether it is the wholesale market, the retail market, or the transmission, distribution or storage market. To be clear about the conceptual framework, the following graph is presented:

<table>
<tr><td rowspan="3">WHOLESALER MARKET</td><td>Supplier contracts</td></tr>
<tr><td>Infrastructure installation contracts

• PC Contract (Procurement and Construction)
• EPC Contract (Engineering, Procurement, and Construction)
• BOOMT Contract (Build, Own, Operate, Maintain and Transfer)
• Association or strategic alliance agreements
• PPP agreements (public-private partnership)</td></tr>
<tr><td>1. Contracts in relation to the provision of the service (Plants greater than 20 MW)

A. Spot market
• Mandate Agreement (agent and XM)
• Exchange-traded power purchase and sale agreements. (XM and XM)
B. Bilateral Contracts Market
• Supply Contracts: pay what is demanded and pay what is contracted
• PPA (Power Purchase Agreement)
• Representation contracts
• BOOMT with representation
C. Reliability Charge Market
• Primary Market (Auction): XM Contract and Investor
• Secondary Market: Power Backup Contract (Between Generators)
D. Renewable Energy Long-Term Contract Market (Auction)
• Long-term power supply contracts
• Commercial Mandate Agreement (Principal and XM)
E. Energy futures market (CREG Resolution 114 of 2018)
Futures contracts (Article 2, paragraph 4, Law 964 of 2005) whose administrator is DERIVEX

2. Contracts in relation to the provision of the service (Plants of less than 20 MW). Article 3 of Resolution CREG 086 of 1996 (Resolution CREG 096 of 2019)
• it sells to a regulated market retailer, through a public call for tenders at a merit price
• Sells to a generator or marketer intended for the non-regulated market, at freely agreed prices</td></tr>
</table>

TRANSMISSION, DISTRIBUTION AND STORAGE	**1. Transmission** *A. Supplier contracts* *B. Infrastructure installation contracts* • PC Contract (Procurement, and Construction) • EPC Contract (Engineering, Procurement, and Construction) • BOOMT Contract (Build, Operate, Own, Maintain and Transfer) • Partnership contracts or strategic alliances • PPP Contracts (Public Entities) *C. Contracts in relation to the provision of the service* • Connection contract • Contract of carriage **2. Distribution:** *A. Supplier contracts* *B. Infrastructure installation contracts* • PC Contract (Procurement, and Construction) • EPC Contract (Engineering, Procurement, and Construction) • BOOMT Contract (Build, Operate, Own, Maintain and Transfer) • Partnership contracts or strategic alliances • PPP Contracts (Public Entities) • Infrastructure Lease Agreement *C. Contracts in relation to the provision of the service* • Connection contract • Distribution network use contract • Extra service quality contract • Extra power quality contract • Network Backup Contract **3. Storage:** *A. Supplier contracts* *B. Infrastructure installation contracts* • PC Contract • EPC Contract • BOOMT Contract • Partnership contracts or strategic alliances • PPP Contracts (Public Entities) *C. Contracts in relation to the provision of the service*

RETAIL MARKET	**1. Contracts related to the provision of the service** • Public service contracts with regulated users • Public service contracts with non-regulated users **2. Contracts for the installation of infrastructure and energy services associated with self-generating users** • PC Contract (Procurement, and Construction) • EPC Contract (Engineering, Procurement, and Construction) • BOOMT Contract (Build, Operate, Own, Maintain and Transfer) • PPA contracts (power supply that comes from an exclusive plant) • Infrastructure Lease Agreement **3. Contractual types for the purchase and sale of surpluses according to Resolution CREG 135 of 2021** • AGPE User - Regulated: Special agreement annexed to the Uniform Conditions contract, hereinafter special agreement annexed to the CCU • AGPE User - Not regulated: Special agreement annexed to the Domiciliary Public Service Contract hereinafter special agreement annexed to the contract **4. Contractual types of demand response or transitive energy** • DDV Contract **5. Contractual types of contracts related to energy efficiency services** • Long-term energy repowering contract • Public-private partnership contracts • Energy Services Contract

Some of the main contracts in the electricity market are described below:

4.8.1. Connection contract

Connection contracts arise from the current regulation, in particular from what is indicated in numeral 6 of the Connection Code, which is part of the Network Code adopted by Resolution CREG 025 of 1995, which establishes the minimum content of each contract according to the type of connection. In this sense, the minimum technical requirements for the design, construction, assembly, commissioning, operation, maintenance, telecommunications and supervision that all generators directly or indirectly connected to the STN must comply with for their connection are established.

