

**Security Council**

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**Letter dated 25 January 2023 from the Secretary-General
addressed to the President of the Security Council**

I have the honour to transmit the attached agreement, dated 11 December 2022, on the institutionalization of the panel for peace talks reached by the Government of Colombia and the National Liberation Army (see annex), sent to me through my Special Representative for Colombia. The parties have requested that I circulate the agreement to the Security Council. They have further indicated that they would request the same to be done for other substantive agreements reached at the negotiating table.

I would be grateful if you could bring the present letter and its annex to the attention of the members of the Security Council. I will transmit, through this channel, future agreements received from the parties for the attention of the Council.

(Signed) António **Guterres**



Annex to the letter dated 25 January 2023 from the Secretary-General addressed to the President of the Security Council

[Original: Spanish]

Agreement on the institutionalization of the panel for peace talks between the Government of the Republic of Colombia and the Ejército de Liberación Nacional – ELN (National Liberation Army)

Preamble

The Government of Colombia and the Ejército de Liberación Nacional – ELN (National Liberation Army) initiated contacts in August 2012, followed by a period of confidential talks. On 30 March 2016, after nearly four years of work, the Parties signed the Agreement on peace talks in Colombia between the National Government and the Ejército de Liberación Nacional – ELN, in the city of Caracas, before six guarantor countries: the Federative Republic of Brazil, the Republic of Chile, the Republic of Cuba, the Republic of Ecuador, the Kingdom of Norway and the Bolivarian Republic of Venezuela.

Since then, as part of the peace process, the Government and the Ejército de Liberación Nacional – ELN have established mechanisms such as the peace talks panel, and have jointly defined and developed specific roles and forums for raising awareness of what was agreed and what was jointly designed, in order to garner strong support in Colombia and in the international community.

In October 2022, the Government of Colombia, headed by Gustavo Petro, and ELN decided to resume the talks that had been interrupted in August 2018. The new peace talks panel was established on 21 November 2022.

The present agreement was entered into during the first cycle of the deliberations of the panel in order to set out its structure, its participants and its functioning more firmly, more accurately and more clearly.

The current Government of Colombia confirms that the peace policy is a policy of the State that is not only constitutionally and legally mandated, but also a moral obligation. Consequently, it is not subject to termination or suspension by a subsequent Government. The agreements signed by the peace talks panel are binding on the public authorities and on all State institutions and officials.

The Government also recognizes that the principle of the international responsibility of States entails respecting what has been agreed before the international community and other States involved in the effort, as well as protecting the role of the guarantor countries involved in the process, which shall not be impaired, harmed or attacked for their participation in said process.

In accordance with the principle of *pacta sunt servanda*, or the general rule that agreements must be kept, the parties acknowledge that all the commitments and agreements shall undoubtedly be fully complied with, as they concern human rights, the right to peace and humanitarian law. Indeed, these are values and duties rooted in the most advanced and longest-standing area of international law, concerning struggles for human dignity and the dignity of peoples, which today necessitate the proscription of crimes against peace.

The essential objective of this process is to reach agreements to bring the armed conflict to an end by developing the necessary transformations for the building of comprehensive and lasting peace.

None of the parties shall use the resources, mediums or forums of this process for strengthening its military.

1. The delegations and the panel

1.1. The peace talks panel shall be composed mainly of the two signatory parties, namely the State of Colombia, represented by the National Government, and the Ejército de Liberación Nacional – ELN. Each party shall be responsible for appointing its delegates, advisors, consultants and technical observers.

1.2. The following countries, organizations and institutions shall also part of the panel and have been invited by agreement between the parties to participate as guarantors: Chile, Cuba, Norway, Mexico and Venezuela; or as permanent accompanying partners: the Episcopal Conference of Colombia and the Special Representative of the United Nations Secretary-General in Colombia.

1.3. For the purposes of the talks, the parties have agreed on the following nine principles regarding the configuration and interrelation of their delegations:

1.3.1. The parties shall be governed by bilateralism, consultation and joint implementation of agreements in making their decisions at the panel and in conducting their actions.

1.3.2. The parties, their delegates and the guarantor and permanent accompanying countries shall maintain confidentiality in respect of the issues that they have agreed to keep confidential for the security and confidence of the process.

1.3.3. Each party shall have the autonomy to appoint its delegates, counsellors, advisors and technical observers, who shall be accredited to the other party without there being any ground for objection whatsoever.

1.3.4. The delegations shall seek to resolve their differences through dialogue for the conclusion of agreements, preserving the autonomy of each party and honouring the principles of good faith, public interest, respect among their members and legitimate disposition, as well as the expression of free will without any coercion whatsoever.

1.3.5. At all times, in all places and under all circumstances, the members of both parties shall come to the meetings of the peace talks panel unarmed and be prepared for constructive exchange, and shall assume that perfidy or illicit exploitation of this defenceless posture is an international crime and therefore shall not be allowed for any reason whatsoever.

