

# A possible peace process with the ELN in Colombia

By Vicenç Fisas

## ■ Executive summary

The National Liberation Army (ELN), a Colombian guerrilla organisation, has tried to negotiate with various Colombian governments for 30 years, always unsuccessfully. Currently (August 2013) the Colombian government is involved in formal negotiation in Cuba with the Revolutionary Armed Forces of Colombia (FARC) guerrillas, with Norway and Cuba acting as guarantors of the process. Since these negotiations started ELN leaders have increased their statements and interviews expressing a desire to start talks with the government. At the end of 2012 initial meetings were held in Cuba, but no agreement was reached to start talks. In what remains of 2013 it is very likely that the ELN and the Colombian government will try another approach, especially since the FARC has expressed its desire for government-ELN talks to take place.

At the end of June 2013 the supreme commanders of the Revolutionary Armed Forces of Colombia (FARC) and National Liberation Army (ELN) publicly declared their desire for peace. Fairly recently these guerrilla groups sought to collaborate more closely at the military level, but this time the declaration was in support of peace. This joint declaration was interpreted as an expression of the desire of the FARC, which is involved in peace talks with the Colombian government in Havana, for the government to open parallel negotiations with the ELN, something that President Santos of Colombia stated would be possible under certain conditions.

The following aspects would need to be considered if the ELN were to be incorporated into the peace process:

- For some time now the ELN has called for negotiations to start, although without any pre-existing terms.
- President Santos has stated that if the ELN stops its campaign of kidnappings, a period of negotiation would commence. The government has often demanded, quite rightly, that the ELN leadership give more signs that it wants to negotiate a peace agreement; it could start by ending the kidnappings.
- The ELN aspires to become a social and popular movement rather than a traditional political party.
- For some years now it has proposed the creation of a National Convention as a method of popular participation to restructure the country and its institutions so as to achieve greater social justice. However, how this convention would be organised has never been discussed. At present it is a very abstract idea.
- Unlike the FARC, the ELN does not appear to be interested in drawing up an agenda for negotiations, although it has always been sensitive to some topics, such as energy policy. This hinders the initiation of talks that would lead to a peace process.
- The ELN is likely to take at least three issues to the negotiating table: civil society participation, a National Convention, and the mining and energy issue.
- Between 2005 and 2007 considerable progress was made in the talks between the Colombian government and the ELN in Havana. It would be important to ascertain whether the participants in future talks (the Santos government and the Central Committee of the ELN) would be interested in starting a negotiation process now on the basis of what was achieved in Havana in 2007.
- Like the FARC, the ELN has repeatedly suggested that at the end of the process there would be a new Constituent Assembly. This represents an obstacle to possible negotiations.

- The ELN has neither analysed nor proposed how post-conflict Colombia should be organised.
- The fact that presidential elections are scheduled to take place in 2014 poses a problem and limits any extended negotiation process, since it could start in the current presidential term and continue during the following one, resulting in a gap that, if very long, could jeopardise the progress made in the first phase.
- The ELN is very insistent on proposing a bilateral ceasefire from the very first day of any negotiations.
- It often refers to international assistance in future talks, placing emphasis on Latin American countries. It is speculated that Brazil could play an important role. Past assisting countries, such as Norway, could also participate in the process.

## Historical background

The first negotiations between the government and the ELN date from 1991 (Caracas and Tlaxcala). In 1998 both parties signed a peace agreement in Madrid in which they agreed to hold a National Convention. In the same year ELN negotiators met with members of civil society in Mainz, Germany and signed the Puerta del Cielo agreement, which focused on humanitarian issues. In 1999 the two sides met again in Cuba. In the following year the government authorised the creation of an encounter area in the Bolívar region in the south of Colombia. Representatives of the group of Friendly Countries (Cuba, Spain, France, Norway and Switzerland) were involved in this process.

In June 2000 President Pastrana declared that attempts to reach an agreement with the ELN were over. In 2002 the Colombian high commissioner for peace undertook new rounds of exploratory negotiations with the ELN in Cuba, and in mid-2004 new exploratory talks began, with Mexico acting as facilitator.

At the beginning of 2005 facilitation by the Mexican ambassador to Colombia, Andrés Valencia, continued in an attempt to achieve rapprochement with the ELN. At the end of March, after a temporary crisis related to the facilitation process, the ELN and the Colombian government exchanged proposals aimed at holding direct negotiations outside the country (in either Mexico or Cuba). This stage of rapprochement was successful and a peace process began that received strong international support. Despite these positive developments the ELN suddenly dispensed with the Mexican facilitation, claiming that Mexico had disqualified itself by voting against Cuba on the UN Human Rights Commission. However, the guerrillas stressed that the group of Friendly Countries could act as alternative facilitators. In the third quarter of 2005 exploratory talks continued between the ELN and the government on the latter's proposal to set up an external rapprochement process (for a short and fixed period) and its suggestion of international involvement.