The elements of the connection contract are set forth in Article 21 of Resolution CREG 001 of 1994, where the regulator established that such legal business must have at least acts or contracts for:

i. *Construction of works necessary to connect the national system to any other system.*
ii. *Construction of works for the extension or reinforcement of the conveyor, appropriate when making connections or modifications to the existing ones.*

iii. *Installation of appropriate meters, shut-off and protection equipment, and any other equipment necessary to enable the conveyor to measure and interrupt supply.*
iv. *Agree on the date by which the work that allows access to the conveyor system would be completed.*

Resolution CREG 075 of 2021 establishes the obligation on the part of the interested party with transmission capacity assigned by the UPME to sign this type of contract, depending on whether the project is class 1 or 2. It should not be lost sight of the fact that this contract, in accordance with Article 30 of Law 143 of 1994, seeks to ensure that the companies that own interconnection, transmission and distribution networks allow the connection and access of electricity companies, other generating agents and users who request it, subject to compliance with the rules governing the service and the payment of the corresponding remuneration.

Additionally, with respect to this type of contract, it should be considered that the CREG, on September 23, 2025, through Circular 192, made a proposal for the minimum content required for the minutes of connection contracts to the STN, STR and SDL for class 1 projects, together with its annexes. The foregoing, based on the provisions of paragraph 3 of article 31 of Resolution CREG 075 of 2021.

4.8.2. Long-term contracts

In this regard, since the issuance of Law 143 of 1994 in Colombia, two types of markets have been established in the electricity system, that is, the non-regulated market and the regulated market. In order to be considered an unregulated user and to be able to access the liberalised and competitive market, monthly power and energy limits were established, as well as the obligation to have hourly telemetering equipment. Currently, a non-regulated user is considered to be one with a monthly demand of 0.1 MW (power) or 55 MWh (energy).

That said, the generator sells its electricity produced by its generation unit connected to the SIN in the MEM, mainly through long-term contracts[8]. These long-term contracts can be entered into both for the attention of the non-regulated market and that of the regulated market. The former will be the product of free negotiation with another market agent (generator or marketer) or directly with an unregulated user. The latter are the product of regulated mechanisms, that is, there would not be full freedom in the determination of the business, especially because it mediates the attention of regulated users.

Additionally, on the other hand, the MME, in compliance with the objectives and guidelines established in article 1, numeral 2.2.3.8.10.1 of Decree 1091 of 2025, published Resolution 40208 of 2026 that defines a long-term electricity contracting mechanism. The foregoing, as already explained, does not mean that there is no possibility of entering into long-term transactions between agents in the wholesale market (traditionally, generators and marketers), as is the case with bilateral financial contracts recognized since the issuance of Resolution CREG 024 of 1995, Resolution MME 40715 of 2019 and Resolution CREG 130 of 2019.

[8] The other forms are through: i) daily energy bids on the "Spot" stock exchange or market, ii) participation in the auctions for the allocation of firm energy obligations (OEF) of the reliability charge (CxC) of Resolution CREG 071 of 2006 and Resolution CREG 61 of 2007 and iii) through public calls through the Centralized System of Public Calls (SICEP), System that defined the procedure that a marketer must carry out in the execution of energy contracts for the regulated market.

This contracting mechanism defined by the MME seeks to make it easier for marketing agents to comply with the obligation established in Article 296 of Law 1955 of 2019, which requires that a percentage of their energy purchases (set at 10% by Resolution 40060 of 2021) come from FNCER.

The resolution aims to create a stable environment that attracts investment in new generation projects, including Battery Energy Storage Systems (SAEB), considered pillars of the energy transition.

