

**COLOMBIA AS A NEW
MEMBER OF THE
ORGANISATION FOR
ECONOMIC COOPERATION
AND DEVELOPMENT (OECD):
PROCESS AND PUBLIC POLICY
CHALLENGES**



-Final Work of Master-

**Author: Juliana González Collazos
Tutor: Ana García Juanatey**

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2. LIST OF ACRONYMS

API: Agreement on the Privileges and Immunities for the Organisation	LAC: Latin American and Caribbean
BEPS: Base Erosion and Profit Shifting	MP: Marshall Plan
CUT: Central Unitaria de Trabajadores	MCM: Ministerial Council Meeting
CTC: Confederación de Trabajadores de Colombia	MAATM: Multilateral Convention on Mutual Administrative Assistance in Tax Matters
DPI: Declaration of Public Interest	NPD: National Planning Department
ERG: Education at Glance Report	ODA: Official Development Assistance
EPC: Education Policy Committee	OECD / the Organisation: Organisation for Economic Cooperation and Development
ERP: European Recovery Plan	OEEC: Organisation for European Economic Cooperation
FAC: Fiscal Affairs Committee	PISA: Program for International Students Assessment
FCPM: Framework for the Consideration of Prospective Members	FARC: Revolutionary Armed Forces of Colombia
FTA: Free Trade Agreement	SG: Secretary-General
GDP: Gross Domestic Product	SPP: Ser Pilo Paga
HF: Heritage Foundation	TIWB: Tax Inspector Without Borders
HRW: Human Rights Watch	TC: Trade Committee
IF: Inclusive Framework	TPG: Transfer Pricing Guidelines
IEF: Index of Economic Freedom	UK: United Kingdom
IPR: Intellectual Property Right	USA/America: United States of America
ISTT: International Standards on Tax Transparency	WWII: World War II
LSAC: Labour and Social Affairs Committee	

3. INTRODUCTION

On April 28th of the present year, 2020, the Republic of Colombia became the 37th Member of the Organisation for Economic Cooperation and Development (OECD) and is now the 3rd Latin American country to join the Organisation, following Mexico and Chile. This, after satisfactorily giving closure to a lengthy process of accession that began in 2013.

So as to achieve Membership to the OECD, Colombia underwent thorough examinations performed by 23 OECD Substantive Committees in charge of the main spheres of work of the Organisation and, that are also, a fundamental part of its structure. The reviews were developed in order to collect enough information about Colombia's domestic state of affairs in the face of the primal fields in which the OECD involucre and to, subsequently, decide whether to approve Colombia's performance. This, with the purpose to provide to the OECD Council, which is the decision-maker in this regard, with sufficient information about Colombia, prior to its final assessment on the country's formal invitation to become a Member of the OECD.

Throughout the reviews conducted by the Substantive Committees on Colombia's regulation, practices, and policies in relation to a number of fields, areas were unveiled in which the country needed to perform in-depth reforms in order to meet the international standards of the OECD. These spanned the breadth of public policy fields, particularly of labour and social affairs, fiscal affairs, trade, and education.

Effectuating the multiple reforms amidst Colombia's accession process to become a Member of the OECD represented a challenge for the country at the time and remain one in the present, as Colombia must implement the reforms performed in order to continuously align with the international standards of the OECD and, therefore, design and implement regulation and public policies with a view to complying with the commitments under the adherence to the OECD Convention.

It is important to stress that international organisations¹, since their inception, strive to find strategic partners that cooperate at an international level for the accomplishment of their missions and objectives; thereby Membership to international organisations is based in the capability of potential Members to align to the *raison d'être* of the respective organisation. To give an example, the international organisations created on account of major historical events, as it is the case of the Organisation for European Economic Cooperation (OEEC), the predecessor of the OECD, that sought a Membership based on the strategic alliance to aid Europe during its post-war recovery after World War II.

The founding Members of an international organisation are those who dictate the bases and character of the organisation with regard to the admission of new Members, and it is they who decide on its size and scope, as well as the clauses that would regulate its criteria and terms of

¹ The term *international organisation* itself covers a wide range of institutions. For the purpose of this study, the subject in question will be the international intergovernmental organisation defined as "*an entity created by treaty, involving two or more nations, to work in good faith, on issues of common interest*". Intergovernmental Organizations (IGOs). *Harvard Law School* [online].

accession. This, customarily established under the framework of the Convention of the organisation. Notwithstanding, also feasible throughout its development.

In the case of international organisations driven towards economic development, especially with the OECD, the interplay between ideology, politics, and economics appears to be of the utmost importance when considering the admission of a new Member. Aside from communing with the statutes of the Convention, potential Members are assessed by means of gathering objective evidence on matters such as like-mindedness, strategic partnership, the country's economic and political system, among others, in accordance with the core values of the organisation.

The present study will analyze Colombia's accession process to become a Member of the OECD, with the objective to determine the main challenges that arise for the country from the perspective of public policy² by reason of its Membership with the Organisation. As well, elucidating on the suggested ways to tackle them. This, through the examination of the primal reforms Colombia had to perform to its internal regulation, practices, and policies under the advice of the 23 OECD Substantive Committees during its process of accession, specifically, with regard to the suggestions made by the Trade Committee, the Labour and Social Affairs Committee, the Education Policy Committee and the Fiscal Affairs Committee.

In conjunction with the above, an overview of the historical context of the OECD will be presented, with the aim of providing a basis for a better comprehension of the present study. Likewise, Colombia's background throughout the accession process will be examined, particularly in the course of the beginning, as the country was simultaneously passing through a crucial internal conjuncture: the signature of the *Habana Agreements* between the Colombian Government and the *Revolutionary Armed Forces of Colombia* (FARC, by its Spanish initials), as well as to a controversy with relation to various standpoints of objection that were raised over the country's accession to the OECD.

Finally, the current economic stance of Colombia in contrast with other OECD Member countries will be displayed, along with an outline of the potential benefits the Membership to the OECD will represent for Colombia; briefly exposing, also, some of the most globally vanguard questions the country will have to confront in the future, including the digitalisation of the economy and the current COVID-19 pandemic.

² "Public policy can be described as the overall framework within which government actions are undertaken to achieve public goals... Government decisions and actions designed to deal with a matter of public concern. Policies are purposive courses of action devised in response to a perceived problem. Public policies are filtered through a specific policy process, adopted, implemented through laws, regulatory measures, courses of government action, and funding priorities, and enforced by a public agency...The policy process includes several key aspects: a definition of the problem to be addressed, the goals the policy is designed to achieve, and the instruments of policy that are employed to address the problem and achieve the policy goals". Cochran, C., Malone, E., *Public Policies: Perspectives And Choices*. Boulder, Colorado, 5th ed., Lynne Reinner; 2014, p. 3.

4. HISTORICAL CONTEXT OF THE ORGANISATION FOR ECONOMIC COOPERATION AND DEVELOPMENT (OECD)

To better comprehend this academic output, it is necessary to have fundamental knowledge and a common ground over the context of the Organisation we are referring to herein: the Organisation for Economic Cooperation and Development (OECD).

It is relevant to understand the background, structure, mission, and purpose of the OECD in order to later relate it to the specific example of the country the analysis is focusing on: Colombia and, also, the context with reference to its entry as a new Member of the OECD.

The OECD is an international intergovernmental organisation³ currently composed of 37 Member countries⁴. As its name implies, the Organisation strives for international cooperation among countries in the various areas of work that it coordinates, which are going to be latterly illustrated. Furthermore, it aims to contribute to the economic development of countries, particularly, of developing countries, on various fronts.

The following subchapters will lay the groundwork for a proper understanding of the thesis and will elucidate aspects such as the background, mission, purpose, and structure (organigram) of the OECD.

4.1. Background

The OECD was built over the institutional foundations of its predecessor international organisation: the Organisation for European Economic Cooperation (OEEC)⁵. The OEEC was created in 1948 in Paris, France, and was established by the USA and a number of European countries: Austria, Belgium, Denmark, Greece, Ireland, Iceland, Italy, Luxembourg, Netherlands, Norway, Portugal, Sweden, Switzerland, Turkey, the UK, and Western Germany⁶.

³ Research professor Clive Archer, on his book *“International Organisations”*, gathered various definitions of the concept of *international organisation* developed by several authors and experts, coming to the following definition: *“The definition of an international organisation as a formal, continuous, structure established by agreement between members, whether governmental representatives or not, from at least two sovereign states with the aim of pursuing the common interest of the membership... Every international organisation which is not created by means of intergovernmental agreements shall be considered as a non governmental international organisation”* and stated the term *international organisation* should be further clarified and classified in order to distinguish one organisation from another, since the definition formulated was extensive enough to cover a broad variety of institutions. Archer, C., *International Organisations*. London, 3a ed., Routledge, 2001, p. 35.

⁴ Australia, Austria, Belgium, Canada, Chile, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Island, Ireland, Israel, Italy, Japan, Korea, Latvia, Lithuania, Luxembourg, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, United Kingdom (UK), the United States of America (USA) and the newest Member, Colombia. Our global reach - OECD, 2020. *Oecd.org* [online].

⁵ The literature on the OEEC is scarce. However, two books elaborate a very interesting study anent the OEEC: *“A decade of Co-operation Achievements and Perspectives: 9th Report of the OEEC (1958)”* and *“the Explorations in OEEC history”* by Richard T. Griffiths.

⁶ Organisation for European Economic Co-operation, 2020. *Oecd.org* [online].



On April 16th, 1948, at the Château de la Muette in Paris, France, Paul-Henri Spaak, Belgian Prime Minister, and Foreign Minister, signed the Convention that constituted the OEEC⁷.

The OEEC was specifically designated for the supervision and aid of Europe during its recovery post World War II (WWII), as well as for the management of the Marshall Plan (MP), also referred to as the European Recovery Plan (ERP)⁸. After several conferences and meetings, 16 European countries came to the conclusion that a continuing body needed to be created in order to achieve Europe's reconstruction⁹, therefore, deciding to establish the OEEC.

The development of the OEEC was subject to criticism by some academics, given the MP was interpreted to be part of a hegemonic operation devised by the USA to exert control over Western Europe and contain communism¹⁰. However, this theory was subsequently challenged

⁷ Belgium signs the OEEC Charter (Paris, 16 April 1948), 2020. *CVCE.EU* by *UNI.LU* [online].

⁸ In 1947, after WWII was over, the USA Secretary of State, George C. Marshall, initiated the ERP/MP, which sought, among others, to issue American aid to Europe and attain international cooperation. The MP initiated after the speech given by the USA Secretary of State at Harvard University, where stated that “*there must be some agreement among the countries of Europe as to the requirements of the situation...It would be neither fitting nor efficacious for this Government [USA] to undertake to draw up unilaterally a programme designed to place Europe on its feet economically... The programme should be a joint one, agreed to by a number, if not all European nations*”. DEPARTMENT OF STATE, 1947, *Foreign Relations of the United States, 1947, the British Commonwealth and Europe*. Washington: Government Printing Office.

⁹ GRIFFITHS, R., *Explorations in OEEC History*, Paris, OECD Publishing, 2009, pp. 15-16.

¹⁰ The line of thought that adopted this position was called the “Revisionist School”. The perspective the Revisionist School had on this matter can be seen in: KOLKO, J., and KOLKO, G., *The limits of power: the world and United States foreign policy, 1945-1954*, New York, 1st ed., Harper & Row, 1972.

by a consensus of historians and political experts, who after reviewing governmental public policy releases of the time, determined the MP was far from solely being a containment of communism but also truly implemented for Europe's post-war recovery¹¹; particularly, to boost European trade, which was hampered by insufficient foreign exchange after WWII. This too, since it was in the economic interest of the USA to promote Europe's worldwide trade, as it would directly increase American exports and decrease a potential domestic overproduction in the USA¹².

Member countries of the OEEC truthfully aimed for a model of international cooperation that favored economic recovery, free trade, and the integration of the economy. The OEEC embraced several public policies that sought the internal growth of each Member country and their integration in international trade, thus demonstrating Western European countries' willingness to develop a common framework for their economic policies¹³.

The OEEC was signaled as responsible for the recovery of trade in Europe as a result of its funding to the European trade system, and its help to minimize the multiple procedures and restrictions there in place, functioning as well as a barrier to protectionist measures between countries and always aiming for a more open and integrated economy¹⁴.

4.2. Foundation and purpose

The work carried out by the OEEC has been cited multiple times as a remarkable success during the post WWII period. The events that led to the transition of the OEEC into the OECD were not related in any way to a failure of the OEEC but rather to its success¹⁵.

In December 1960, after all Members had agreed, the final draft of the OECD Convention was signed and, in September 1961, entered into force. The OECD was formally established and permanently succeeded its predecessor, the OEEC.

The OECD Headquarters were established where the OEEC was previously based, at the Château la Muette in Paris, France, and its founding Members were: Austria, Belgium, Canada, Denmark, France, Germany, Greece, Iceland, Ireland, Italy, Luxemburg, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, Turkey, the UK, and the USA¹⁶.

¹¹ This new line of thought was called the "Post Revisionist", a current that emerged subsequently to the Revisionist School, challenging its theory. They focused on stressing that the MP and the OEEC had further goals than to impede the spread of communism and were far from dictating or imposing an American hegemonic plan over Europe. Various ideas of the Post-Revisionist can be seen in: Diebold W., *Trade and Payments in Western Europe: A Study in Economic Cooperation, 1947-1951*, New York, Literary Licensing, LLC, 2012.

¹² The Marshall Plan and the establishment of the OEEC - The Cold War (1945–1989), 2016. *Cvce.eu* [online].

¹³ GRIFFITHS, R., *op. cit.*, note 9, p. 28.

¹⁴ Woodward R., "The Organisation for Economic Cooperation and Development", *New Political Economy*, Vol. 9, 2004, num. 11, p. 2.

¹⁵ The events that led to the metamorphosis of the OEEC into the OECD are not mentioned in this paper as they are not essential for the purpose of the study. More on the transition of the OEEC into OECD can be seen in: GRIFFITHS, R., *op. cit.*, note 5, pp. 235-249.

¹⁶ List of OECD Member countries - Ratification of the Convention of the OECD, 2020. *Oecd.org* [online]



On December 14, 1960, at the Château de la Muette in Paris, France, 18 European countries, the USA and Canada signed the OECD Convention, in replacement of the one of the former Organisation, the OEEC¹⁷.

When issuing the OECD Convention, Member countries¹⁸ manifested the overall focus of the Organisation, prior to the development of each of the Articles. In the preface of the Convention, they affirmed on matters like: i) The recognition of the increasing interdependence of the economies, ii) The need for broader international cooperation to promote peaceful and harmonious relations among the peoples of the world, iii) The importance of enhancing the sustainable growth of the economy of countries and the need for improvement in the economic and well-being of society, iv) The need for economically-advanced nations to cooperate and assist countries in the process of economic development, and v) The need for improvement in economic international relations by reason of the expansion of world trade¹⁹.

Article 1 of the OECD Convention determined the objective of the OECD of promoting policies designed:

“(a) to achieve the highest sustainable economic growth and employment and a rising standard of living in Member countries, while maintaining financial stability, and thus to contribute to the development of the world economy;

(b) to contribute to sound economic expansion in Member as well as non-member countries in the process of economic development; and

¹⁷ The signing of the Convention of the OECD (Paris, 14 December 1960), 2020. *CVCE.EU* by *UNI.LU* [online].

¹⁸ List of OECD Member countries - Ratification of the Convention of the OECD., *op. cit.*, note 16.

¹⁹ The Organisation for Economic Cooperation and Development. Convention. 14 December 1960.

(c) to contribute to the expansion of world trade on a multilateral, non-discriminatory basis in accordance with international obligations”²⁰.