In September 2005 President Álvaro Uribe authorised the release from prison of the ELN's spokesperson, Francisco Galán, for three months in an attempt to advance discussions with all sectors of Colombian society and in response to a citizens' initiative (the Group of Guarantors) that was also approved by the ELN. The armed group had outlined what it considered to be the five obstacles blocking the beginning of a genuine peace process: the government's denial of the existence of an armed conflict; the humanitarian crisis; the social, political and economic causes of the conflict; the lack of opportunities for civil society to participate in the peace process; and the government's mock negotiations with the paramilitary groups. Days before the end of the three-month period of Galán's release from prison the government extended it for a further three months. The government reached an agreement with Galán to begin formal exploratory talks in Cuba during December 2005, with the involvement of Norway, Spain and Switzerland. These talks are known as the "external rapprochement process".

## Looking for political struggle

After an initial meeting in Havana in December 2005, a second meeting was held there in February 2006. After this meeting the Colombian president at the time, Álvaro Uribe, officially recognised Antonio García, Ramiro Vargas and Francisco Galán as the interlocutors representing the ELN and rescinded their arrest warrants, enabling them to travel both inside Colombia and abroad. Both parties also agreed to create an alternative committee where the ambassadors of the three facilitating countries (Spain, Norway and Switzerland) would participate in order to discuss "interim affairs".

The ELN declared a unilateral end to offensive actions during the period of parliamentary elections in 2006. In late March ELN representative and military chief García moved from Cuba to Colombia to hold meetings with representatives of society and diplomats. In April the third exploratory round of talks was held in Havana. According to García, countries such as Holland, Sweden, Canada and Japan were also willing to support the talks. In addition the Colombian Catholic Church announced that it would ask the Vatican to join the international facilitators in the negotiation process.

The ELN expressed its willingness to participate in a new round of negotiations in Cuba in early October and announced the start of a political campaign for peace. In September the ELN announced that it had held its Fourth Congress – its most important internal event – in which commandants and delegates from all its structures had taken part. The post-congress statement stressed the desirability of a political solution to the conflict in order to obtain peace, which was understood as eradicating the profound inequalities that characterised Colombian society, resolving the humanitarian crisis, and building a "new government of nation, peace and equity". The

statement also reiterated that political struggle, including participation in elections, was the main form of struggle to achieve new local and regional forms of government. The congress confirmed the proposal for a National Convention as the inclusive democratic scenario for building a national consensus in order to overcome the country's serious problems. To this end the ELN invited all the revolutionary, patriotic, and democratic political and social forces in Colombia to join together to address the challenges entailed in building a new country characterised by peace and social justice, and recognised the Alternative Democratic Pole as the only alternative opposition to the right wing in Colombia.

The ELN also invited the FARC to work towards unity in the insurgent movement based on affinities, yet with respect for the uniqueness of each organisation. ELN negotiator Antonio García announced that he would propose to the government that all political prisoners be granted amnesty, that a National Convention be held, and that an agenda that covered economic and social issues be drawn up in order to tackle the country's crisis and put an end to the war.

In October 2006 the government and ELN held a fourth round of exploratory talks in Cuba. Upon their conclusion the participants highlighted the headway made in designing the peace process by establishing the two fundamental factors on which a basic agreement would be built: a climate for peace and the participation of society. In mid-December the ELN Central Command issued a communiqué in which it repeated its willingness to agree to a ceasefire and an end to bilateral hostilities with the government. It also called for the creation of a new coalition government; the formation of a Special Truth Commission to which paramilitary troops could report the misdeeds that the country needed to know about in order to begin the clean-up of national institutions; an in-depth solution to drug trafficking without resorting to fumigation; and a ban on the extradition of Colombians.

The following morning the Guarantee Committee of the process with the ELN held a press conference to present its "roadmap" for 2007. This was criticised by Colombia's high commissioner for peace, Luis Carlos Restrepo, for not having been discussed previously by the parties (the government and the ELN), since it involved matters for negotiation that would have to be addressed in the next round of talks, which were scheduled for the beginning of 2007 in Havana.