1.3.6. The parties shall use all internal consultation mechanisms to resolve any crisis that occurs during the meetings of the peace talks panel, ensuring to protect the integrity and security of all the members of the delegations. If the crisis is not resolved, and in the event of an eventual breakdown in the dialogue, the parties shall call upon the guarantors and accompanying organizations for assistance.

1.3.7. During the talks, the State of Colombia shall suspend all criminal prosecution measures (arrest warrants, extradition requests, Interpol circulars and rewards) and in the event of breakdown, until the full return of the delegations. To all intents and purposes, it shall issue a collective laissez-passer for the members of the ELN delegation, which shall be delivered to the country in charge of the transfers of the delegation and to the country hosting the talks.

1.3.8. The parties assume that the heart of the process shall be the participation of society in the definition and execution of the transformations necessary for

peace; consequently, all mechanisms, decisions and implementations shall be meant to achieve that objective. Accordingly, communications shall be truthful, clear and timely, and shall include appropriate lessons for peace, based fundamentally on facts that create confidence in society as a whole and in the international community.

1.3.9. In the context of the talks, each party undertakes not to engage in espionage and to ensure the physical and legal safety of all the members of the panel.

1.4. Four (4) specific and confidential protocols accompanying this Agreement shall set out the rules relating to:

1.4.1. The stay of the delegations during the meetings of the panel in the host country.

1.4.2. The transfers of the ELN delegation and its return from the countries hosting the peace talks.

1.4.3. Security, possible breakdown of talks and the return of the ELN delegation.

1.4.4. ELN peace management.

1.5. Many issues concerning the modus operandi of the peace talks panel have been established, including the following:

1.5.1. A maximum of twenty (20) representatives for each party.

1.5.2. Each delegation, in addition to its representatives, shall comprise up to ten (10) people in the host country, including advisors and technical and communications staff.

1.5.3. The panel shall include additional advisors and teams when appropriate; their presence, when required, shall be determined by mutual agreement with the host country.

1.5.4. The talks shall be conducted in the order of the signed agenda, unless changes are mutually agreed upon.

1.5.5. At the start of each cycle, the duration of the next cycle shall be established by mutual agreement between the parties and the next host country.

1.5.6. At the end of each cycle, the parties shall agree on the minimum goals for the next cycle.

1.5.7. The parties shall prioritize joint work as well as internal consultations for the proper implementation of the agenda.

1.5.8. The parties shall establish working committees as required.

1.5.9. The conclusions reached by the panel shall be expressed in agreements, protocols, declarations and records, prepared by the technical secretariat, which shall comprise two rapporteurs from each delegation.

1.5.10. Each guarantor country, organization or permanent accompanying institution may have up to two persons as representatives during the cycle, with the autonomy to decide on their rotation during or between cycles.

1.5.11. Each accompanying country shall have one representative who shall attend the meetings of the panel at the end of each cycle or when summoned.

2. The guarantors

The guarantor countries shall be part of the panel upon invitation and acceptance of the parties; they shall set out, in a constant or invariable, sovereign and free manner, their diplomatic and political contribution to the construction of a Colombia without armed conflict, and shall fulfil functions such as:

- 2.1. Acting as depositaries of and witnesses to the agreements, adhering to them in such capacity with their ethical and political authority based on the principles of independence, objectivity, equidistance, impartiality and confidentiality.
- 2.2. Serving as host country for the development of one or more of the work cycles of the panel.
- 2.3. Defending the perspective of the right to peace and non-interference, supporting compliance with the agreements and commitments entered into by the parties, especially those relating to human rights, customary international law, humanitarian law and the peaceful resolution or transformation of conflicts.
- 2.4. Providing their good offices in situations of crisis or controversy, helping to clarify differences and demanding, as far as possible, responsibility, consistency and compliance with what has been agreed, which means promoting the defence of the agreements and advances.
- 2.5. Participating on a permanent basis in the overall activities of the panel and in the preparation of the work or deliberations in the different cycles, in the plenary sessions and, if the parties so require, in the working committees that may be established.
- 2.6. Physically accompanying the ELN delegation in the different transfers between countries, including in Colombia, when they are inserted into or taken out of war areas, helping to identify threats or possible obstacles to such movements, as well as in cases required by the Government delegation.
- 2.7. Ensuring compliance with the agreed protocols involving them directly.

In all circumstances, the State of Colombia shall respect the protocols, agreements and commitments entered into with the guarantor countries. The panel also undertakes to recognize and respect the important role of the guarantor countries in building peace in Colombia and to comply with the terms agreed in this document.

3. Accompanying institutions and organizations

Given the good offices and importance of being accompanied, both the Special Representative of the United Nations Secretary-General in Colombia and the Episcopal Conference of Colombia were invited and agreed to participate as permanent accompanying partners of the peace talks panel beginning in November 2022. Like the guarantors, they shall function as depositaries of and witnesses to the agreements and shall support specific actions agreed upon by the parties, while maintaining due confidentiality.