Apart from the economic approach of the OECD Convention, which had a basis on its predecessor, the OEEC, a new element was incorporated to the Convention: the development dimension, that sought for the assistance of industrialized nations to less developed countries via international cooperation, mobilization of resources, creation of partnerships, leadership and the management of challenges arising due to development and trade²¹.

Since its creation, the OECD significantly expanded both operationally and geographically; the list of Members increased through adhering countries from different parts of the world. The OECD ceased to be a “Western-based-only” Organisation to be a more inclusive and diverse one by welcoming Members from Asia, Eastern Europe, and Latin America, among others.

In terms of functionality, the OECD notably grew as well. Although it was primarily focused on macroeconomic issues, the scope of the Organisation expanded with time. Nowadays, its functions delve into a variety of fields in regard to the well-being of countries and their people, in topics including economics, cooperation, development, science, education, environment, taxation, agriculture, etc.

Moreover, the OECD became the core of cutting-edge debates on the most vanguard topics of today, such as the COVID-19 approach, the digitalisation of the economy, blockchain technology, cyberterrorism, genetic engineering, pensions, aging societies, etc²².

It is important to stress that, under the foreseen Article 1 of the Convention, the Organisation’s beneficiaries are not only limited to Member countries, but also to non-member countries around the world that seek assistance in the development of their economies²³. The extensive approach implemented by the Organisation has generated as an outcome a “*global network of countries*”²⁴, concentrating efforts on assisting developing countries and emerging economies.

The OECD has described its role as a “*forum where Governments can pool ideas and expertise to tackle the economic, global, social and governance challenges of the 21st-century globalized economy*”²⁵ and as “*an international organisation that works to build better policies for better lives*” with the objective to “*shape policies that foster prosperity, equality, opportunity and well-being for all... establishing evidence-based international standards and finding solutions to a range of social, economic and environmental challenges... a unique forum and knowledge*

²⁰ The Organisation for Economic Cooperation and Development, *op. cit.*, note 19. Article 1.

²¹ GRIFFITHS, R., *op. cit.*, note 9, pp. 243-244.

²² The current COVID-19 pandemic and the digitalisation of the economy are at the top of the OECD agenda for 2020. The potential impact of these issues on developing countries and the possible challenges derived from these inevitable phenomena will be briefly mentioned later on.

²³ The Organisation for Economic Cooperation and Development, *op. cit.*, note 19. Article 1

²⁴ Jackson J., *The Organisation for Economic Cooperation and Development*, Washington, Congressional Research Service, 2014, p. 1.

²⁵ The Organisation for Economic Cooperation and Development. Annual Report, 2013, p. 9.

*hub for data and analysis, exchange of experiences, best-practice sharing, and advice on public policies and international standard-setting*²⁶.

As a consequence of the OECD's official description of its role, which appears broad-ranging, plus, the fact that its Membership is composed with a majority of developed countries, the OECD has been observed with wariness by some segments around the world, to the point it has been cataloged several times as a "*rich men club*"²⁷; characterization that tends to overshadow the core purpose, mission and proven work done by the Organisation through the years²⁸.

The OECD has evidenced its work primarily in 4 spheres:

1. International cooperation: the OECD promotes cooperation among countries to counter the world's economic problems. This, through the creation of forums and spaces for dialogue among countries, as well as peer reviews over countries' affairs in various areas²⁹.
2. Gathering of information: the database of the OECD compiles a vast amount of information and statistics on each country about different specific relevant topics³⁰.
3. Support: the OECD provides advisory services in international matters due to its expertise and wide availability of information³¹.
4. International standards: the OECD sets international standards for countries in best practices to which countries continuously aspire to achieve³².

For the purpose of this study, the sphere number 4 is going to be the main focus of the research, as through this sphere will be determined in what extent Colombia, a developing country, has been in a position to meet the international standards set by other OECD Member countries that are, for the most part, developed nations. This, with an aim to analyze the challenges on public policy that arise for Colombia in various fields, given its new Membership to the OECD, and to give an overview of suggested ways to address them. Likewise, revising the particularities of Colombia's process of accession and its current stance in contrast to other OECD Members.

²⁶ About the OECD - OECD, 2020. *Oecd.org* [online].

²⁷ Ohlin, G., "The Organisation for Economic Cooperation and Development", Vol. 22, 1968, No. 1, p. 243. Robert, G., *The Challenge of Global Capitalism: The World Economy in the 21st Century*, New Jersey, Princeton University Press, 2000, p. 184. And Woodward R., *op. cit.*, note 14, pp. 3-4.

²⁸ Robert, G., *op. cit.*, note 27. In addition, OECD's contribution to international development and worldwide development related operations, statistics, impact and current development perspectives can be seen in: *Development, 2020. Oecd.org* [online].

²⁹ Woodward R., *op. cit.*, note 14, p. 4.

³⁰ Woodward R., *op. cit.*, note 14, p. 4.

³¹ Woodward R., *op. cit.*, note 14, p. 4.

³² Woodward R., *op. cit.*, note 14, p. 4.

4.3. Structure (Organigram)

As it will be displayed in this subchapter, the OECD handles a variety of topics according with its purpose and objective. These are reflected in the structure of the Organisation. Revising the organigram of the OECD will contribute to the understanding of the fields of work in which the Organisation operates and how, through them, international standards are set.

The OECD is structured around 3 main bodies:

1. The Council.

The Council is chaired by the Secretary General (SG) of the OECD and is composed of representatives from all Member countries, usually referred to as “Ambassadors”. They, unanimously *-in consensus-*, set the OECD’s work agenda. The Council has decision-making power and determines where the budget of the OECD is placed³³.

2. The Committees.

The Committees are composed of representatives from each Member country. They direct the work of the OECD and provide further guidance and assistance in developing the Secretariat’s agenda. OECD experts and Working Groups work alongside with the Committees³⁴.

3. The Secretariat.

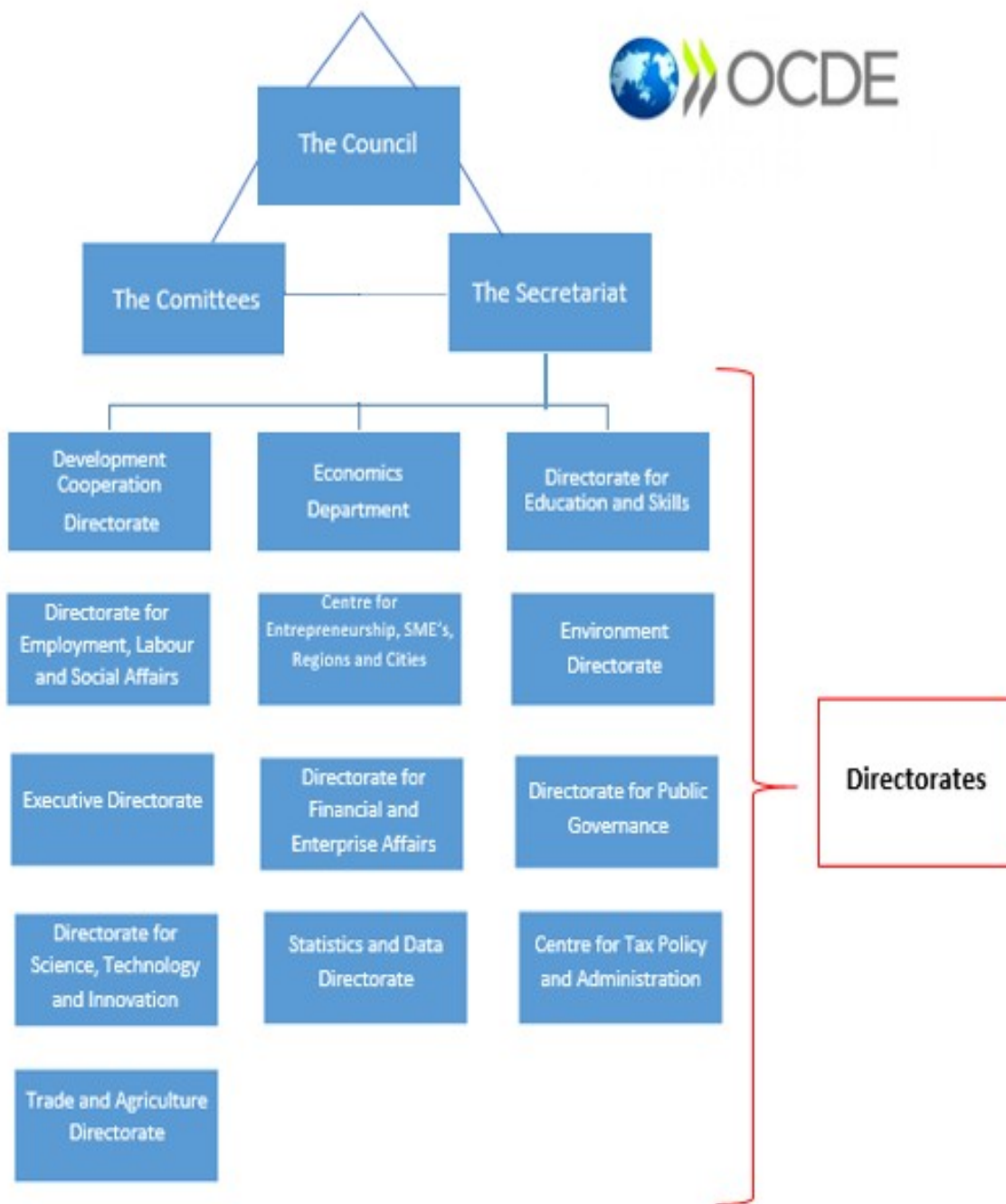
The Secretariat is in charge of delivering the agenda approved by the Council and works hand in hand with the Committees over this matter. It is divided into Directorates, which attend the areas of work in which the OECD participates. The Directorates are composed of expert personnel in each matter. In total, there are 13 Directorates that focus on fields such as environment, economics, taxation, development, science, etc. The Secretariat works in close coordination with the Committees and is led by the SG³⁵.

The following organization chart (Organigram – Graphic 1) illustrates the structure of the OECD. As mentioned above, the Organisation’s fields of work are reflected in its 13 Directorates, as well as in its Committees and Working Groups, which manage topics in accordance with the Directorates.

³³ Organizational structure - OECD, 2020. *Oecd.org* [online].

³⁴ Organizational structure., *op. cit.*, note 33.

³⁵ Organizational structure., *op. cit.*, note 33.



Graphic 1. The present organigram was built with the information made available by the OECD on its official website³⁶.

³⁶ List of departments and special bodies - OECD, 2020. *Oecd.org* [online].

4.4. Membership criteria

Becoming a Member of the OECD is not a simple matter but rather a complex one. Prospective Members³⁷ have to go through a thorough review procedure to be considered candidates for the Organisation, making the Membership a matter that passes beyond a simple fulfillment of formalities.

Also, access to the OECD is not merely a question up to the countries that wish for entrance. In reality, is the Organisation through its principal body, the Council, that sets the process of accession, the terms and, finally, decides whether to invite and open negotiations for accession with a country, taking into account information collected on the prospective Member³⁸.

Annually, the Councils holds a *Ministerial Council Meeting* (MCM) where the heads of Government, Economy, Trade and Foreign Ministers of Member countries, come together to set the work-priorities of the Organisation, assign the budget, engage in discussions on topics relevant to the Organisation and, also, delve into the accession process of prospective Members³⁹.

Adjacent to technical assessments amid the accession process, when opening negotiations for accession, the Council takes into account 4 non-hierarchical criteria to determine potential candidates: i) Like mindedness, ii) Mutual benefit, iii) Global considerations and, iv) Significant player. These criteria are still in force today and were established in 2004 by way of the “*Noboru Report*”⁴⁰, which stated that: “*While ‘like-mindedness’ and ‘significant player’ focus on defining the eligibility of an individual candidate, ‘global considerations’ concerns the overall balance of the Membership. Also, while the first two criteria, together with ‘mutual benefit’, work as ‘selective’ elements of the Membership composition, ‘global considerations’ is ‘reflective’ of the overall composition of Membership. In practice, it is argued that none of the criteria above should be used as a tool to negatively ‘filter’ candidates*”⁴¹.

Since 2007, the OECD has invited 9 prospective Members to initiate accession processes. Some of the countries invited have since successfully joined the Organisation, as is the case of Colombia, the last country to be officially admitted as a Member. Other countries are in the

³⁷ “*A prospective Member is a non OECD Member country, which has officially signalled its interest and commitment in becoming a Member of the OECD or a country identified by the Council as a priority for Membership for the Organisation’s relevance and impact*”. Report of the Chair of the Working Group on the Future Size and Membership of the Organisation to Council, *Framework for the Consideration of Prospective Members*, Paris, OECD, 2017, note 1.

³⁸ Organizational structure – OECD, *op. cit.*, note 33.

³⁹ Organizational structure – OECD, *op. cit.*, note 33.

⁴⁰ The Noboru report of 2004, named after the chairmanship given by Japan’s ambassador Noboru at the 2004 MCM, is a document where highlights of the discussion over the future scope and size of the OECD were stated. Report by the Chair of the Heads of Delegation Working Group on the Enlargement Strategy and Outreach, Ambassador Seiichiro Noboru. *A Strategy for Enlargement and Outreach*, Paris, OECD, 2004.

⁴¹ Report by the Chair of the Heads of Delegation Working Group on the Enlargement Strategy and Outreach, Ambassador Seiichiro Noboru, *op. cit.*, note 40, p.18.

process of doing so and, others, have been put on hold indefinitely, as an example, the Russian Federation, whose accession process was halted in 2014 for the time being indefinite⁴².

By way of information, it is important to mention that since 2017, countries invited to become Members of the OECD must follow a recently developed framework: *the Framework for the Consideration of Prospective Members* (FCPM), which was developed by the Council-created *Working Group on the Future Size of Membership of the Organisation* established in 2016 after annual attendees of the MCM called for “*a strategic reflection by Members on the future size and Membership of the Organisation*”⁴³.

The FCPM was created as an evidence-based comprehensive framework, codifying the OECD’s Membership criteria for countries with the intention to become Members of the OECD. The FCPM established the minimum standards that countries shall meet to become Members of the Organisation. It seeks to achieve a strategic approach for the expansion of the OECD, by collecting objective information on prospective Members, that is subsequently considered by the Council, which is the decision-maker in this regard. If there is a positive assessment of the Council, then an individual accession roadmap is adopted to initiate the accession process with the respective country⁴⁴.

The “*Noboru Report*” cited above, and the additional discussions related to the scope and size of the Organisation, plus the individual roadmaps previously developed on a case-by-case basis (as was the case for Colombia), served as a guide for the establishment of the current FCPM⁴⁵.

Colombia’s accession process to become part of the OECD was not subject to the FCPM, as it began in 2011, before the FCPM entered into force. The specific process carried out by Colombia will be duly explained in the subsequent chapter.

Lastly, it is relevant to highlight how the discussions on the scope and size of the OECD conducted at the 2004, 2006 and 2016 MCMs, in the end, led altogether to greater global inclusion; with a higher engagement of non-member countries to the Organisation’s projects and, also, the enhancement of the work carried out by the Organisation with its five key non-member partners (Brazil, China, India, Indonesia, and South Africa). Moreover, the discussions pursued the design of the current FCPM, which significantly widened the Organisation’s scope by facilitating the aperture of accession processes with countries that met the Organisation’s Membership criteria. However, the OECD has publicly stated it “*does not aim to become a universal Organisation in terms of its size but rather to ensure that the OECD’s standards and policies are applied and implemented on a global scale*”⁴⁶.

⁴² Accession to the Organisation - OECD, 2020. *Oecd.org* [online].

⁴³ Accession to the Organisation – OECD, *op. cit.*, note 42.

⁴⁴ Report of the Chair of the Working Group on the Future Size and Membership of the Organisation to Council, *op. cit.*, note 37. p. 2.

⁴⁵ Accession to the Organisation – OECD, *op. cit.*, note 39.