Francisco Galán, the spokesperson for the guerrilla group for the previous 16 years, was conditionally released from prison in the first part of 2007 and the government granted a member of the Central Command of the guerrilla group, Pablo Beltrán, the status of representative member, giving him freedom of movement in order to join the ELN negotiating team, which was expanded to four members. At the beginning of March the fifth round of talks between the government and the ELN were concluded in Havana, with

the support of the Nobel Prize winner for literature, Gabriel García Márquez. The parties did not make the content of their discussions public.

Pablo Beltrán led the guerrilla delegation, replacing the military chief, Antonio García. In mid-April 2007 the government and ELN began a new round of talks in Havana that were initially planned to last for six weeks. Unlike the five previous rounds, both sides promised to reach a significant agreement (the so-called Basic Agreement) to advance the peace process, beginning with reaching some kind of ceasefire agreement and a cessation of hostilities. The ELN proposed a bilateral, temporary, experimental ceasefire and an end to hostilities without forcing the guerrilla forces to concentrate in specific areas and demanded that the government freeze the processes for the agreement of the Free Trade Treaty, among other social and economic measures.

## The National Peace Council

The government and the ELN began the eighth round of peace talks in Havana in August 2007, but these talks did not achieve any results and the parties did not sign the so-called Basic Agreement, since they were unable to agree on how to concentrate and enumerate the guerrillas. The government insisted on its demand that the guerrilla forces should be concentrated at one place or in several places, including abroad, but at previously established co-ordinates; that the names of all the guerrillas should be listed; and that these lists should be verified by international observers. This was, however, rejected by the ELN, which was not prepared to reveal the identity of its members or assemble in conditions that it perceived to be to its military disadvantage. Members of the National Peace Council (CNP) took part in this round for the first time.

The CNP had been created several years earlier, but had not been involved in the negotiations until that time. The CNP presented a proposal for verifying the corridors of mobility in ten areas of the country and the presence of international observers in each region. Observers would have the communication equipment needed to maintain permanent contact with military commanders and the leaders of the insurgents. In September 2007 delegations from the government and the ELN accepted the invitation from the president of Venezuela, Hugo Chávez, to help unblock the process, and subsequently met in Caracas. ELN delegates began consultations with the Central Command of the organisation to decide its position in the future round of negotiations. The CNP, in turn, created a commission to articulate the efforts made by the government and the public sector to include peace and development programmes in public policy. In addition, it decided to create another permanent commission to monitor the peace talks with the ELN. The government and the ELN decided to meet again at the end of December, but tensions with the Venezuelan government meant that this round of talks was delayed until the beginning of 2008.

At the end of 2007 it was not known whether a further meeting would be held in Havana.

For their part, in January 2008 the ELN guerrillas expressed their satisfaction at the Venezuelan government's recognition of the political nature of the FARC and ELN, and at the international community's request for these organisations to be recognised as belligerent forces and withdrawn from the list of terrorist organisations. They claimed that their recognition as belligerent forces would stress the need to sign an agreement with the government to regulate the war as the starting point for embarking on a peace process. Nonetheless, by the end of the first quarter of 2008 no new rounds of negotiations had been started, with the last talks being held in August 2007.

In early April the political spokesperson for the ELN, Francisco Galán, met with President Uribe in the Casa de Nariño to discuss the stalemate in the peace talks. Galán declared that he attended the meeting in his personal capacity; that he was renouncing the war, but not his convictions; and that he had been authorised by the government to remain in permanent contact with the ELN Central Command to work towards a return to the negotiating table. He also stated that he would spearhead an effort to build a national political consensus for peace among all the parties to the conflict in the country. In response, the ELN Central Command revoked Galán's status as spokesperson and his membership of the ELN team negotiating with the government, insisting that his actions and opinions did not represent the ELN's policies and that he was free to develop his political options as he saw fit.

## Rejection of talks by the FARC

In late April 2008 the ELN Central Command suggested that the country adopt a national agreement among all the democratic and social forces in order to open up a peace process founded on the reconstruction of democracy, social justice and the welfare of the majority. It said that this effort must begin by removing the obstacles to a humanitarian agreement. It also suggested that a plan be promoted to address the serious humanitarian crisis faced by the many displaced persons, and that a National Constituent Assembly be called with no exclusions, as well as a referendum to approve the new constitutional charter. In June the ELN stated that it viewed further rapprochement with the Colombian government as futile and thus did not expect a new round of talks to be held. Despite this, in May 2009, in a letter addressed to Colombians for Peace, the ELN Central Command suggested that no topics should be vetoed as part of an eventual process of dialogue and negotiation, and expressed its willingness to deal with issues like kidnapping, forced disappearance and political prisoners at the negotiating table.