The parties have agreed to propose that the United Nations, specifically to its Secretary-General, support this panel through his Special Representative in Colombia, and to use his authority to facilitate and strengthen the legal certainty of the commitments and agreements reached.

The parties also request that the Special Representative of the United Nations Secretary-General in Colombia provide all the political, diplomatic, logistical and operational support needed for the dialogue process and for the strict application of

the security protocol, and in case of breakdown of talks and return of the ELN dialogue delegation, where necessary.

4. Group of accompanying countries – GPAAC

The group of accompanying, support and cooperation countries (GPAAC) has been established, as agreed by the talks panel in March 2016. In paragraph 4 (p) of said agreement, it was stated that, to cover the expenses of the ELN dialogue delegation, resources would be made available from a fund for “international cooperation to be established to that end, and for which a group of support and cooperation countries will be established”.

Said autonomous group, with aggregate functions, made up essentially of European countries, was established in February 2017 in Ecuador. At the time, it was established that Germany, Italy, the Netherlands, Sweden and Switzerland would provide significant support to and accompany the panel to enable it to meet various needs for political support, cooperation in a variety of forms and material assistance.

In 2019, the ELN dialogue delegation presented a unilateral declaration indicating its full willingness to comply with the agreements and advances of the peace talks panel before the GPAAC, as well as before the United Nations, guarantor countries, the Vatican State and other international entities.

Regarding the talks between the current Government and ELN, in November 2022, Germany, Spain, Sweden and Switzerland were invited to participate in a new phase of the GPAAC, where the parties agreed that the functions of the GPAAC shall be as follows:

- (a) Political and diplomatic support for the peace process in Colombia.
- (b) Technical support to the panel on specific topics.
- (c) Cooperation in financial terms for the execution of humanitarian actions and the ELN peace management plan, and implementation of other agreements of the panel.
- (d) Financing of the ELN dialogue delegation.
- (e) The ELN delegation shall make use of a fund to facilitate and expedite its activities. To ensure transparency, the fund shall be managed by an operator agreed upon between the ELN delegation and the GPAAC. The operator shall submit supporting and accounting documents to the GPAAC, which shall certify the proper management of said resources.

At least once during each cycle or when required, the GPAAC shall be convened to accompany the panel in concluding its work and to exchange initiatives for the political strengthening of the panel in international arenas.

5. Guarantees for a lasting commitment

In order to harmonize the contribution of the guarantors and accompanying partners, the parties understand that their functions and roles shall be differentiated and complementary, and that coordination shall be necessary for the advancement of the talks and the implementation of what has been agreed.

Lastly, the parties express their intention to strengthen the institutionalization of the panel, safeguarding each and every agreement and commitment entered into. In this regard, the Government of Colombia reiterates that all that has been agreed is part of the State’s peace policy. ELN also undertakes to maintain its commitment to peace and to help in overcoming the obstacles preventing the achievement of peace.

The parties request that the United Nations Secretary-General, through his Special Representative in Colombia, have this document circulated to the members of the United Nations Security Council.

The same shall apply to the substantive documents agreed by the panel.

Caracas, Waraira Repano, 11 December 2022

Delegation of the Government of the Republic of Colombia

Iván Danilo Rueda Rodríguez (*Signed*)
High Commissioner for Peace

Jose Otty Patiño Hormaza (*Signed*)
Head of Delegation

Iván Cepeda Castro (*Signed*)

Olga Lilia Silva Lopez (*Signed*)

Nigeria Renteria Lozan (*Signed*)

Maria Jose Pizarro Rodriguez (*Signed*)

Jose Felix Lafaurie Rivera (*Signed*)

Orlando Romero Reyes (*Signed*)

Dayana Paola Urzola Domico (*Signed*)

Rodrigo Botero Garcia (*Signed*)

Adelaida Jimenez Cortes (*Signed*)

Horacio Guerrero Garcia (*Signed*)

Álvaro Matallana Eslava (*Signed*)

Delegation of the Ejército de Liberación Nacional – ELN

Pablo Beltrán (*Signed*)
Head of Delegation

Aureliano Carbonell (*Signed*)

Bernardo Telles (*Signed*)

Silvana Guerrero (*Signed*)

Manuel Gustavo Martinez (*Signed*)

Maria Consuelo Tapias (*Signed*)

Tomas Garcia Laviana (*Signed*)

Isabel Torres (*Signed*)

Guarantor countries

Raúl Vergara Meneses (*Signed*)
Republic of Chile

Javier Caamaño Cairo (*Signed*)
Republic of Cuba

Jon Otto Brodholt (*Signed*)
Kingdom of Norway

Gral. Carlos Martínez Mendoza (*Signed*)
Bolivarian Republic of Venezuela

Permanent accompanying partners

Carlos G. Ruiz Massieu (*Signed*)

Special Representative of the United Nations Secretary-General

Mons. Hector Fabio Henao Gaviria (*Signed*)

Delegate for Church-State Relations, Episcopal Conference of Colombia