⁴⁶ Report of the Chair of the Working Group on the Future Size and Membership of the Organisation to Council, *op. cit.*, note 37. p. 4.

5. COLOMBIA AS A NEW MEMBER OF THE OECD

On May 25th of 2018, after the accession process concluded, the OECD Council invited Colombia to become the 37th Member of the OECD and the 3rd country from the Latin American and Caribbean (LAC) region to be part of the Organisation, after Mexico and Chile. On May 30th of the same year, the OECD SG, Angel Gurría, and the Colombian President at the time, Juan Manuel Santos, signed the respective *Accession Agreement* during the annual 2018 MCM and, finally, on April 28th of 2020, Colombia officially became a Member of the Organisation⁴⁷.

It is relevant to note that the entire process of accession with the OECD involves, in turn, two processes: first, the process within the OECD and, second, the internal process that is carried out at the national level under the prospective country's Administration, necessary for the adherence of the country to an international instrument, here, to the OECD Convention, in order to become a Member of the Organisation.

In the case of Colombia, both, the process of accession within the OECD and the internal process to adhere to the OECD Convention and its post depositary with the French Government are currently wholly fulfilled. At the beginning of 2020, as it was abovementioned, Colombia officially became the 37th and newest Member of the OECD, thus bringing to a prosperous closure an accession process that began in 2013⁴⁸.

5.1. Conjuncture context

The President-elect of Colombia in 2010, Juan Manuel Santos, had two primary goals on his Government agenda: i) The initiation of the *Habana Agreements* with the *Revolutionary Armed Forces of Colombia* (FARC, by its Spanish initials)⁴⁹ and, ii) The incorporation of Colombia as a new Member of the OECD, which, apart from bringing several benefits at a national and international level, including the seal for the country's political and economic stability, among others, would also represent an important alliance in a potential post-conflict scenario. As the former President stated in an interview on Colombia's Membership to the OECD performed by "*El Espectador*": "[OECD] will be a very important partner as it is the Organisation that knows about best practices in many issues that we [Colombian Government] will need to assume in the post-conflict"⁵⁰.

Along with the above, another of the main interests of the Colombian Government with Colombia's potential accession to the OECD was to improve the country's image before the

⁴⁷ Colombia - Organisation for Economic Co-operation and Development, 2020. *Oecd.org* [online].

⁴⁸ Colombia - Organisation for Economic Co-operation and Development, *op. cit.*, note 47.

⁴⁹ FARC are one of the most violent armed groups in Colombia, "*The Revolutionary Armed Forces of Colombia (FARC), a Marxist-Leninist guerrilla group, was founded... In 1964... The FARC originally aimed to overthrow the government, and it financed its operations through the drug trade, kidnapping, extortion, and illegal gold mining*". Mapping Militant Organisations. "Revolutionary Armed Forces of Colombia." Stanford University., 2019. *Cisac.fsi.stanford.edu* [online].

⁵⁰OCDE será importante para el posconflicto: Santos | ELESPECTADOR, 2015. *ELESPECTADOR.COM* [online].

international community, as being part of the “*industrialized countries’ Organisation*” would project Colombia as a reliable partner in trade and as an active member in regional and international cooperation⁵¹. Furthermore, it would reflect the international support of what was the main concern at the time for the Colombian Government: the development and execution of the *Habana Agreements* with FARC and the post-conflict to come should the Agreements be successful⁵².

The projection of international support for the *Habana Agreements* with FARC was not solely important for the Colombian Government within the international sphere but also within the local one since the country was internally polarized in what respected to its signature and implementation, to such extent that more than half of the country’s voting population voted “No” to the plebiscite inquiring Colombian’s approval to the Agreements. Despite the people’s opposition, the Agreements were signed and entered into force as binding in 2016⁵³.

5.2. The process within the OECD

In 2011, the Colombian Government publicly manifested for the first time its interest to become a Member of the OECD. The President of Colombia visited the Paris-based Organisation and personally expressed to the OECD Council the Government's intentions, manifesting that Colombia wished to be part of the Organisation, as it was “*the Club of the best practices*” and Membership would mean “*a very important qualitative leap in [Colombia’s] development policies*” as well as it would guarantee “*not only better the quality of... public policies but, at the same time, to maintain their quality from now on*”, also affirming Colombia was ready “*to take advantage of the OECD’s experiences and the OECD, in turn, ready for the ones of Colombia*”⁵⁴.

The interest shown by the Colombian Government to become part of the OECD was warmly received by OECD Members. On this, the OECD SG, Angel Gurría, noted that “*they [OECD] were honored by Colombia’s interest*” and that “*Colombia was a huge country and very rich from the point of view of the inspiration it can give to other OECD countries in terms of its good policies*”⁵⁵. Yet, at the time, no term or tangible compromise was defined concerning the initiation of the accession process for Colombia to become a Member of the OECD.

One year after Colombia’s first approach for Membership with the OECD in 2011, the Government of Colombia made a second approximation to its goal, by reiterating in its intention to become part of the OECD, this time through a formal letter sent by the Colombian Government to the OECD Council, in which Colombia’s intention to initiate an accession process with the OECD was expressly stated in the official document deposited at the OECD Headquarters in Paris, France.

⁵¹ Valdivieso, A.,..., *Política Exterior Colombiana: Escenarios Y Desafíos En El Posconflicto*, Bogotá D.C, 1st ed., Pontificia Universidad Javeriana: Fundación Konrad Adenauer, 2016, p. 294.

⁵² Valdivieso, A.,..., *op. cit.*, note 51, pp. 294-295.

⁵³ Colombian voters reject FARC peace deal, 2016. *BBC News* [online].

⁵⁴ Colombia empezó a soñar con su ingreso a la OCDE, 2011, *El País* [online].

⁵⁵ Colombia empezó a soñar con su ingreso a la OCDE, *op. cit.*, note 54.

Additionally, and as a reaffirmation of Colombia's good faith regarding its commitment to OECD standards, a few months after sending the official letter manifesting Colombia's intentions to join the OECD, the Colombian Government participated in the 2012 MCM, where it was able to further demonstrate its intentions by adhering to 4 of the OECD's most relevant international instruments and allowing 3 technical studies to be performed in the country on topics like economy, investment, and education⁵⁶.

Finally, after two years since Colombia's first approach, the OECD formally invited Colombia to begin discussions for Membership with the Organisation. This was a relatively small amount of time compared to the time it has taken other countries to receive a formal invitation since their first manifestation of intention to become Members. The formal invitation to open accession talks with Colombia marked the beginning of a lengthy process that took place in the following years, up to the present year, 2020.

On September 2013, after the invitation to initiate the accession process was granted to Colombia, the OECD initiated the second stage of the process: the development of an individual accession roadmap to be followed by Colombia in order to become a Member of the OECD, the "*Roadmap for the Accession of Colombia to the OECD Convention*", in where the terms, conditions, and details of the entire accession process were established⁵⁷.

The day Colombia's roadmap for accession was publicly launched, the OECD SG remarked that: "*the decision of the OECD Council to extend a formal invitation to Colombia to embark on its accession process is a recognition of many years of effort on the part of all Colombian citizens; it is proof that Colombia has been able to overcome many of the obstacles which were threatening and move forward; it is a vote of confidence on the part of the OECD Member countries*"⁵⁸.

The purpose of Colombia's roadmap for accession to the OECD was to able the OECD Council with enough information to make an objective decision on whether to invite Colombia to adhere to the OECD Convention and thereby become a new Member of the Organisation⁵⁹.

As it was mentioned earlier, in 2013 the FCPM had not yet been developed. Notwithstanding, the OECD had regard to the 2004 "*Noboru Report*" to identify Colombia as a prospective Member, taking into consideration, as well, previous discussions on the scope and size of the Organisation⁶⁰.

⁵⁶ Superintendencia de Industria y Comercio. *Colombian Accession Process*. Bogota D.C, SIC.

⁵⁷ Organisation for Economic Cooperation and Development, *Roadmap for the Accession of Colombia to the OECD Convention*, Paris, OECD, 2013.

⁵⁸ Launch of Colombia's Accession Process to the OECD - OECD, 2020. *Oecd.org* [online].

⁵⁹ Organisation for Economic Cooperation and Development, *op. cit.*, note 57. p. 2.

⁶⁰ The FCPM was developed later in 2017 and, as already mentioned, is the Council's current benchmark for objectively assessing evidence-based information provided by countries prior to manifesting an interest in becoming Members of the OECD. Also, providing the necessary information to enable the Council inter alia, to decide whether accession discussions should be opened with a country. Report of the Chair of the Working Group on the Future Size and Membership of the Organisation to Council, *op. cit.*, note 37. pp. 4-5.

Colombia's roadmap for accession to the OECD aimed to establish:

1. Colombia's accordance with OECD's fundamental values - "*like-mindedness*"-⁶¹.
2. The international obligations derived from Membership (adding a number of obligations to the ones proclaimed in the Convention)⁶².
3. In-depth technical examinations Colombia had to undergo in order to be invited as a Member of the Organisation, which would be carried out by the 23 OECD Substantive Committees: Investment Committee, Corporate Governance Committee, Financial Markets Committee, Insurance and Private Pensions Committee, Competition Committee, Fiscal Affairs Committee, Environment Policy Committee, Chemicals Committee, Public Governance Committee, Regulatory Policy Committee, Territorial Development Committee, Statistics Committee, Economic and Development Committee, Education Policy Committee, Employment Committee, Labour and Social Affairs Committee, Health Committee, Trade Committee, Scientific and Technological Policy Committee, Information Computer and Communication Policies Committee, Agriculture Committee, Fisheries Committee and, Consumer Policy Committee⁶³.

The purpose of the Committees was to demonstrate two elements: i) The capacity and willingness of Colombia to implement OECD instruments and, ii) The public policies and practices of Colombia in comparison with those of OECD Members in each area of work of the Committees. If any of the elements were lacking, the Committees would make the appropriate recommendations and suggestions for the country to conduct reforms to its regulation, policies, and/or practices, prior to granting a formal invitation for Membership⁶⁴.

4. The conclusion of the accession process. This, comprised by 2 important steps that will be explained later on, as they are the basis of Colombia's formal invitation to become a Member of the OECD and, also, mark the beginning of Colombia's internal process for adherence to the OECD Convention and, therefore, to officially become a Member of the Organisation⁶⁵.

Throughout the whole accession process, Colombia repeatedly demonstrated its commitment to reach OECD's standards, one by one, by performing major internal reforms and fulfilling the steps necessary to fruitfully and efficiently carry out the process of accession. No more than a year after the invitation to initiate the accession process was granted, Colombia adhered over 250 OECD instruments to its internal jurisdiction, assessing their consistency with the country's

⁶¹ Organisation for Economic Cooperation and Development, *op. cit.*, note 57. p. 2.

⁶² Organisation for Economic Cooperation and Development, *op. cit.*, note 57. pp. 2-3.

⁶³ Organisation for Economic Cooperation and Development, *op. cit.*, note 57. pp. 3-6.

⁶⁴ Organisation for Economic Cooperation and Development, *op. cit.*, note 57. p. 5.

⁶⁵ Organisation for Economic Cooperation and Development, *op. cit.*, note 57. pp. 6-9.

internal regulation, practices, and public policies⁶⁶. Likewise, Colombia promptly signed *the Agreement on the Privileges and Immunities for the Organisation (API)*⁶⁷.

In line with the above, in a period of approximately 5 years (2013-2018) the 23 OECD Substantive Committees conducted thorough reviews on Colombia's performance in the different fields of work related to each one of them. By the beginning of 2018, Colombia had already performed almost all reforms proposed by the Committees, thus obtaining the approval from 20 of them. Nonetheless, the approval from 3 of the Committees was still pending: the Trade Committee, the Economic and Development Review Committee, and the Labour and Social Affairs Committee. These, advising for further in-depth reforms prior to approbation⁶⁸.

The specific fields mentioned above, among others, turned out to be the most challenging for Colombia and, even after obtaining approval from the Committees, they continued to be a challenge for the country. This, in what respect to public policies that needed to be implemented in order to keep up with the OECD standards, in accordance with OECD Members' best practices in these areas.

Ultimately, in 2018, after all the previous steps were executed and Colombia performed the corresponding structural reforms, the 23 OECD Substantive Committees conferred their approval. Upon completion of the accession process, the OECD SG presented the pertinent information, analysis, and recommendations on Colombia's situation to the Council for its consideration, with a view to deciding whether to formally invite Colombia as a Member of the OECD.

After evaluating the reports and documents acquired during Colombia's accession process, the Council decided by unanimity, in the same year, 2018, to formally invite Colombia to become a Member of the OECD, given the positive assessment on its position concerning OECD standards and instruments⁶⁹.

On Colombia's formal invitation to become a Member of the OECD, the OECD SG expressed that: *"The accession of Colombia will contribute to our [OECD] efforts to transform the OECD into a more diverse and inclusive institution, which will ensure our [OECD] relevance in the years and decades ahead. The global challenges we are facing today can only be addressed if we have emerging, developing and advanced economies working together"*⁷⁰.

5.3. Colombia's internal pre-requisites for Membership to the OECD

The Council's formal invitation for Colombia to become a Member of the OECD concluded Colombia's accession process within the OECD and marked the beginning of the second stage:

⁶⁶ Launch of Colombia's Accession Process to the OECD, *op. cit.*, note 58.

⁶⁷ The signature of the API assured the OECD certain immunities and privileges to function properly and independently. Launch of Colombia's Accession Process to the OECD, *op. cit.*, note 58.

⁶⁸ El proceso de acceso de Colombia a la OCDE. *Supuestos Revista Económica*. 2018.

⁶⁹ OECD countries agree to invite Colombia as 37th Member - OECD, 2020. *Oecd.org* [online].

⁷⁰ OECD countries agree to invite Colombia as 37th Member – OECD., *op. cit.*, note 69.

Colombia's internal process to adhere to the OECD Convention and, therefore, make Membership effective and officially become the 37th Member of the OECD.

Unlike the accession process within the OECD, Colombia's internal process to join the Organisation was considerably faster and less complex. Immediately after the OECD formally invited Colombia to become a Member, the Colombian Government initiated the by-law steps at a national level to adhere to the OECD Convention.

Firstly, the National Planning Department of Colombia (NPD), which belongs to the Executive Branch of the Government of Colombia, assembled two Bills of Law that incorporated, first, *the Agreement on the Terms of Accession of the Republic of Colombia to the OECD* and, second, *the Agreement on the Privileges and Immunities of the OECD*, both signed previously by the President of Colombia and the OECD SG⁷¹.

Subsequently, after the Bills of Law were set, the NPD proceeded to present them to the Congress of Colombia, following the procedure established in the Colombian Constitution for the adoption and ratification of international instruments. Once the respective debates over the Bills of Law were held in both the Senate and the House of Representatives, which are the two chambers that compose the Congress (the Legislative Branch of the Government of Colombia), both Bills of Law were approved and dispatched for a final step: its revision and ratification by the Constitutional Court of Colombia, within the Judicial Branch of the Colombian Government⁷².

The Constitutional Court of Colombia approved, in late 2019, *the Agreement on the Terms of Accession of the Republic of Colombia to the OECD* and, at the beginning of 2020, *the Agreement on the Privileges and Immunities of the OECD*, therefore completing the final step of Colombia's internal process to adhere to the Organisation⁷³.

Concluding the process, the Colombian Government deposited the accession instrument with the French Government, the depositary of the Convention, and officially became the 37th Member of the OECD on April 28th of 2020⁷⁴.

⁷¹ Departamento Nacional de Planeación. *Colombia da otro paso para el ingreso a la OCDE*. Bogota D.C, DNP, 2019.

⁷² Departamento Nacional de Planeación, *op. cit.*, note 71.

⁷³ Vicepresidencia República de Colombia. *Luz verde al Acuerdo de Colombia para ingreso formal en la OCDE, da la Corte Constitucional*. Bogota D.C., Vicepresidencia, 2020.