In April 2010 the ELN Central Command revealed that it had received proposals from the government to hold secret talks, which it rejected, because it deemed that these proposals were solely motivated by an attempt to curry favour in the elections. The FARC, in turn, closed off all possibilities of holding talks with the government abroad, as expressed by the FARC Secretariat in a communiqué targeted at the high commissioner for peace, Frank Pearl. In this communiqué the FARC noted that it had always been willing to talk, but that it would not talk with the government of President Uribe when only four months were left of his mandate, especially when the government's proposal stipulated secret talks abroad. The FARC reiterated that it would keep the door open to talks as long as they were held in Colombia before the entire nation.

On August 4th 2010 the ELN expressed its interest in working to find a solution to Colombia's internal conflict as part of a peace proposal for the entire continent, linking the efforts of the Union of South American Nations (UNASUR) to other initiatives that might arise from the international community. The ELN also expressed its willingness to talk with the Venezuelan government and other South American governments to explore pathways that might make peace possible in Colombia.

In late October the ELN guerrillas asked UNASUR to "accompany" it in the quest for peace in Colombia by exhorting the government to "offer a pathway" that would put an end to the internal armed conflict. "Today peace is a demand", said Nicolás Rodríguez Bautista,<sup>1</sup> the ELN leader, in a video posted on the insurgent group's website. To President Santos he said, "we say that he is facing the challenge of offering the country a pathway to peace" and also asked the president to make the structural changes that Colombia needed "feasible".

The extensive videoed statement also stressed that the ELN "wants to resume the construction of a pathway of peace with the participation of all Colombians" through a process that "might conclude with a Constituent Assembly". To the UNASUR countries Bautista said that "we reaffirm the request for UNASUR to accompany us in our quest for peace in Colombia. We believe that the balance and political justice heard in the ELN's approach are necessary." In early December 2010, in response to a request from the country's vice president, Angelino Garzón, the ELN proposed to the national government that the two sides agree to a bilateral ceasefire and a cessation of hostilities in order to give priority attention to the disastrous floods that left 257 people dead and two million homeless, among other emergencies that needed to be dealt with.

In mid-December 2010 the ELN proposed a solution to the national crisis on the basis of eight premises: (1) humanising the conflict in order to speed up the peace process and

<sup>1</sup> He is also known as "Gabino".

put down roots for a permanent, comprehensive solution to the internal conflict; (2) identifying the essential problems the country faced in order to resolve them; (3) resolving these problems by undoing the pathways along which they had been created; (4) not starting by blaming the victims; (5) not applying double standards when resolving problems; (6) bringing society and the international community into the process; (7) exchanging the culture of exclusion and imposition for one of negotiation, agreement and compliance; and (8) signing an agreement with the intention of fulfilling its terms.

In early August 2011 the ELN sent a letter to ex-Senator Piedad Córdoba in which it stated that

the ELN has publicly and repeatedly expressed its willingness to engage in bilateral talks without conditions; the agenda and rules should be determined by the parties to these talks .... A government and insurgency committee is the best pathway today, and we are making every effort to achieve it.

The letter also expressed the ELN's willingness to comply with international humanitarian law.

## The road to dialogue

The ELN's magazine published an editorial in February 2012 entitled "Peace, an imperative for Colombia", in which it noted that

now is the time to reflect, to make immobile postures more flexible and to understand that peace is an imperative for Colombia and that this peace does not entail one party's subjugation to the other, but confluence based on listening to each other, understanding life in society as peaceful coexistence, as rights and responsibilities for everyone, in order to build a future of prosperity, democracy, justice and equality .... The national government and the insurgency must humbly heed the calls from the international community to foster a dialogue with no conditions and to profit from their wisdom and experience as a sincere contribution to peace in Colombia. At this critical time for Colombian society the ELN reiterates its willingness to seek a political solution to the conflict and expresses its recognition of all the voices from both inside and outside the country that support an open dialogue with no preconditions, and for this purpose it draws the national government's attention to the need to act consequently.

In July 2012 the ELN published a communiqué in which it appealed for Latin America's involvement in a political solution to the conflict in Colombia, stating that

the ELN will continue to stress that peace in Colombia must become a core, strategic backbone of the project to unify and integrate Latin America. For this reason the

countries in the region should close ranks around a huge campaign in favour of our Latin America on behalf of a political and negotiated solution to the war in Colombia, to counterbalance the campaign being waged by the Santos government. UNASUR's call in November 2011 to transform Latin America into a zone of peace will only materialise through a unified struggle by all the governments and peoples of our America.

In August 2012 the ELN noted that

Our commanders have clearly expressed that the ELN is willing to engage in dialogue with the current government in a serious, responsible, respectful process with no traps or hostilities, which will facilitate the restoration of trust and create a favourable atmosphere for addressing the causes of the armed and social conflict, where the goal is to lay the groundwork on which real, stable and lasting peace can be built.

