

THE SYSTEM: AN OUTLINE

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To ensure the best odds of successful implementation, the Colombian peace agreement must work as a single, unified system. Its constitutive elements must fit together as an organised whole in which each element (i) has a clear justification within the overall system and (ii) a logical placement and relationship to other closely related elements of the system.

This document provides a broad outline of the second of these issues, based on currently projected models of AG points 3 and 5. A follow-on document will provide more detail on the mechanics.

PRECONDITIONS OF A SUCCESSFUL SYSTEM

For a peace process to work effectively as a system:

- A convincing but simple narrative must exist about the why, what, when and how of the system's operation (*see below*).
- Failsafe mechanisms, independent verification, contingency planning, and spaces for ongoing dialogue must exist in order to manage disputes and crises effectively.
- An overarching set of implementation principles (e.g., inclusion, conditionality, good faith, transparency) is required to guide choices within the system and minimise the risk of debilitating mistakes.
- Benchmarks for progress and results need to be agreed up front in order to have realistic outcome goals for the short vs. medium vs. long term.
- Civil society, including the media, must play an active role in informing and monitoring the operation of the whole system.

In the case of Colombia, an additional precondition bears mention:

- As the public is overwhelmingly antagonistic to the FARC, there will need to be high-impact gestures at the start of the process to soften the antagonism. This will involve a disproportionately high burden on the FARC, requiring them to manifest symbolically significant contrition – in words *and* in deeds. Without this, the process as a whole will lack legitimacy and could fail easily and quickly.

ELEMENTS OF THE NARRATIVE

The government will have to drive home its peace process narrative every day with the public. Below are some of the basic elements it should contain.

Guiding concerns (in the voice of the President):

- Our goal has never been to reach any peace, but always to reach an *enduring and stable* peace.
- While we needed an accord that respects our international obligations, the higher priority has always been to honour our own values and expectations as Colombians.
- As victims were our guiding concern in the negotiations, they will remain so in implementation.
- We must find a way to be generous to the FARC as and when they honour their signed commitments.

With these concerns in mind, the accord:

- Commits us to doing the hardest things first (and quickly), rather than deferring them to a later date.
- Places a premium on the (individual and collective) responsibility and accountability of the conflict's main actors.
- Uses carrots (positive incentives) to encourage good behaviour, and sticks (enforceable conditions) to avoid abuse of the system.
- Creates meaningful opportunities for the whole population to participate, with a special emphasis on the territories most affected by the conflict.
- Avoids any party becoming, or feeling itself to be, an absolute loser in the process.

YEAR 1: THE TRANSITION WITHIN THE TRANSITION

The first year following signature of the agreement is a test. We do not yet know whether Colombia is ready – or can *be made ready* – for a stable and enduring peace.

Above all, the year is an audition for the country's political, military and business leaders. Are they able and willing to take the necessary but unusual risks required to set a new tone and standard in the country? Will they be able to disrupt citizens' low expectations and understandable scepticism, and produce a more tolerant public disposition toward those seen to have done wrong?

As noted, the answer will depend to a disproportionate degree on the symbolism, words and deeds of the FARC. None of the conflict's actors (with the partial exception of the ELN) bears a remotely comparable credibility gap. As such, the spaces, carrots and sticks for them to undertake transformative gestures in the first year must be especially abundant and visible. Their gestures will need to demonstrate humility and remorse for their harmful excesses (*not* for their ideals) and a willingness to pay – alongside their former enemies – the reasonable legal and political price for what they did, as a precondition to enjoy the package of benefits and peace dividends they negotiated.

Beyond this, the first year is also a time to settle legal expectations (i.e., to provide the hard core of legal security for *everyone*, so that good faith implementation of *all* commitments stands a realistic chance). The faster this can happen, the better it will be for the whole system, as legal uncertainty in the Colombian context is akin to an unexploded landmine. Everything – from the adoption of implementing legislation, constitutional amendments, and budgeting and appointments, to the operation of justice itself – has to move at warp speed.