⁷⁴ OECD countries agree to invite Colombia as 37th member., *op. cit.*, note 69

6. THE FUTURE CHALLENGES ARISING FOR COLOMBIA: PUBLIC POLICY PERSPECTIVE

For a clearer insight of the term *public policy*, it is necessary to delve into its definition, as for example, that given by emeritus Professor Thomas R. Dye in his book “*Understanding Public Policy*”, which reflects an interesting approach to the term, quoting that: “*Public policy is whatever Governments choose to do or not to do. Governments do many things. They regulate conflict within society; they organize society to carry on conflict with other societies; they distribute a great variety of symbolic rewards and material services to Members of the society; and they extract money from society, most often in the form of taxes. Thus, public policies may regulate behavior, organize bureaucracies, distribute benefits, or extract taxes or all of these things at once*”⁷⁵.

Even though Colombia culminated the whole process to become a Member of the OECD, meaning that the country was in a position to meet both substantive and technical standards set by the Organisation, as with its core values, instruments, policies, etc., the process of accession evidenced some aspects in Colombia’s legislation, practices, and policies, that although were reformed with the purpose of reaching OECD’s minimum standards during the accession process, projected important long-term challenges for Colombia’s Government, particularly with regards to the issuance of public policies.

OECD’s standards for policymaking are those generally met by industrialized countries. That is in part why most of the Members of the Organisation are industrialized or developed nations. This is not the case of Colombia, as it is deemed to be a developing country, which means that aligning with the OECD minimum standards, at least in several fields, is particularly challenging for the country. Notwithstanding, it also represent several potential benefits.

The different challenges on public policy that Colombia faces, ascribed to the reforms implemented to attain the OECD Membership, are present, more or less, in almost all of the fields in which the OECD performs substantive work.

As illustrated in the previous organization chart, the OECD is composed of 13 Directorates that are responsible for covering specific areas to fulfill the purpose and mission of the Organisation. They are the pillars of the Organisation and give sense to its foundations. The 13 Directorates work hand in hand with the different Committees (including the 23 OECD Substantive Committees) and reflect their work in them; both contributing to the various fields enfolded by the Organisation.

The assessment for Colombia’s accession to the OECD was conducted considering the country’s behavior on the diverse fields of work of the Organisation, the reason why for over 5 years, the 23 OECD Substantive Committees thoroughly revised and assessed Colombia’s performance in these areas.

The present chapter will analyze, among others, the main challenges Colombia faces to align with OECD’s high standards. For the purpose of this paper, four of the most challenging areas

⁷⁵ DYE, T.R., *Understanding Public Policy*, New Jersey, Upper Saddle River, 2002, p. 1.

for Colombia will be used as an example: i) Trade, ii) Labour and social affairs, iii) Education policy and, iv) Fiscal affairs. Additionally, the current global stance of Colombia in these fields and its contrasts with the positions of other OECD Member countries will be presented, as well as a brief overview of the benefits for Colombia that Membership with the OECD represents.

6.1. Objection Standpoints

Although, in general, Members of the OECD and fellow experts warmly welcomed Colombia's invitation to join the Organisation, some parties remained hesitant towards Colombia's entry; mostly due to an alleged lack of readiness of the country for the implementation of OECD's international standards on policy and regulation⁷⁶. For instance, numerous stakeholders from the USA sought to prevent Colombia's Membership before structural amendments were conducted by the country in order to meet the OECD's standards on certain topics, particularly, as it pertains to intellectual property and competitive fairness policies. Wariness was also displayed on Colombia's market real openness and the transparency of its regulatory system⁷⁷.

Adding to the above, several local associations, mostly from the labour sphere, such as the *Central Unitaria de Trabajadores* (CUT) and the *Confederación de Trabajadores de Colombia* (CTC), were concerned about Colombia's entrance to the OECD and, in effect, sent a formal letter to the Organisation's Headquarters petitioning them not to allow Colombia to become a Member until increased measures for the protection of the labour force were enabled, in areas including the improvement of labour standards, the safeguard of workers from violence, among other related matters⁷⁸.

Alertness was as well shown by humanitarian groups like Human Rights Watch (HRW), that stressed a specific issue for the OECD to rigorously evaluate before inviting Colombia as a Member of the Organisation: the malnutrition of indigenous children from northernmost Colombia⁷⁹. However, it is important to note even though there was distress on this matter and specific verification over this issue was requested, HRW expressed its conviction that Colombia could better address this problem by engaging with the OECD, as this would secure concrete actions to be taken in this regard⁸⁰.

In addition to the objection standpoints mentioned above, there were a number of academics and economists as well preoccupied over Colombia's future Membership to the OECD, since they estimated that, despite the fact Colombia was one of the fastest-growing countries in Latin America, situations like the vast amount of informality, unemployment, inequality and the inconveniences of the "*Dutch Disease*"⁸¹, among others, made it difficult for the country to

⁷⁶ WADE, JARED, 2018, *Joining the Big League: Colombia Admitted to OECD After Years of Trying to Join the Selective Economic Club*. *Finance Colombia* [online].

⁷⁷ WADE, JARED., *op. cit.*, note 76.

⁷⁸ WADE, JARED., *op. cit.*, note 76.

⁷⁹ WADE, JARED., *op. cit.*, note 76.

⁸⁰ WADE, JARED., *op. cit.*, note 76.

⁸¹ "*A term that broadly refers to the harmful consequences of large increases in a country's income*". EBRAHIMZADEH, CHRISTINE, 2

keep up with industrialized nations, including those considered cornerstones of the OECD, also, major economies of the world. Moreover, there was concern about matters such as compliance with the contribution and quota costs related to the Membership, as well as with Colombia's complex reality in the face of industrialized Member countries⁸².

Most of the concerns about Colombia's entrance to the OECD were expressed whilst the development of the accession process, in the course of the technical reviews carried out by the 23 OECD Substantive Committees on Colombia's state of affairs over the different spheres of work of the Organisation. However, some of them remained even after most of the OECD Committees had given a positive assessment of the reviews.

In the end, despite the objective points of view, Colombia was able to overhaul and reform its policies and regulations, therefore reaching, to a greater or lesser extent, the OECD's minimum standards for Member countries and, also, compromising to implement the amendments made in the future. This allowed OECD Member countries to decide, unanimously, to invite Colombia to become a Member of the OECD, acknowledging Colombia's effort to make the appropriate changes to its regulation⁸³.

6.2. Overview of Colombia's economic stance and contrast with OECD Members

Prior to the Council's formal invitation for Colombia to become a Member of the OECD, Colombia had performed, as mentioned before, structural reforms to its regulation in order to meet the high standards of the OECD and, although part of the new regulation was not implemented yet, the compromise to implement it in the future was assumed, hence future challenges arose on forthcoming public policymaking.

To best comprehend the challenges that might come to light in Colombia's future, it is necessary to overview the present stance of Colombia comparatively with other OECD Member countries, in what respects to the economic aspects that have a major impact in society, and are also some of the most relevant for the OECD, such as *economic freedom* (free market driven economies)⁸⁴, Gross Domestic Product (GDP) and nominal GDP of countries.

The *Index of Economic Freedom* (IEF)⁸⁵ is an annual measure produced by the Heritage Foundation (HF) and the Wall Street Journal, which analyses the development in the economic

⁸² RUBIO, CLAUDIA, 2014, 'Ingreso de Colombia a la OCDE es un gran error': Jan Kregel. *Portafolio.co* [online].

⁸³ OECD countries agree to invite Colombia as 37th member., *op. cit.*, note 69.

⁸⁴ Various academics and economists have related the concept of *economic freedom* to limited Governments and market openness, which are considered as driving forces of entrepreneurial activity and enhancers of matters such as personal choice, private property, the free competition of markets, and voluntary exchange. Likewise, relating it to the reduction of State's interference in the economy, excessive regulation, and barriers to the private sector, among others. An approach consistent with the OECD's fundamental values of supporting a free market economy. Lawson, R., "Economic Freedom". *The Library of Economics and Liberty*, 2015. Also see: Key findings of the 2020 Index, 2020. *Heritage.org* [online]. p. 1.

⁸⁵ Index of Economic Freedom: Promoting Economic Opportunity and Prosperity by Country, 2020. *Heritage.org* [online].

policy of countries around the world and contrasts the outcome with indicators of human well-being and economic growth⁸⁶.

There has been an ongoing debate about the correlation of economic openness with economic growth and well-being portrayed by the IEF. There are several critiques over the assertion of a directly proportional relation of these figures, to give an example, professor and economist Jeffrey Sachs refuted the correlation in his book *“The end of poverty”*, stating that: *“there are many cases where the score on economic freedom is rather low, but economic growth is rather high, China being the notable case. On the other hand, there are many cases where the score on economic freedom is good, and yet economic growth is low, like Switzerland or Uruguay”*⁸⁷.

Taking into consideration the current debate on the abovementioned, for this example, the analysis will focus not on the correlation between the economic freedom of countries and their growth or well-being, but on the current stance of Colombia displayed in the 2020 IEF, in comparison with other OECD Member countries, regarding following elements⁸⁸: property rights, judicial effectiveness and Government integrity (rule of law), tax burden, government spending and fiscal health (Government size), business freedom, labour freedom and monetary freedom (regulatory efficiency) and, trade freedom, investment freedom and financial freedom (open markets).

The 2020 IEF measures and compares various jurisdictions, giving an overall result of the proportion in which countries manage the specific spheres mentioned above, in order to signal their position in what respects to economic freedom⁸⁹.

The comparison will only be made between OECD Member countries, as being a Member of the OECD implies the countries in question share minimum standards in accordance with the OECD Convention to which they all have adhered, thus sharing similar characteristics in their policies, practices, and regulation according to OECD core values⁹⁰, therefore being comparable on a more equitable basis.

The following graphics (Graphics 2 and 3) give an overview of the disparities and potential challenges that Colombia faces to achieve the best policies and practices of other OECD Member countries, in terms of the aforementioned elements.

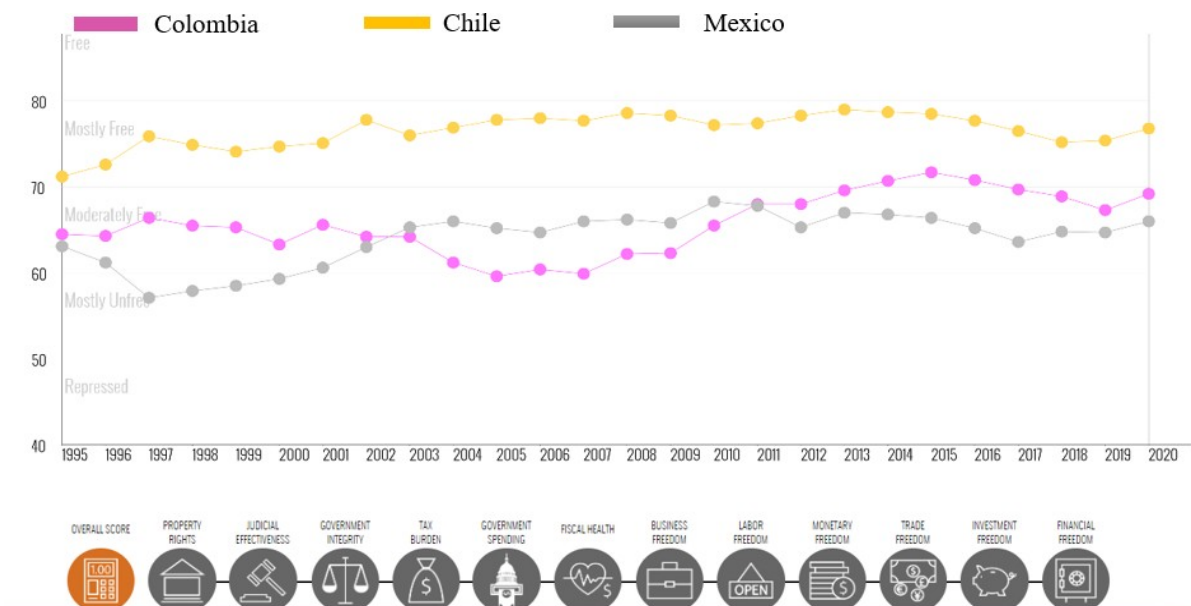
⁸⁶ The Heritage Foundation, 2020. *The Heritage Foundation* [online].

⁸⁷ Sachs, J., *The End of Poverty*, New York, The Penguin Press, 2005, p. 320. For more information on the debate also see: Heckelman, J., “Proxies for Economic Freedom”, *Southern Economic Journal*, Vol. 72, 2005, num. 2, p. 492.

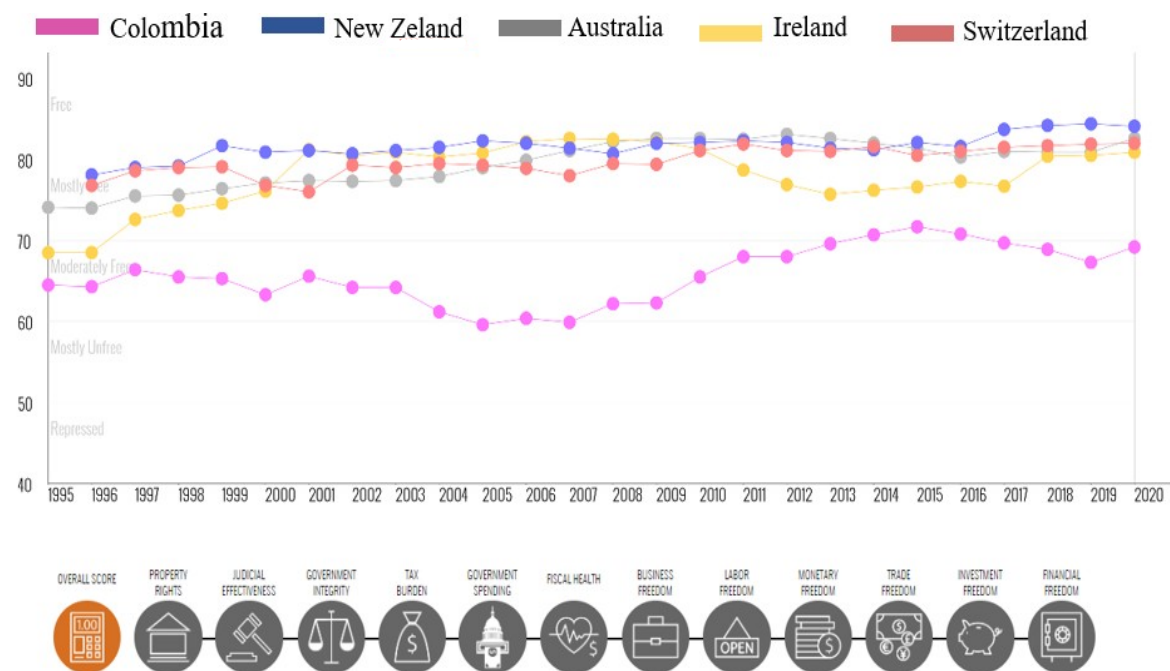
⁸⁸ Index of Economic Freedom: Graph the Data, 2020. *Heritage.org* [online].

⁸⁹ Index of Economic Freedom: Graph the Data., *op. cit.*, note 88.

⁹⁰ The Organisation for Economic Cooperation and Development, *op. cit.*, note 19.



Graphic 2. This graphic shows the overall scores (40-80) of Colombia’s development, from 1996 to 2020, in the areas that constitute economic freedom in contrast with the overall results of other Latin American countries Members of the OECD: Chile and Mexico⁹¹.