The contracting mechanism will be through auctions where buyers (MEM marketing agents) and sellers (generating agents, developers or owners of generation projects) can participate. Both must meet qualification requirements, such as being incorporated as E.S.P. in Colombia, submitting binding offers and constituting guarantees of seriousness.

The result of the auction will be “pay what you contract” energy contracts with a duration of 15 years, with a start date from January 1, 2030, although an alternative is contemplated for 2035 in one of the products. For this type of auction, 4 energy products based on hourly blocks are defined to allow the participation of different technologies, as follows:

Product 1	24-hour supply
Product 2	Supply in the solar block (06:00 to 18:00 hours)
Product 3	Supply in two combined blocks (08:00-17:00 and 17:00-21:00)
Product 4	Supply in the night peak block (6:00 p.m. to 10:00 p.m.)

Eligibility varies by product. For example, Product 2 is aimed at new solar projects, while Products 3 and 4 require the inclusion of SAEB. In short, this resolution is the administrative act that launches a long-term energy auction, detailing who can participate, what can be contracted and under what rules the contracts will be awarded, all in order to advance in Colombia’s energy transition.

4.8.3. Power Purchase Agreements (PPAs)

Generators and marketers, as participants in this market, can trade electricity from conventional sources (as has been the tradition) or from FNCER through bilateral contracts. The destination of this energy through bilateral contracts can be the unregulated market or the regulated market. When it comes to allocating this energy to the market of non-regulated users, there is no established procedure or regulatory prohibition in Resolution CREG 024 of 1995 so that negotiations can be carried out that culminate in bilateral contracts, whether from conventional or non-conventional sources of renewable energy. In practice, the implementation of private auction schemes for the purchase of energy for the non-regulated market has been observed, particularly private auctions for the purchase of renewable energy.

For their part, in relation to transactions of this type of energy for regulated users, marketers must purchase electricity through public calls, which must be advanced for the execution of electricity contracts intended to serve the regulated market. These public calls are fully regulated in Resolution CREG 130 of 2019.

The notable contractual types in this mechanism of bilateral contracts are: supply contracts (which have been the most widely used) and representation contracts. The most recent modalities include PPAs and BOOMTs[9] with representation.

It should be noted that, unlike what happens in the stock market, bilateral contracts guarantee a fixed price for both generators and marketers, who are obliged to buy energy to meet their demand. In this market, a fixed price is guaranteed for a long-term period.

In short, a PPA is a type of purchase and sale contract that allows electricity to be purchased at a price much lower than the market standard through long-term tariff negotiation. Through this mechanism, it is protected from the volatility of market prices. This type of contract is governed by private law; however, there are exceptions in which public law applies.

The exorbitant or exceptional clauses referred to are, for example: termination, modification and unilateral interpretation of the contract. These clauses, typical of public procurement (Law 80 of 1993), may be included in electricity contracts provided that the CREG makes them mandatory, either by means of a general or particular provision, as provided for in Article 31 of Law 142. In the event that they are included and exercised, they are processed in accordance with the procedure provided for in Law 80 of 1993.

Finally, it is important to note that electricity contracts are guided by both the general principles of contracting and the principles of public service, in accordance with Article 30 of Law 142 of 1994. The general principles of contracts are: principle of contractual freedom and autonomy of will, principle of typicity and atypicality, principle of consensuality (with the exception of solemnity), principle of economic balance, principle of economic solvency, principle of good faith, principle of diligence, principle of conservation or usefulness of the contract, principle of non-abuse of the right, no unjust enrichment, no fraud of the law, and the principle of incorporation of current and subsequent legal norms.

4.9. Hydrogen

The Colombian territory presents exceptional conditions for the deployment of clean energy projects. Its electricity matrix, based mainly on hydroelectric generation, is among the cleanest globally. In addition, its privileged geographical position and favorable climatic conditions give it access to high-quality natural resources.