In the following month the ELN expressed its willingness to engage in a bilateral ceasefire, stating that

it is necessary to recognise that neither the government nor the insurgency can abrogate society's right to be at the table and define it. Therefore, we express the urgent need for grassroots and social organisations to organise their agendas with their representatives. This is a job in which no one can replace them, and without them the pathway towards peace will begin on the wrong foot .... We agree that the pathway towards peace implies working to end the conflict and not prolong it. This conflict is social and armed, and only by addressing both of these components will peace be real and possible .... We are obligated, President Santos, to act with common sense and to listen to the calls of the Colombians who are requesting a bilateral ceasefire or a bilateral truce, because they are in the middle of the conflict and are its victims.

The ELN suggested setting up a dialogue committee in which the various social and political expressions in the country could participate. It also criticised the Legal Framework for Peace, because "the opinion of the insurgency was not consulted ... nor was there a real public discussion" when it was drawn up. Likewise, it declared that it was in favour of humanising the conflict while it lasts. Finally, it encouraged

diplomatic, political and communication efforts to be developed that lead to international accompaniment and true guarantees of safety and respect for everyone who should participate in the development of a peace process for a Colombia with welfare and a future of freedom.

In early November 2012 the ELN proposed a bilateral ceasefire and cessation of hostilities. Several days later it announced in its magazine that the ELN delegation for

exploratory talks with the government had been assembled and was ready to meet with the government in Colombia. In an editorial it noted that the dialogue committee with the insurgency was just the first step and stressed that peace could only be achieved by going to the roots of the conflict and with the participation of society as a whole. In an interview, ELN leader Nicolás Bautista proposed that the international community, through its grassroots and social organisations, should set up an international entity that would support the peace talks committee in Colombia and would request that the parties not leave the table until the peace process was sufficiently advanced for the committee no longer to be necessary. In late November there were speculations that the ELN and the government might start exploratory talks in Cuba and that the representative of the guerrilla group would be Pablo Beltrán. In January 2013, however, President Santos declared the talks over and withdrew the ELN delegates' safe conduct.

## The peace mandate

It seems that Frank Pearl and Alejandro Eder represented the government, while the ELN delegation was composed of Bautista and Antonio García. A senior official from Germany acted as a contact between the parties. One obstacle to future talks is the ELN's demand that civil society participates in them, which the government opposes. The ELN agenda would be the one authorised by the range of Colombian communities at the various events held in recent years. The ELN considers it urgent to establish a National Peace Movement that would draw together popular and social organisations, parties and other groups. As Bautista pointed out in April 2013, the ELN had taken on the peace mandate as a strategic objective. Any political agreement resulting from the National Convention should be approved by a National Constituent Assembly. Meanwhile, the civil society Facilitator Commission took steps to bring about the start of talks with the ELN. An obstacle was the ELN's kidnappings.

At the end of June 2013 the supreme commanders of the FARC and ELN issued a public declaration supporting peace. These groups had recently sought to collaborate more closely at the military level, but this time the declaration supported peace, which was defined as

the most noble, just and legitimate aspiration of our nation ... the political solution to the social and armed conflict, which involves an end to the dirty war and to attacks on our people. ... This political solution cannot be understood as the simple demobilisation and disarmament of guerrillas, without structural changes so that everything remains the same, but rather as a path that leads towards resolving the causes of the war and towards full democratisation .... A National Constituent Assembly would be an ideal mechanism to draw up new and authentic agreements created with wide and full participation from society ... [the assembly] must be able to rely on the representative participa-

tion of the insurgency and the democratic participation of all the sectors making up the nation.

This joint declaration was interpreted as an expression of the FARC's desire to open parallel negotiations with the ELN, something that President Santos stated would be possible once the ELN had released a Canadian it had kidnapped. The ELN did so and at the same time freed a captured army corporal.

However, other obstacles had to be overcome. The nature of the ELN and its insistence on popular participation in any negotiations make it difficult for the organisation to reach an agreement with the government. As the academic Carlos Medina pointed out in an email, "the operational emphasis of the ELN appears in its organisational aspects of constructing imaginary politicians and social practices in conflict with the social foundations of society; these aspects tend to have greater influence than the military operational aspects". The ELN wants excluded majority groups to become the main protagonists in future talks, thereby introducing a methodological difficulty facing any attempts to get talks on the right track.

At the beginning of July 2013 more than a hundred members of civil society signed a letter supporting possible negotiations between the government and the ELN.

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