Graphic 3. This graphic shows the overall scores (40-80) of Colombia’s development, from 1996 to 2020, in the areas that constitute economic freedom in contrast with the overall results of specific OECD Member countries deemed to be developed or industrialized nations and which have been ranked by the 2020 IEF as some of the most economic-free nations in the world: Australia, Ireland, Switzerland, and New Zealand⁹².

⁹¹ Index of Economic Freedom: Graph the Data., *op. cit.*, note 88.

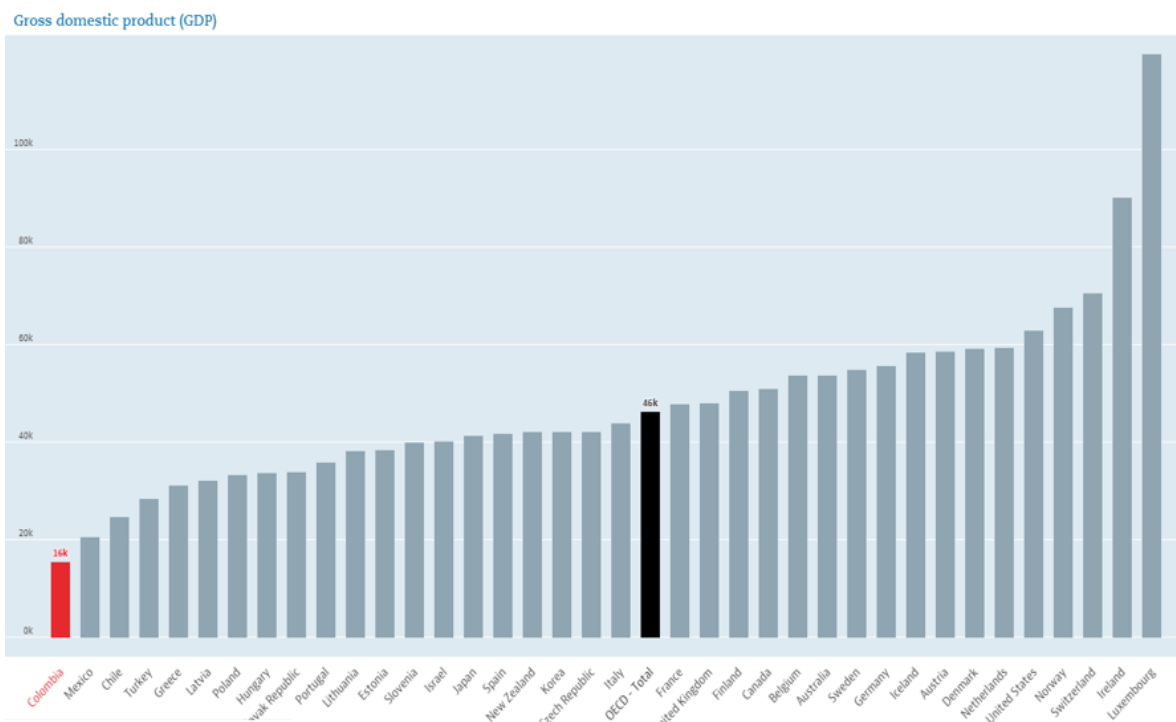
⁹² Index of Economic Freedom: Graph the Data., *op. cit.*, note 88.

After analyzing the graphics and comparing Colombia’s position versus that of other OECD Members, the results show that Colombia still has a long way to go in terms of implementing policies and regulations that generate a greater degree of economic freedom. Likewise, the graphics illustrate how Colombia’s position is still far below from the OECD’s freer and industrialized countries according to the 2020 IEF. This presents a glimpse of the road that still lies ahead for Colombia, as well as of the potential challenges for the country to maintain the standards set by other OECD Members.

The comparison was made as well between Colombia and the other two OECD Latin American Member countries: Mexico and Chile; The comparison of Colombia with Chile is similar to that of Colombia with the OECD industrialized nations portrayed in the second graphic. However, the comparison between Colombia and Mexico in the face of other OECD countries resembles, as both countries have shown similar behavior over the years.

The 2020 IEF graphics also reveal Colombia remains as a “moderately free nation”, a position that, with its ups and downs, appears to improve with time. Most OECD countries are signaled as “mostly-free nations” or “free-nations”, positions that, according to the 2020 IEF, are directly correlated with the enjoyment of incomes that are more than twice the average level than in other countries of the world⁹³.

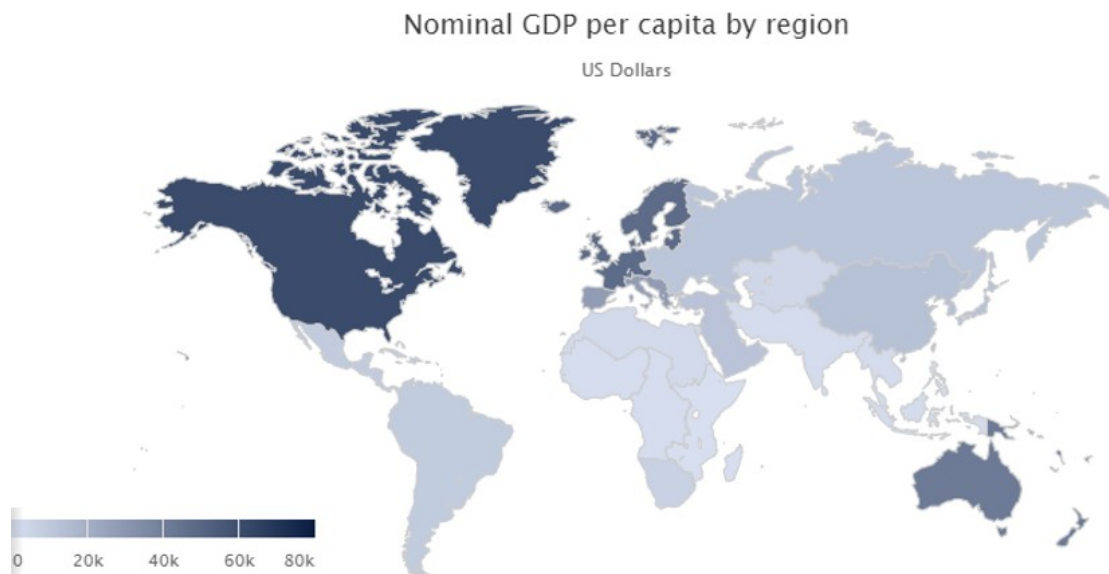
Two graphics that also relativize Colombia’s economic position in contrast with some of the major economies Members of the OECD are the following (Graphics 4 and 5):



Graphic 4. This graphic displays Colombia’s current annual GDP in US dollars/capita in comparison with other OECD Member countries⁹⁴.

⁹³ Key findings of the 2020 Index., *op. cit.*, note 84. p. 2.

⁹⁴ GDP and spending - Gross domestic product (GDP) - OECD Data, 2020. *OECD* [online].



Graphic 5. This graphic shows the latest-available map of the annual Nominal GDP per capita by region in US dollars of countries of the world⁹⁵.

After reviewing both graphics, it is possible to identify Colombia's global position comparatively with other OECD Members in terms of GDP and Nominal GDP.

The OECD defines GDP as *“the standard measure of the value added created through the production of goods and services in a country during a certain period. As such, it also measures the income earned from that production, or the total amount spent on final goods and services (less imports)”*, and further affirms that GDP is the single most important indicator to calculate economic activity. However, considering it may not be sufficient to give an exact measure of people's well-being, as on this basis other indicators might be more adequate⁹⁶.

Considering that, in accordance with OECD, GDP is the most important indicator to measure the economic behavior of countries, the analysis is relevant to provide an overview of the potential economic challenges Colombia might face in the future⁹⁷, when intending to keep pace with the standards set by higher-income OECD Members⁹⁸. This, with the purpose of later elucidating on public policies to face these challenges and implement the internal reforms conducted during Colombia's accession process to the OECD.

It is important to underline that the fact that Colombia still has a long way to go in order to reach the economic level of the industrialized nations, does not mean that becoming a Member of the OECD has a negative effect. It is rather positive, considering the benefits the Membership entails, which will be briefly mentioned later on in the document.

⁹⁵ UN, 2019, National Accounts - Analysis of Main Aggregates (AMA). *Unstats.un.org* [online].

⁹⁶ GDP and spending - Gross domestic product (GDP) - OECD Data., *op. cit.*, note 94.

⁹⁷ For example, Colombia's full immersion in the global trade arena with industrialized OECD Member countries, some of which are also major world economies.

⁹⁸ In the 2018 World Economic Outlook Database, the International Monetary Fund listed 7 OECD countries as the major economies of the world, according to their annual nominal GDP: the USA, Japan, Germany, the UK, France, Italy, and Canada. World Economic Outlook database, 2018. *IMF.org* [online].

Although, not negatively, the economic difference between Colombia and most OECD countries does imply future challenges for the country. However, these can be tackled through time from a public policy perspective; it might not be easy, but it is possible, as several studies have shown Colombia's remarkable improvement on its economic indicators over time, becoming the country with the highest growth in the region, which has increased its Gross National Income from \$97.7 billion to 286 billion in the last 2 decades and reduced extreme poverty rates from 16.5% to 5.5% in the same period of time, hence, becoming the 4th largest economy of Latin America and one of the most stable countries in the region as well as an increasingly regional strategic and diplomatic power⁹⁹.

Aside from the studies aforementioned, during the assessments of the 23 OECD Substantive Committees amid Colombia's accession process to the OECD, multiples areas were revealed in which the country needed to perform reforms, as well as important improvements that the country had achieved in fields like Statistics, Competition, and Financial Markets, among others; an acknowledgment that allowed the rapid approval of the respective OECD Committees in these areas.

Furthermore, the OECD publicly recognized Colombia's positioning through time as an emerging market economy due to its rapid growth¹⁰⁰, becoming the fastest growing country in Latin America¹⁰¹, with a growth projection of 3.5% for 2020, reflected in the latest report on the country's economy: *the 2020 OECD Economic Survey of Colombia*¹⁰². On this, the SG manifested it was encouraging to "see that Colombia's economy is performing above the OECD average" and that the OECD projected for Colombia a "solid expansion of GDP growth, from the 2.6% registers in 2018, to 3.4% in 2019 and 3.5% in 2020, among the highest levels in the region"¹⁰³.

The OECD has also taken into account the challenges Colombia endures vis-à-vis the developed countries Members of the OECD with regard to the quota, contributions, donations, etc., to the Organisation. For instance, in the case of donations, despite Colombia's Membership to the OECD, the Organisation decided Colombia would have a non-donor country status, so it would not be a provider of Official Development Assistance (ODA)¹⁰⁴. This, by reason of the duality

⁹⁹ Key findings of the 2020 Index., *op. cit.*, note 84. p. 3. Also see: STEVENS, PHILIP, 2019, Colombia OECD accession: is the time right?. *Geneva Network* [online].

¹⁰⁰ "An emerging market economy is the economy of a developing nation that is becoming more engaged with global markets as it grows. Countries classified as emerging market economies are those with some, but not all, of the characteristics of a developed market". CHAPELLOW, JIM, 2020, Emerging Market Economy. *Investopedia* [online].

¹⁰¹ Colombia is the fastest growing country in Latin America, 2020. *LABS English* [online] and Vicepresidencia República de Colombia. *Colombia uno de los mercados emergentes de mayor crecimiento en América Latina: Vicepresidenta en foro del sector*. Bogota D.C., Vicepresidencia, 2020.

¹⁰² OECD Economic Surveys: Colombia 2019 | READ online, 2019. *OECD iLibrary* [online].

¹⁰³ Launch of the 2019 OECD Economic Survey of Colombia - OECD, 2020. *Oecd.org* [online].

¹⁰⁴ "The Official Development Assistance is the transfer of resources from donor countries to developing countries, under favorable conditions, to promote social and economic development. The term also designates the official resources provided by the members of the OECD Official Development Assistance Committee". Cancillería República de Colombia. *Official Development Assistance*. Bogota D.C., Cancillería, 2020.

in which Colombia currently stands, wherein even though the country is an OECD Member, it is also a recipient of the ODA.

Along with the OECD, Colombia has also refrained from becoming a donor country, as it still faces major socioeconomic challenges that require the ODA's support. Moreover, the country is experiencing a moment of conjuncture, a potential post-conflict scenario, which will require major international cooperation¹⁰⁵.

Public policy perspective

Colombia's process of accession to the OECD was fraught with strain by cause of divided public opinions, controversy among stakeholders, and the assessments done by the 23 OECD Substantive Committees. These, although expressed in different ways, had a similar nature: a concern on the potential challenges for Colombia in what respects to the reform and future implementation of public policies and regulation for the purpose to reach, and keep reaching, the OECD's international standards.

The process of Colombia's entry to the OECD was itself a challenge, and the development of the Membership could possibly be even more complex since the country will have to comply with the undertaken commitments to maintain high standards on its public and private management; the Membership of the OECD entails a continuous evaluation of good practices.

The thorough reviews performed by the 23 OECD substantive Committees during the accession process revealed multiple modifications Colombia had to execute in order to meet the standards set by the Organisation, thus exhibiting some of the challenges Colombia currently has and will continue to have in the oncoming time as to this regard.

As it was mentioned earlier, Colombia adhered to over 200 OECD instruments and performed several in-depth internal reforms during its accession process, with a view to aligning its legislation, policies, and practices with those of the OECD and, therefore, receive a formal invitation to become a Member.

The specific fields that represented the foremost challenges for Colombia during its accession process and that will remain a challenge in the future, as stated by some of the 23 OECD Substantive Committees, are: i) Trade, ii) Labour and Social Affairs, iii) Education Policy and, iv) Fiscal affairs, among others, as it will be indicated below.

6.3.1. Challenges in trade

As mentioned above, Colombia's accession process to the OECD revealed the country lagged behind in terms of practices, policies, and regulation adopted by OECD Members. The rigorous revisions made by 23 OECD substantive Committees to Colombia's internal policies and regulation aimed to resolve some of these shortcomings.

¹⁰⁵ Cancillería República de Colombia., *op cit.*, note 104.

The OECD Trade Committee (TC) was one of the 23 Committees that evaluated Colombia during its accession process and it was one of the last Committees to give Colombia a positive evaluation, which was mandatory for the country to obtain the formal invitation to become a Member of the OECD. After detailed examinations of Colombia's internal and international stance on trade, the TC suggested a series of structural reforms to Colombia's policies and regulation in trade upon approval.

As the main issue, the TC highlighted, firstly, the need for Colombia to modernize its Intellectual Property Right (IPR) law to become part of the OECD. The IPR law that had been ruling since 1970 had to be subjected to reform before the approval of the TC¹⁰⁶. This was an issue that not only worried the TC but also various USA stakeholders, as the reforms to Colombia's IPR Law was a previously discussed matter between Colombia and the USA¹⁰⁷, and that Colombia had committed to fulfilling since 2012 when *the Free Trade Agreement* (FTA) was signed by both countries. It is possible to say that de IPR Law was a long-ago unfinished business among the two countries¹⁰⁸.

In late 2017, the Colombian Government carried out multiple reforms to the IPR Law, particularly making amendments to its copyright law and adapting the regulation to the present-day needs, taking into account the global changes in technology and digitalisation, to finally formulate a Bill of Law later presented to the Congress for approval¹⁰⁹; this particular step prolonged as it had to undergo several debates among Colombia's Senate and House of Representatives. Notwithstanding, the process was fulfilled and the reform to the IPR Law passed and approved.

Another trade-related aspect on which the TC recommended to perform major reforms for the purpose to grant Colombia its approval, was in what respects to the country's *Scraping Programme*, a Governmental policy that sought to incentivize the scraping of old trucks as a condition to issuing new truck licenses, which turn out to be what the TC considered a distortion of the market, as it led to corrupt practices and set barriers for imports of heavy vehicles to Colombia, generating uncertainty amid foreign investors. Likewise, affecting directly Colombia's population, since the levels of clean air decreased due to emissions from old heavy vehicles still circulating¹¹⁰. In this regard, to gain the TC approval, Colombia implemented

¹⁰⁶ Interview with Catalina Crane, Colombia's high-level contact person during Colombia's accession process to the OECD. Colombia acelera proceso para entrar a OCDE antes de agosto, 2018. *Portafolio.co* [online].