In terms of specific resources, the La Guajira region registers wind speeds of approximately 9 m/s at 80 meters high, which doubles the international averages. Likewise, solar irradiation reaches 6 kW/m² constantly throughout the year, exceeding the world average values by 60%. Other areas such as the Caribbean, the Orinoquía and the Magdalena Valleys also exhibit lev-

[9] BOOMT que por su acrónimo en inglés se traduce: Built (Construir), Operate (Operar), Own (Poseer), Maintain (Mantener) y Transfer (Transferir), que representa una modalidad de contratación de infraestructura para proyectos eléctricos.

els of solar radiation above the global average, with periods of sunshine ranging between 5 and 8 hours per day. Colombia has the largest coal reserves in Latin America, approximately 50% of the continent's reserves, and proven natural gas reserves equivalent to 2,373 giga cubic feet.

This wealth in renewable sources gives Colombia a competitive advantage to implement Power to X (PtX) technologies. According to projections by the International Renewable Energy Agency (IRENA), the country could reach the fourth lowest levelized cost of green hydrogen (LCOH) in the world by 2050, positioning itself only behind China, Chile and Morocco in competitiveness.

4.9.1. Opportunities

The analyses carried out indicate six departments with high strategic potential: La Guajira, Atlántico, Bolívar, Antioquia, Caldas and Valle del Cauca. These regions stand out for their availability of renewable energy, proximity to ports and industrial facilities, and feasibility of replacing gray hydrogen with green alternatives.

Among the sectors with the greatest potential is the manufacture of ammonia for agricultural use, considering that Colombia ranks third in fertilizer consumption in Latin America and is significantly dependent on imports. Sustainable aviation fuels (SAF) are also highlighted. The maritime sector offers opportunities for alternative fuels such as ammonia and methanol, taking advantage of the competitiveness of ports in La Guajira, Cartagena and Barranquilla. Finally, hydrogen exports represent a promising market, with a potential generation capacity of 23.4 GW and the possibility of exporting up to 4 million tonnes per year by 2050.

4.9.2. Regulatory Framework for Hydrogen in Colombia

From a regulatory perspective, hydrogen is classified as a hazardous substance, which implies that all activities in its value chain – production, storage, transport, use and disposal – must comply with the Colombian Technical Standards and applicable Occupational Health standards. ICONTEC has developed a large number of technical regulations that cover safety aspects and technical specifications for this industry.

Law 2099 of 2021 incorporated blue hydrogen as a Non-Conventional Energy Source (FNCE) and green hydrogen as a Non-Conventional Renewable Energy Source (FNCER). Subsequently, Law 2294 of 2023 added white hydrogen to the FNCER category. Laws 2299 of 2021 and 2294 of 2023 extended the tax benefit regime originally established by Law 1715 of 2014 for FNCEs to green, blue and white hydrogen[10].

4.9.3. Main Regulations

The regulatory development has materialized through Decrees 1476 of 2022, 2235 of 2023 and 1597 of 2024, which establish the framework to promote innovation, research and all stages of the hydrogen value chain. These regulations seek to facilitate their integration into the electricity public service, energy storage systems and decarbonization processes in transport, industry and the hydrocarbons sector. Additionally, Law 2169 of 2021 granted green hydrogen projects the declaration of public utility and social interest, including the works necessary for their production and storage.

[10] The colours of hydrogen are classified according to their production method, source of energy used and the amount of CO2 emitted during their production.

4.9.4. Tax Incentives

The tax incentive regime includes several significant benefits: a 50% deduction in income tax on investments related to the production, storage, distribution, re-electrification, research and end-use of low-emission hydrogen, applicable for a maximum of 15 years[11]. It also includes the exclusion of VAT for equipment, machinery and services linked to hydrogen projects, as well as the elimination of tariffs for the import of equipment. Assets can depreciate at an accelerated rate of up to 33.33% per year for three years.

In the specific case of carbon capture, utilization and storage (CCUS) technologies, relevant to the production of blue hydrogen, the regulation provides for complementary benefits that include a 25% discount on income tax and VAT exclusion for equipment that contributes to reducing greenhouse gas emissions.

[11] This special deduction in income tax includes all new expenditures in terms of research, development and investment to produce and use energy generated by non-conventional sources of energy and efficient energy management. To access the benefit, it is necessary that the electricity be generated based on wind energy, biomass or agricultural, solar, geothermal or marine waste.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