The specific priorities of the system in year 1 (in order of symbolic importance) would be the following:

- AG Point 3:
 - FARC's massive disarmament
 - FARC's massive demobilisation
- AG Point 5:
 - Early symbolic acts of collective/institutional responsibility by FARC and state actors
 - Early acts of disclosure and reparation by individual FARC members in areas such as decontamination, reforestation, infrastructure repair, crop substitution (Point 4), and the search for and identification of missing persons. (*State agents will undertake a similar gamut of actions.*)
 - Contributions of material assets of the FARC to the existing victim reparation program

- Operation of the non-judicial mechanism for cases of the missing and disappeared
- Adoption of the headline decisions in the area of criminal justice – i.e., the selection of cases by the special commission, and the subsequent individual indictments by the special prosecutor. *(NB: As you know, I have suggested that we renew internal discussion of a two-track approach which – using the right sticks and carrots – could incentivise a small but critical mass of leaders on all sides to opt for a first-out-of-the-gate hand-raising track prior to the subsequent indictment-driven track. Otherwise, the justice process is at higher risk of being destabilising.)*
- AG Point 2:
 - Quality participation by the FARC in any *Congresito* or special tripartite legislative commission
 - Formal dissolution of the FARC and creation of a new political party/movement whose mission explicitly precludes violence in politics

In parallel, the President/government (and/or any *Congresito* or special tripartite legislative commission) must ensure:

- AG Point 1:
 - Implementation of various agreed measures on access to and use of land *(NB: In my view, the rural development agenda is still missing a plan for a prestigious national peace corps/service for educated city youth to contribute a year of volunteer labour in the most conflict-affected communities.)*
- AG Point 2:
 - Passage of legislation on opposition political parties/movements
 - Adoption of an integrated security system for political participation
- AG Point 3:
 - Massive intensification of law enforcement against BACRIM
 - Prisoner exchanges and releases
 - Symbolic changes to national security doctrine
- AG Point 4:
 - International conference on narco-trafficking
- AG Point 5:
 - General amnesty for political offenses
 - Provisional suspensions of arrest warrants
 - Returns of displaced persons and expatriates/refugees

In my view, it would be best to resist the temptation to designate a single symbolic centre for year 1. The symbolism of *everything* will matter more than usual in this period, since the public will be seeking to match the peace process narrative with the words and deeds on view. For good or ill, first impressions – *across* the areas of intervention – will produce lasting impressions.

YEAR 2 AND BEYOND: THE TRANSITION AFTER THE TRANSITION

As the foundation stone of the larger peace process, the results of year 1 will determine what is realistic to hope or pursue as of year 2. If early aspirations materialise less favourably than expected (especially in the areas of weapons, justice and symbolic acknowledgments), serious adjustments of timing and sequencing will be necessary. As such, the system for year 2 will need to be anchored in contingency.

For argument's sake, a minimal concept of year 1 success (and, accordingly, of favourable year 2 conditions) would see:

- Something close to total disarmament and demobilisation by the FARC
- Conditional extinguishment of criminal liability for all non-indicted (and non-self-selected) leaders across the conflict divide
- Irrevocable steps by the FARC to transform into a political party/movement
- Game-changing gestures of recognition and reparation by the FARC
- A massive security surge against BACRIM (and an accompanying absence of revenge attacks against FARC ex-combatants)

However, even if such important results materialise, the environment at the start of year 2 will be anything but placid. Among other things, individual criminal proceedings would just be getting underway against various leaders, precluding the deeper calm that will become possible years later. Yet, if there was a widespread feeling that most of the hardest things were now out of the way (or, at least, *underway*), the basic preconditions for a productive continuation of the peace process would be intact.

Under such a scenario, the following would be the priorities as of year 2:

- AG Point 1:
 - Implementation of the remaining agreed measures on access to and use of land (e.g., environmental zoning, land registry updates, etc.)
 - Approval of territorial development plans
 - Adoption of national anti-poverty and food security plans
- AG Point 2:
 - Implementation of political inclusion (and enhanced civic participation) measures
- AG Point 3:
 - Deepening of the process of ex-combatant reintegration (including verification of conditionalities)
 - Implementation of any agreed SSR measures
- AG Point 4:
 - Adoption of substitution and eradication programs
 - Approval of national plan on consumption deterrence
 - Implementation of new strategy against narco-trafficking
- AG Point 5:
 - Operation of the truth commission, including investigations, public hearings, special dialogue spaces, final report, and follow-up mechanism. *(NB: Under the right conditions, the truth commission could become a symbolic centre of the peace process during the period of its public hearings. See my 22 March memo on this.)*
 - Holding of criminal trials for the cases in which defendants pled innocent
 - Launch of collective reparations programs (and the opening of related spaces for local dialogue)
 - Ongoing acts of reparation by individual FARC members and state agents
 - Adoption of any potentially non-repetition measures (e.g., national award for righteous persons, national human rights education plan)

NEXT STEPS

If you agree with this broad outline of the system, I can begin work on a more detailed, bottom-up vision of its mechanics.