¹⁰⁷ As mentioned before, when Colombia was invited to initiate the accession process to become a Member of the OECD, the USA raised some objections. The IPR law matter, among other trade-related aspects that will be mentioned herein, were the focal points of the concerns raised by the USA to the TC, and they were urged to be solved before granting Colombia's approval. It is relevant to stress the USA is one of the OECD's bedrocks, as is one of the founding Member States and the principal donor and contributor to the Organisation. Executive Office of the President of the United States, 2018. *Keionline.org* [online].

¹⁰⁸ Upon the signing of the FTA between Colombia and the USA, in 2011, the Colombian Government formulated a Bill of Law to be presented to Congress with the agreed reforms to the IPR Law. However, the Bill of Law was unsuccessful and was not approved by Congress due to procedural and formal flaws. Colombia acelera proceso para entrar a OCDE antes de agosto., *op cit.*, note 106.

¹⁰⁹ Colombia acelera proceso para entrar a OCDE antes de agosto., *op cit.*, note 106.

¹¹⁰ BIAC the voice of business at the OECD, 2018. *Uscib.org* [online].

transitory policies to reform the country's *Scraping Programme*¹¹¹, committing to implement policies more suitable for international trade and coherent to environmental regulations.

Ultimately, another central question raised by the TC revolved around concerns of the pharmaceutical industry. This topic was particularly controversial as it was subject to a quarrel among the USA Executive Office and the Ministry of Trade of Colombia, Civil Society, and local and international organisations that eventually intervened. The discussion relied primarily on the elimination of any alternative to unilaterally reduce prices of pharmaceuticals, for example, by issuing a Declaration of Public Interest (DPI)¹¹². The implicated actors discussed topics such as the importance of public health over the interests of big pharmaceutical companies and the autonomy of nations to issue a DPI¹¹³. Nonetheless, despite the disagreements, Colombia reformed its policy accordingly in order to ease the wariness and secure its way to the OECD, still with a challenging road ahead in this regard.

In addition to the main trade-related concerns of the TC and stakeholders mentioned before, there were other issues in the trade sphere that gave rise to concern and, although the primary ones were addressed so Colombia could meet OECD standards and, thus, obtain approval of the TC, challenges over these issues persist and will need to be addressed in the future.

The aspects in question, that will represent a challenge for the country when complying with the international commitments and obligations assumed with the OECD, some of them related to the above-mentioned primal concerns of the TC, are¹¹⁴:

- The continuous implementation of the commitments made, not only with the OECD, but also with other actors, for example, with Governments through trade treaties, FTA's, etc., as these are proof the capacity, will and effectiveness of Colombia to comply with other international obligations, hence comply with OECD obligations.
- The un-enactment of public policies that translate into trade barriers, for instance, those that are price-manipulative from a unilateral perspective, among others that affect international trade and non-discriminatory measures.
- The issuance of public policies that truly ensure the "open-market" principles and promote free trade, abiding by international obligations.
- The issuance of public policies with enough time for interested parties to have a voice to comment over technical issues, which can help to avoid trade barriers and ensure

¹¹¹ Colombia acelera proceso para entrar a OCDE antes de agosto., *op cit.*, note

¹¹² Business at OECD: Pre-Accession Recommendations for Colombia, 2019. *Uscib.org* [online].

¹¹³ The Trade Representative of the Executive Office of the President of the United States sent a letter to the Minister of Trade, Industry and Tourism of Colombia, expressing the concerns of the USA over certain trade-related matters, as well as those of the USA stakeholders in the pharmaceutical industry. The letter enumerated the aspects that Colombia needed to amend in order for the USA to give a positive opinion to the TC. The Colombian Government and other institutions and international organisations responded straightforwardly this letter, manifesting discontent towards an alleged pressure from the USA to Colombia for the latter to implement regulation in the interest of the USA. Letter to Ambassador Robert Lighthizer, 2018. *Keionline.org* [online].

¹¹⁴ Business at OECD: Pre-Accession Recommendations for Colombia., *op cit.*, note 112.

transparency. This, also following other international Agreements such as *the World Trade Organization Technical Barriers to Trade Agreement*.

- The development of public policies that create prompt mechanisms to ensure that international products obtain rapid access to markets. Also, avoiding unnecessary delays, for instance, prolonging the country's review of products that have already been revised by OECD countries. This, as performing the contrary would translate in an obstacle to trade.
- The issuance regulation and public policies that elude discriminatory practices and internal corruption, so the different trade-agents are treated on equal terms (although there is currently regulation that benefits this matter, Colombia needs to continue issuing regulation and policies in the same way, not only at the international level but also internally, intending to go beyond written norms to implement them effectively).
- The elimination of alternatives that allow the unilateral setting of product prices through public policies, for example, as was mentioned earlier, by means of a DPI to reduce pharmaceutical prices.
- In accordance to the previous paragraph, the creation of adequate restrictions to the use of DPI in order to avoid unilateral price cuts, which affect international trade, and to better implement international references, for instance, the International Reference Pricing, to grant fair prices, transparency and predictability in the international trade.
- The issuance of clearer and effective regulation on online-piracy and counterfeiting.
- The creation of public policies that avoid trade barriers, ergo generating an appealing environment for foreign investors.
- The development of clearer and more easily enforceable patent rights.
- The creation of public policy that reinforces compliance and effectiveness of IPR Law, hence encouraging investment, academic research, and support for inventors' initiatives
- The designing of public policies that support, incentive, and hearten innovation (discounts for price of patents and trademarks, reduction of delays, fast-tracked procedures, economic and fiscal incentives, etc.).
- The replication and improvement of previous successful public policies.

The trade sphere is one of the OECD's primary focus. As it was previously mentioned, the Convention of the OECD established since its creation and, even prior to the development of its articles, one of the Organisation's focal points: the need to improve economic international relations by virtue of the expansion of global trade, as an essential way for cooperation and the development of nations¹¹⁵. Furthermore, throughout the body of articles of the OECD Convention, this aspect was reiterated, for example, in article 1, literal c of the Convention, in which it was stated that the OECD shall promote policies *"to contribute to the expansion of*

¹¹⁵ The Organisation for Economic Cooperation and Development., *op. cit.*, note 19.

world trade on a multilateral, non-discriminatory basis in accordance with international obligations"¹¹⁶

6.3.2. Challenges in Labour and Social Affairs

Colombia has faced different labour and social issues throughout time, long before the accession process with the OECD began, yet during the accession process with the OECD this was a topic that resonated strongly at an international level. Most of the OECD Members hold the highest labour and social standards in the world as it will be illustrated down the line. Nevertheless, this was one of the areas that represented some of the most significant challenges for Colombia.

In the course of the assessment of the 23 OECD Substantive Committees, the Labour and Social Affairs Committee (LSAC) was one of the Committees that advised for major structural reforms to Colombia's regulation, policies, and practices over labour and social-related aspects. This, represented a challenge for Colombia during its accession process and remains as one, given the country's need to design public policies following the OECD's high standards, with an eye in complying with its international obligations.

The LSAC delivered multiple recommendations to Colombia to align with the best practices of the OECD. In a process that lasted approximately 4 years, Colombia carried out several substantial reforms and committed on different areas of its labour and social practices, following the recommendations made by the LSAC. Finally, in early 2018, Colombia managed to execute most of the reforms suggested by the LSAC and, in the same year, obtained its approval. Nevertheless, some important questions pended unanswered, compromising the country to address them in the future and to conclude the adjustment of its public policy accordingly with OECD's standards¹¹⁷.

The primary aspects mentioned above, were:

In the first place, the violence against labour unionists in Colombia. This was one of the principal subjects evaluated by the LSAC and also a major objection raised by several organisations in the international and local sphere.

HRW and Amnesty International were part of the organisations that pointed out Colombia's need to develop policies to protect labour unionists from different sources of violence prior to the LSAC approval. In 2017, HRW published a report that presented a critical view of the human rights situation in Colombia, which not only exposed the present threats and violence against labour unionist in Colombia, but also the violence suffered as a result of forced displacement, gender violence, narco-terrorism, the confrontation between armed forces, assassinations of social leaders, among others deeply serious problems the country endures due to its more than a half a century internal conflict¹¹⁸.

¹¹⁶ The Organisation for Economic Cooperation and Development., *op. cit.*, note 19. Article 1.

¹¹⁷ Vargas-Alzate L., *Colombia en la OCDE: las realidades de su adhesión*, Bogota D.C, 1st ed., Fundación Konrad Adenauer, 2018, p. 68.

¹¹⁸ Vargas-Alzate L., *op. cit.*, note 117. p. 110.

Violence against labour unionists was also an issue raised by several labour unions in Colombia, for instance, the CUT and the CTC, among others. When the OECD first invited Colombia to initiate the accession process to become a Member of the OECD, the labour unions objected the invitation and adopted a unified position to reject its effectiveness until Colombia performed rigorous reforms to the issues that, in their opinion, needed to be managed before Colombia's Membership entered into force, focusing mainly on violence against labour unionists. Representatives of labour union groups in Colombia manifested that: *"The approval of the entry of our country [Colombia] to the OECD, without having solved such serious problems and amid impunity for the more than 3,000 trade unionists murdered in the last 30 years, would completely leave the Colombian trade union movement without arguments on its demands to the Government and on its international complaint"*¹¹⁹. Nonetheless, after Colombia's Government carried out various changes to its labour and social policies, labour unionists' groups still expressed discontent and opposition to the LSAC's approval over Colombia's practices and regulation, as well as the formal invitation for the country to join the OECD¹²⁰.

The above, given Colombia's complex reality, where violations of human rights against labour unionists and social leaders have persisted and increased over time, making this a critical issue the country currently faces and which diminishes its stance over human rights protection, not only with OECD Members but globally. The labour unionists particularly highlighted the *"continuing violence against trade unions and social activists; refusal and withdrawal of protection; persistently high rates of impunity for crimes against trade unionists... and violations of the right to collective bargaining and the right to strike"*¹²¹, thus, calling for OECD Member countries to delay Colombia's Membership before real progress was made in this area.

Colombia was able to conduct multiple reforms to further increase protection policies for labour unionists and committed to continue protecting their human rights, following the LSAC's extensive reviews and suggestions. However, the increasing violence in Colombia continues to represent one of the toughest challenges for the country, therefore, further efforts should be implemented to counter its effects, in order to guarantee efficient safeguard of labour unionists rights.

The Colombian Government has committed on this regard not only with the OECD but in other global fora. Nevertheless, the situation of workers and labour unionists appears to deteriorate with time¹²². Apart from the legal obligations Colombia has assumed locally and internationally, the Administration will have to reinforce regulation and policy abundance as the

¹¹⁹ Centrales sindicales rechazan ingreso de Colombia a la OCDE, 2017. *IndustriALL* [online].

¹²⁰ There have been multiple press conferences, letters, and public conferences in which Colombian labour unionists have expressed their disconformity with Colombia's accession process to the OECD. The malaise existed even before the process began and was accentuated during the 23 OECD substantive Committees reviews to Colombia's policies, practices, and regulation, specifically with the assessments done by the LSAC. The objections remain to this day. A document outlining the general position of the labour unionists towards Colombia's process of joining the OECD can be found at: La adhesión de Colombia a la OCDE: una equivocación, 2017. *Ail.ens.org.co* [online].

¹²¹ "No Progress on Trade Union Rights and Safety in Colombia? No OECD Accession" say Colombian Trade Unionists - TUAC, 2018. *TUAC* [online].

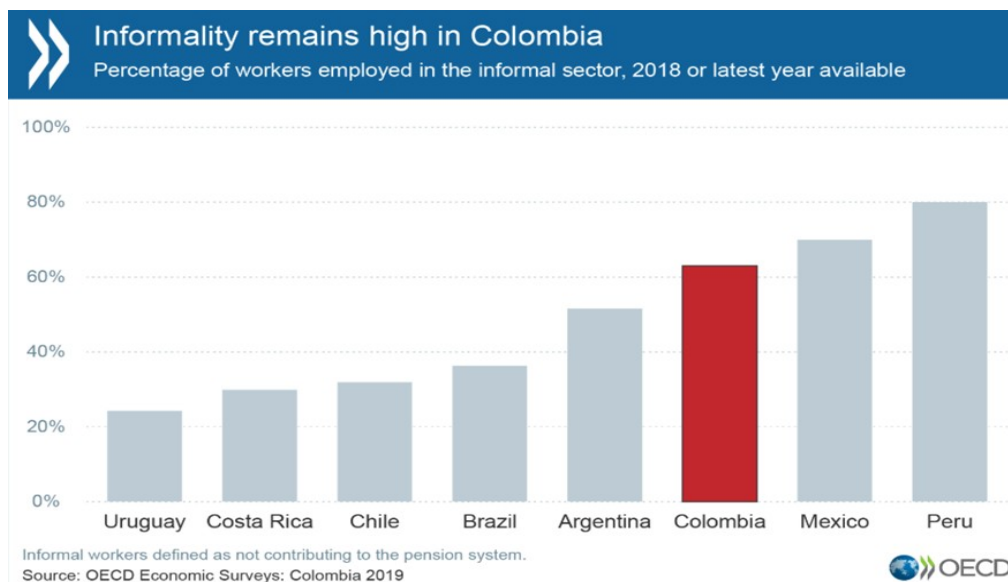
¹²² FEINGOLD, CATHY, 2019, Murdered Trade Unionists: The Truth Behind Colombia's Trade Agreement. *Aflcio.org* [online].

current situation does not reflect an effective impact of the law over reality¹²³. Colombia's Government will need to commune its policies and practices with the country's reality, focusing not only on issuing regulation and assuming several commitments, but also prioritizing compliance with the regulation currently available without indulgence and observing the primacy of reality over formalities.

In the second place, another of the primary challenges Colombia faces over its labour and social affairs regards to the country's ample labour informality. Also, this being one of the issues on which the LSAC advised for the majority of reforms.

Labour informality is a nuisance Colombia has endured for a long time. However, the country has made progress on this regard through efficient reforms and the issuance of regulation to counter this phenomenon, ergo decreasing informality over time. The most outstanding reforms, for instance, are the country's latest tributary reform and *the Law for Formalization and Generation of Employment*. The first, comprised of clearer and categorical regulation, which contributed to reducing informality in the country by more than 10% on a timely basis once implemented and, the second, directed to generate incentives for labour formalization of emerging companies, by increasing the benefits in formalization and decreasing transactions and costs¹²⁴.

Notwithstanding, the phenomenon of labour informality persists in the country at a high level and currently stands at around 60% as it can be noted in the chart below (Graphic 6), which raises the need for the Colombian Government to create future public policies that incentive labour formality and support or complement the regulation that already exists, which has proven to be effective. This, in order to comply with the country's national and international commitments, in this case, the obligations acquired with the OECD upon becoming a Member.



Graphic 6. This graphic shows the percentage of Colombian workers employed in the informal sector in contrast with other OECD Latin American countries (Mexico and Chile)¹²⁵.

¹²³ FEINGOLD, CATHY., *op. cit.*, note 122.

¹²⁴ Vargas-Alzate L., *op. cit.*, note 117. p. 103.

¹²⁵ Colombia is a Latin American success story, but must pursue new reforms to achieve stronger and more inclu

The OECD has publicly acknowledged Colombia's efforts to improve in this area and its commitment to reduce labour informality. The Organisation has recognized Colombia's actions and policies to counter this phenomenon. Although, stressing the need for the Colombian Government to keep working until numbers drop even further and higher standards are met. This, through the creation of public policies to address this issue, for instance, by means of public policies that promote¹²⁶:

- Reduction of non-wage labour costs.
- Formal employment and inclusiveness.
- Simplification of the process to register workers for Social Security, for example, by decreasing registration costs, thus deleveraging informality and easing the path to formality.
- Improvement of quality in education and, consequently, the ability of workers to find formal jobs, by providing them with the appropriate skills; which will also have a substantial effect on reducing poverty rates.
- Structural reforms towards a higher minimum wage that encourages formality.
- Mechanisms to prevent subversion by armed groups in industries such as the mining industry, as well as to prevent forced labour, human trafficking, environmental damage, criminality, and other violations of rights.

Apart from the issues analyzed above, Colombia faces other challenges in the formulation of labour policies in the future, which were also discussed by the LSAC during Colombia's accession process to the OECD. Some of the aspects on which Colombia will have to design, improve, prepare and implement better economic and social policies are the generation of high-quality jobs, the reinforcement of compliance with labour regulations, effective sanctions for violations and breaches of the Labour Law (efficiency in the collection of fines), the assignment of more auditors and labour inspectors, the dialogue among Governments and unions and the increase in efforts to eliminate abusive practices of outsourcing¹²⁷. This, in order to be in line with practices and standards of OECD Members.

6.3.3. Challenges in Education

Education is a preponderant area in the substantive work of the OECD. The OECD has a significant focus on the development of education in OECD Members and non-members countries; helping countries achieve high standards in education is one of the Organisation's main current goals.

In the field of education, the OECD has assembled 2 globally upheld initiatives, firstly, *the Programme for International Students Assessment (PISA)*, an internationally recognized survey

¹²⁶ Colombia is a Latin American success story, but must pursue new reforms to achieve stronger and more inclusive growth., *op. cit.*, note 125.

¹²⁷ Vargas-Alzate L., *op. cit.*, note 117. pp. 68, 72.

performed triennially among countries and used as reference to measure the skills and competencies acquired by 15-years-old students at an international level to determine their readiness to effectively incorporate into society and its systems of production (the assessment focuses on the proficiency in mathematics, reading, science, and well-being of students)¹²⁸ and, secondly, *the Education at Glance Report* (EGR), which annually analyses education-related data of Members and non-member countries to formulate recommendations that aspire to help improve countries' formulation of public policies in this regard¹²⁹; among other initiatives.

OECD global programmes, initiatives, and studies on education help countries identify and address challenges through the design of appropriate and efficient public policies, also, providing continuous advice to Government officials on the implementation of policies based on reliable statistical data. This, not only in what respects to education, but also in relation to other spheres of work of the OECD.

Education is one of the fields in which OECD Member countries are most at the forefront, which is why it was as well one of the main areas that caused concern during Colombia's accession process, due to the country's lag on this aspect versus OECD Members. At present, this issue continues to pose a major challenge for Colombia, particularly with reference to the disparity in comparison with the average score of OECD countries as it will be explained below.

The OECD Education Policy Committee (EPC), was part of the 23 OECD Substantive Committees that assessed Colombia during its accession process to become a Member of the OECD. The EPC advised for various reforms to Colombia's educational regulation, policies, and practices prior to its approval, reforms that the country carried out with a commitment to continually improve in order to meet OECD standards.

The foregoing represented a challenge for the country. Nonetheless, Colombia has shown a trend of improvement over time from its first participation in the PISA survey in 2006 to its last participation in the PISA survey in 2018, a fact that reflected Colombia's progress in the field of education while the accession process to the OECD was underway and the EPC's recommendations on education policymaking were abided.

The latest PISA results in 2018 demonstrated, among other things, Colombia's positive trend over time in the 4 areas examined by the survey: mathematics, science, reading, and well-being. In what respect to reading, the country's performance declined compared with the PISA survey of 2015, however, when analyzing Colombia's long-term performance in the PISA surveys, the

¹²⁸ “The idea behind PISA lay in testing the knowledge and skills of students directly, through a metric that was internationally agreed upon; linking that with data from students, teachers, schools and systems to understand performance differences; and then harnessing the power of collaboration to act on the data, both by creating shared points of reference and by leveraging peer pressure... PISA shows what countries are doing to support their students and provides an opportunity for countries to learn from each other” Schleicher, A., *PISA 2018. Insights and Interpretations*, Paris, OECD, 2019, pp. 3 - 4.

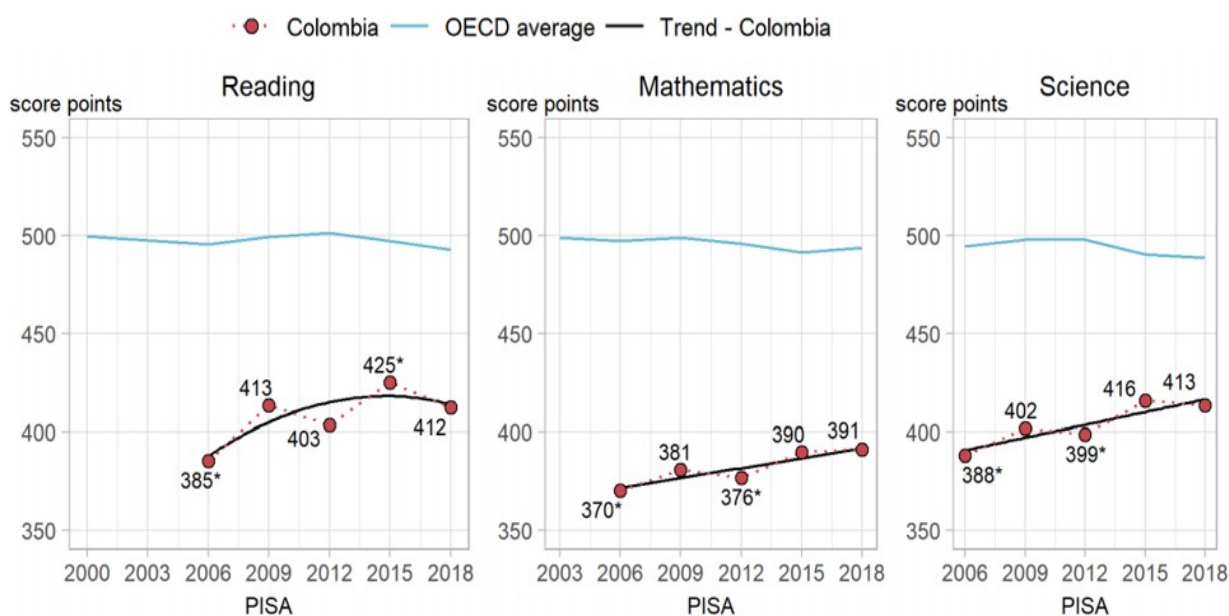
¹²⁹ “Education at a Glance is the authoritative source for information on the state of education around the world. It provides data on the structure, finances and performance of education systems across OECD countries and a number of partner economies... provides key information on the output of educational institutions; the impact of learning across countries; access, participation and progression in education; the financial resources invested in education; and teachers, the learning environment and the organisation of schools”. Education at a Glance, 2019. *Oecd.org* [online].

country consistently projected an improvement, as well as in mathematics and science, although still with a considerable margin compared to OECD Members' average¹³⁰.

Along with the above points, in terms of well-being, the PISA survey of 2018 ranked Colombia as the country with the best performance in most questionnaires, with students manifesting to feel more satisfied with their lives and expressing fewer negative thoughts, surpassing the average score of OECD Members. Although, with some specific below-average areas to be improved in the future, including bullying, loneliness at school, and class-skipping¹³¹.

Lastly, Colombia showed a considerable improvement in the 2018 PISA survey regarding *gender approach*, achieving the highest score of all the countries assessed in almost all areas except mathematics and science, where the gender gap favoring boys resulted to be one of the largest among the countries evaluated¹³².

The following graphics (Graphics 7 and 8) will illustrate the findings mentioned in the paragraphs above:



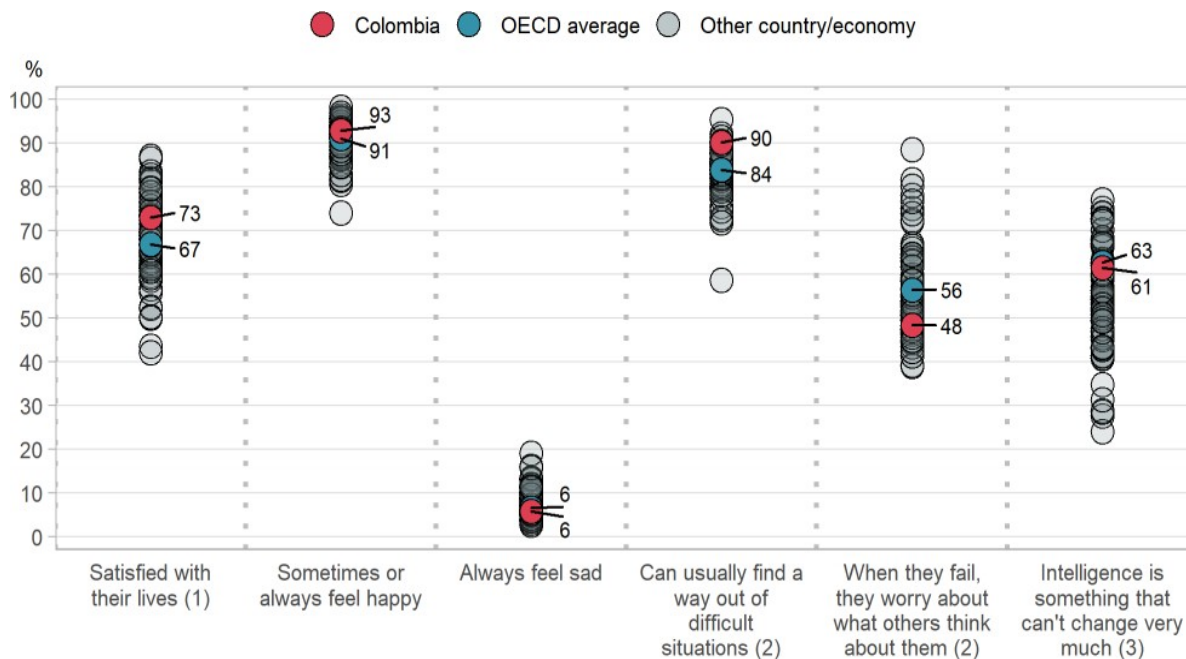
Graphic 7. This graphic shows Colombia's performance and trend in the PISA from before the start of its accession process to become an OECD Member until the latest PISA survey (2018), versus the average performance of OECD countries during the same period¹³³.

¹³⁰ OECD., *Programme for International Student Assessment (PISA) Results from PISA 2018*, Paris, OECD, 2019. p. 1, 8, 9.

¹³¹ OECD., *op. cit.*, note 130. pp. 1, 8, 9.

¹³² OECD., *op. cit.*, note 130. pp. 1, 5, 6.

¹³³ OECD., *op. cit.*, note 130. p. 4.



Graphic 8. This graphic shows Colombia's performance in the latest PISA survey of 2018 specifically in the sphere of well-being, versus the average performance of OECD Members countries and other non-member countries¹³⁴.

As the graphics show, Colombia still underperforms OECD Member countries in educational matters, which means, as aforesaid, that the country will have to take farther action in its education policy to meet the average scores of the other OECD Members, which are some of the highest in the world. Likewise, the country would have to address the issues that create barriers to improving education, such as malnutrition of children in some areas of the country as, for example, the children of northernmost Colombia, or the impediments for children living in rural areas, among other matters closely linked to educational levels¹³⁵.

Even though Colombia is on the right track and progress has been made over time, there are still challenges that remain, which can be addressed through effective implementation of existing regulation, policies, and practices as well as with improvements in future policymaking in education.

Some of the challenges and proposals for the future to approach public policies in education formulated by the EPC, the PISA, and the EGR, among other studies, are:

- Continue with the implementation of public policies in education that have been successful for the country in the past, therefore maintaining the positive long-term trend the country has accomplished in this field, for instance, through policies that promote a

¹³⁴ As mentioned earlier, there are elements of the well-being sphere that are not displayed in this graphic and need to be improved. This, with regard to the perception of the “school climate” by students in subjects such as bullying, loneliness at school, competition among students and school-skipping. OECD., *op. cit.*, note 130. p. 9.

¹³⁵ Malnutrition in Children - UNICEF DATA, 2020. *data.unicef.org* [online].

continuous development of a wider network of schools so that more children have access to basic education, especially in rural areas¹³⁶.

- Improve and maintain the existing school infrastructure.
- Monitor the allocation of educational resources commanded by the central and local Administrations.
- Allocate sufficient resources so that students can receive a high-quality education and are also able to acquire a toolbox of skills that will better prepare them for higher education and guide them on an “*educational excellence path*”¹³⁷.
- Reinforce efforts to eliminate gender and socioeconomic disparities¹³⁸.
- Create public policies that reduce costs and aim at free education, so that children are guaranteed equal opportunities of access to education. This, for example, through the development of public policies that complement those that already exist, for instance, policies that provide additional support to initiatives like *Ser Pilo Paga* (SPP), a public policy developed by the Colombian Government to support students from low-income families access higher education¹³⁹.
- Increase investment in the provision of high-quality education as well as promote a comprehensive education that strengthens the values of life in society, such as honesty, justice, kindness, respect, etc¹⁴⁰.
- Educate students with certified teachers who provide a high-quality education.
- Incentivize teachers and restructure their current wage scheme¹⁴¹.

The idea behind the OECD’s global initiatives in education is to share evidence in educational policies and practices of countries, analyzing their performance over educational affairs to offer them support to provide the best education to their students. On this, the OECD SG stated that:

¹³⁶ Vargas-Alzate L., *op. cit.*, note 117. p. 78.

¹³⁷ Vargas-Alzate L., *op. cit.*, note 117. p. 78.

¹³⁸ OECD., *op. cit.*, note 130. p. 1.

¹³⁹ The SPP was instituted in Colombia in 2014 in an effort from the Government to improve the quality of basic education, enable access to higher education, and reduce inequalities in the country. This, by means of expanding the coverage of students’ education regardless of their socioeconomic background, while fully condoning/awarding scholarships for undergraduate studies based on merit and needs. Colombia’s “Ser Pilo Paga” programme: A smart investment?, 2019. *World Bank Blogs* [online].

¹⁴⁰ Education at a Glance., *op. cit.*, note 129. p. 1.

¹⁴¹ Currently, teachers in Colombia with similar professional experience earn the same salary irrespective of the level of education they impart. This differs from the practices of other OECD Member countries where, on average, teachers increase their income according to educational level. Additionally, teachers in Colombia spend more hours teaching than the OECD average. This, due to the quantitative difference in students per class, which is higher in Colombia at all levels of education except primary, than in other OECD countries. Education at a Glance., *op. cit.*, note 129. pp. 3-4.

*“equipping citizens with the knowledge and skills necessary to achieve their full potential, to contribute to an increasingly interconnected world, and to convert better skills into better lives needs to become a more central preoccupation of policymakers around the world. Fairness, integrity, and inclusiveness in public policy thus all hinge on the skills of citizens. In working to achieve these goals, more and more countries are looking beyond their own borders for evidence of the most successful and efficient education policies and practices”*¹⁴².

The different spheres of substantive work of the OECD are interconnected, the improvement of one generally positively affects the other, to give an example, the improvement in education echoes directly within the labour and social spheres, for instance, the achievement of a high-quality education could allow labour informality rates to fall as students will be better prepared for higher-quality jobs, which will also positively affect the economy¹⁴³.

6.3.4. Challenges in Fiscal Affairs

International taxation is as well a primary aspect that will represent a challenge for Colombia in the future and that also constituted one during Colombia’s accession process to become a Member of the OECD.

The OECD counts with globally known instruments that address international taxation, those to which Colombia adhered to during its accession process to the OECD, with the aim of demonstrating the country’s willingness to adopt the vision of the OECD on international fiscal affairs, also, relying on the OECD’s perspective to be the convenient one to maintain in the future, ergo committing to the Organisation. The adoption of the OECD instruments not only occurred in the field of international taxation but also, as mentioned earlier, with over 200 instruments in other fields of work of the Organisation.

Some of the most successful and world-renowned fiscal instruments Colombia introduced during its accession process in order to meet OECD standards were: the OECD/G20 Base Erosion and Profit Shifting project (BEPS)¹⁴⁴ and its Inclusive Framework (IF)¹⁴⁵, The Tax Inspector Without Borders initiative (TIWB)¹⁴⁶, the Transfer Pricing Guidelines (TPG)¹⁴⁷, the

¹⁴² Schleicher, A., *op. cit.*, note 128.

¹⁴³ Colombia is a Latin American success story, but must pursue new reforms to achieve stronger and more inclusive growth, *op. cit.*, note 125.

¹⁴⁴ A project launched in 2013 that aims to “ensure that the international tax rules don’t facilitate the shifting of corporate profits away from where the real economic activity and value creation are taking place”, which also seeks to tackle the challenges arising from the digitalisation of the economy. OECD., *Work on Taxation*, Paris, OECD, 2019, p. 9.

¹⁴⁵ A framework that allows OECD Member countries and OECD non-member countries to work, on an equal footing, on the BEPS project and its implementation. OECD., *op. cit.*, note 144. p. 11.

¹⁴⁶ An initiative that aims to deploy experts to Administrations requesting assistance to work alongside with tax officials in order to share knowledge and build capacity on a “learning by doing” basis. Tax Inspectors Without Borders, 2020. *Tiwb.org* [online].

¹⁴⁷ A toolkit that provides “guidance on valuing cross-border transactions within a Multinational Group”. OECD., *op. cit.*, note 144. p. 14.

International Standards on Tax Transparency (ISTT)¹⁴⁸, the Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAATM)¹⁴⁹, among other programmes, toolkits, instruments and initiatives currently implemented by Colombia.

Colombia's commitment to the adoption of the OECD instruments on international taxation, as well as the reforms undertaken in matters of domestic regulation, made it easier for the country to obtain approval from the OECD's Fiscal Affairs Committee (FAC) in 2016. Throughout the process, Colombia reiterated its alignment with OECD's standards and its improvements in tax matters, also reaffirming a good path to accomplish better policies and standards in future tax practices¹⁵⁰.

The FAC highlighted Colombia's fruitful measures in several tax-related areas as, for instance, information exchange on tax-related matters, development of accurate data for tax statistics, peer reviews, creation of frameworks to define taxes on multinational companies, transfer pricing, implementation of aggressive tax planning strategies, control over fiscal felonies, and strengthening of fiscal collection¹⁵¹. Nonetheless, the FAC also mentioned Colombia's major challenges to be addressed in the future, such as¹⁵²:

- Reduce tax avoidance and evasion by straightening the tax Administration.
- Implement measures and sanctions to tackle fiscal felonies and money laundering.
- Reduce the corporate tax burden and eliminate its various tax exemptions.
- Aim for a further transparent administration of tax in order to improve the redistribution of resources and create a solid tax culture.
- Counter levels of corruption in the Colombian fiscal system, thus increasing efficiency in the proper redistribution of revenue¹⁵³.
- Incentivize revenue from environmental taxes.
- Broaden the bases of Value-Added Tax and personal taxes.
- Design policies to sustainably boost fiscal revenue.

¹⁴⁸ International standards that aim to enhance transparency through the exchange of tax-related information among countries (automatic and/or on request). OECD., *op. cit.*, note 144. p. 16.

¹⁴⁹ Convention considered as “the most comprehensive instrument available to tax authorities for international co-operation to tackle tax evasion and avoidance”. OECD., *op. cit.*, note 144. p. 17.

¹⁵⁰ Colombia recibe aprobación de Comité de Asuntos Fiscales de la OCDE, 2016. *Es.presidencia.gov.co* [online].

¹⁵¹ Colombia recibe aprobación de Comité de Asuntos Fiscales de la OCDE., *op. cit.*, note 150.

¹⁵² Vargas-Alzate L., *op. cit.*, note 117. p. 116. Also see: Launch of the 2019 OECD Economic Survey of Colombia, 2019. *Oecd.org* [online].

¹⁵³ The fiscal system of Colombia, like that of the OECD countries, is a progressive and redistributive system, meaning that taxation is based on the individual's income; high-income individuals pay more taxes than low-income individuals, and the revenue collected is redistributed in society. Progressive Tax, 2020. *Bankrate* [online].

Review and identify inefficient programmes to reform, replace, or eliminate them.

Despite the challenges Colombia faces in the field of taxation, the OECD, as on other occasions, acknowledged Colombia's endeavor to create regulation and public policies in line with the commitments and obligations acquired with the OECD, which was evidenced, for instance, with the country's latest national tax reform and the issuance of the *Ley de Financiamiento*, that entered into force in late 2019 and aimed to increase revenue and reduce tax evasion¹⁵⁴.

Apart from the tax-related aspects mentioned above, there is currently a major challenge for the country: the digitalisation of the economy. However, this is not an issue that merely concerns Colombia, but the countries of the world.

Over the decades, the world has evolved towards a more interconnected and digitalized one. In addition to globalization, modern technologies have given rise to new business models within the digital world. The rapid and continuous evolution of the digital transformation of enterprises has posed new challenges for countries, as well as essentially changed human interactions and conventional business structures¹⁵⁵.

The digitalisation of the economy is a high-speed global phenomenon that affects every country in the world. However, the discussions on this matter at an international level are fairly new. The OECD scheduled a significant part of its present and future agenda to address this issue, giving special priority to the taxation of digital economies. Nonetheless, due to the COVID-19 pandemic, the agenda is currently suspended and topics pertaining to the coronavirus approach have been prioritized¹⁵⁶.

Discussions about tax in the digital economy center around the gap in the regulation on data collection and taxation of online advertising revenue, along with the existing lack of international tax rules to strengthen taxation in the digital business models, as digital companies currently enable little or no tax revenue by reason of their ability to easily reallocate profits to low-taxation areas or move locations as they do not have a physical presence¹⁵⁷.

In order to give a holistic approach to the fiscal challenges arising from the digitalisation of the economy and, to adequately address them with effective solutions, international cooperation among countries will be mandatory, as well as fostering a collaborative environment to find consensual solutions that meet the needs of the digital and globalized economies of the modern world.

In 2018, the OECD delivered the report on *Tax Challenges Arising from Digitalisation* to the OECD/G20 IF on BEPS, identifying the different views of countries on this phenomenon and paving the way for further discussions, with the purpose to find long-term solutions and produce

¹⁵⁴ Launch of the 2019 OECD Economic Survey of Colombia., *op. cit.*, note 152.

¹⁵⁵ What is digital economy?, 2020. *Deloitte* [online].

¹⁵⁶ For 2020, the OECD planned several meetings, forums, programmes and initiatives at the global level to address the digitalisation of the economy. Nonetheless, these have been suspended by reason of the COVID-19 pandemic. Global Relations Calendar of Events 2020 - OECD, 2020. *Oecd.org* [online].

¹⁵⁷ Digital Tax, 2020. *Ifo.de* [online].

a final report that identifies concerted ways to address this issue, with a 2020 deadline for delivery¹⁵⁸.

6.3.5. Other challenges

At the moment, Colombia and the world are confronted with a critical and unexpected phenomenon that took place at the beginning of the present year: the COVID-19 pandemic, which shook the economic, social and political arena, changing the global landscape for the coming years. Several studies are currently being developed on the implications of the coronavirus at the international level, in particular on the impact in developing countries. However, as former Ambassador of France and Special Advisor in Geopolitics, Michel Duclos put it: *“The full economic, cyclical and structural effects are not quite visible yet... It would, therefore, be risky to put forward at this time a general theory of the geopolitics of the pandemic”*¹⁵⁹.

Aside from the potential challenges that could arise due to the COVID-19 pandemic, Colombia faces other issues regarding, for instance, inequality, commodity-dependence, corruption, among others, which in conjunction with the challenges analyzed throughout the present study, reflect the long road that stills lies ahead for Colombia in order to meet other OECD Member countries highest standards in regulation, policy, and best practices. Notwithstanding, as mentioned before, Colombia has made significant progress and has already reached the OECD minimum standards, ergo becoming a Member of the OECD.

The oncoming challenges for Colombia can be seen as a possibility for the country to further improve its policy formulation and implementation under the guidance of a highly specialized body such as the OECD and thus, to continually strive for better outcomes. Membership in the OECD represents the entry into a circle of continuous and committed improvement, subject to periodic peer reviews in which countries evaluate the public policies of their peers on an equal footing, therefore propelling transparency, compliance, and support, to improve people’s lives through sharing knowledge and experience on best practices and policies¹⁶⁰.

In addition to the above, Colombia will also be a recipient of all of the benefits derived from becoming a Member of the OECD, for instance¹⁶¹:

¹⁵⁸ OECD., *op. cit.*, note 144. pp. 12-13

¹⁵⁹ DUCLOS, MICHEL, 2020, Is COVID-19 a Geopolitical Game-Changer?. *institutmontaigne.org* [online]. 2020. On the possible geopolitical implications of the COVID-19 pandemic also see: PAVEL, BARRY, 2020, The geopolitical implications of COVID-19 - Atlantic Council. *Atlanticcouncil.org* [online].

¹⁶⁰ *“Among the OECD’s core strengths is its ability to offer its members a framework to compare experiences and examine “best practices” in a host of areas from economic policy to environmental protection... each country’s policy in a particular area is examined by fellow members on an equal basis... this can save time, and costly experimenting, in crafting effective national policies... Peer review has been used at the OECD since the organisation was created more than 50 years ago. It has evolved over time to take account of new developments, including the involvement of civil society, business and labour”*. Peer review at a glance - OECD, 2020. *Oecd.org* [online].

¹⁶¹ WADE, JARED., *op. cit.*, note 76. Also see: The Organisation for Economic Cooperation and Development, *op. cit.*, note 19.

- The international seal obtained with the OECD Membership, considering that only countries that achieve economic and political stability are invited to join the Organization, thus resulting in security for foreign investment.
- Adherence to the OECD Convention, which establishes Colombia's position over OECD core values, such as democracy, economic-growth, individuals' liberty, free-market, and cooperation, etc.
- The benefit of sharing knowledge, experiences, and receiving support from peers.
- Convergence with the OECD living standards and moving towards a development path.
- Globally positioning as a strategic regional/global partner.
- The development of alliances with other OECD Members.
- Gain status and reputation by working hand in hand with like-minded partners and some of the world's leading economies.
- Be at the forefront of the most avant-garde global issues of today.
- Among others.

The future challenges on public policy that arise for Colombia by virtue of its Membership to the OECD can be envisaged as an opportunity for the country rather than a challenge, as well as a chance to improve the status quo, in order to reach better standards and improve the positioning at a national and international level, thereby generating a positive impact on society and future generations¹⁶².

¹⁶² Colombia the most recent country invited to join the OECD, 2020. *procolombia.co* [online]. Also see: The OECD and Colombia: A mutually beneficial relationship, 2020. *Oecd.org* [online].

7. CONCLUSIONS

By way of conclusion, it should be noted that:

- The OECD is an international organisation established in 1960 in Paris, France, which replaced its predecessor international organisation, the OEEC. The primal objective of the OECD is to promote policies that: i) Contribute to the development of the world economy, by achieving sustainable economic growth, increasing employment, and raising the living standards in Member countries, ii) Contribute to the economic expansion of OECD Member and non-member countries, particularly, developing countries and, iii) Contribute to the expansion of world trade.
- In addition to its economic approach, the OECD Convention incorporates a development dimension, which pursues the assistance to developing countries by industrialized nations, through international cooperation and the expansion of the scope and size of the Organisation, both geographically and in terms of functionality, for instance, welcoming countries from different parts of the world as Members of the Organisation and working in fields beyond macroeconomics, including education, environment, and agriculture, among other areas, as well as delving into the most avant-garde topics of today, such as the digitalisation of the economy, cyberterrorism, blockchain technology, aging societies, etc.
- The accession process for Membership to the OECD is a complex matter that passes beyond a simple fulfillment of formalities. It is a rigorous procedure in which objective and evidence-based information is collected from prospective Members, in order to assess their suitability to become Members of the Organisation; this decision is finally adopted *-in consensus-* by the OECD Council, subsequently to examining the information obtained.
- Colombia had to undergo 2 processes in order to officially become a Member of the OECD:
 - Firstly, the process within the OECD, which implied the thorough reviews of the 23 OECD Substantive Committees, followed by their approval over Colombia's internal state of affairs in what regards to the main fields of work of the Organisation. This, once the country performed the structural reforms the Substantive Committees suggested to its internal regulation and policies, in order to obtain the final evaluation of the OECD Council.
 - Secondly, after the OECD Council granted Colombia the official invitation to become a Member of the Organisation, the country began its internal process, following the by-law steps for the country to adhere to an international instrument, in this case, to the OECD Convention and, posteriorly, its depositary with the French Government. Colombia's accession process to the OECD lasted 7 years, beginning in 2013 and successfully culminating on April 28th of the present year, 2020.
- During the reviews of the 23 OECD Substantive Committees, Colombia conducted several in-depth reforms to its regulation, practices, and policies recommended by the

Substantive Committees, in order to align with the OECD's international standards, especially in the fields of trade, labour and social affairs, education, and fiscal affairs. These turned out to be the most challenging areas for the country since structural changes needed to be conducted prior approval of the Substantive Committees, in matters such as the IPR law, protection of labour unionists' human rights, educational improvements, and adherence to OECD instruments on international taxation, among others.

- Colombia's current stance in contrast with other OECD Member countries reflects the path that still lies ahead for Colombia to achieve the best standards of other OECD Members in various fields. Nonetheless, Colombia has shown an improvement and a positive trend over time, being the country with the highest growth as well as the 4th largest economy in the LAC region.
- The reviews performed by the 23 OECD Substantive Committees during Colombia's accession process to the OECD, not only revealed Colombia's biggest challenges at that time, but also the challenges that arise for the country in the future from the public policy perspective, on the grounds of the implementation of the reforms carried out and the continuous achievement of the OECD's high standards. Currently, the challenges emerging due to the digitalisation of the economy and by reason of the COVID-19 pandemic are the OECD's top priority.
- The Membership to the OECD will be beneficial for Colombia as it would represent the country's political and economic stability, security for foreign investment, a free-market driven economic system and democratic values, as well as the benefits in sharing knowledge and receiving support from peers, the advantages of creating strategic alliances with major economies of the world and the forum to be at the forefront of the most avant-garde global issues of today, among others.
- Colombia still has a long way to go in order to fully align with the OECD's international standards. Complex challenges arise for the country by virtue of its new Membership to the OECD and the country might not be sufficiently prepared to address them fully. Notwithstanding, Colombia has shown a trend of improvement throughout time in which the OECD considers substantive areas, including taxation, statistics, trade, education, governance, etc. Furthermore, during its accession process to the OECD, Colombia was in a position to conduct the appropriate reforms to its internal regulation, practices, and policies to reach the OECD's minimum standards.
- The challenges arising for Colombia can be addressed through time from a public policy perspective. The oncoming challenges can be considered as an opportunity for the country to further improve its policymaking and implementation, under the guidance of the OECD, and continuously strive for better outcomes, with a view to having a positive impact on society and people's lives.
- Regarding Colombia's Membership to the OECD, the following questions remain: a) Will Colombia be able to maintain the OECD's standards in the long term and fulfill its international commitments under the OECD Convention? And, b) Will Colombia be able to address the challenges that arise by virtue of the Membership, especially considering the current COVID-19 pandemic?

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