

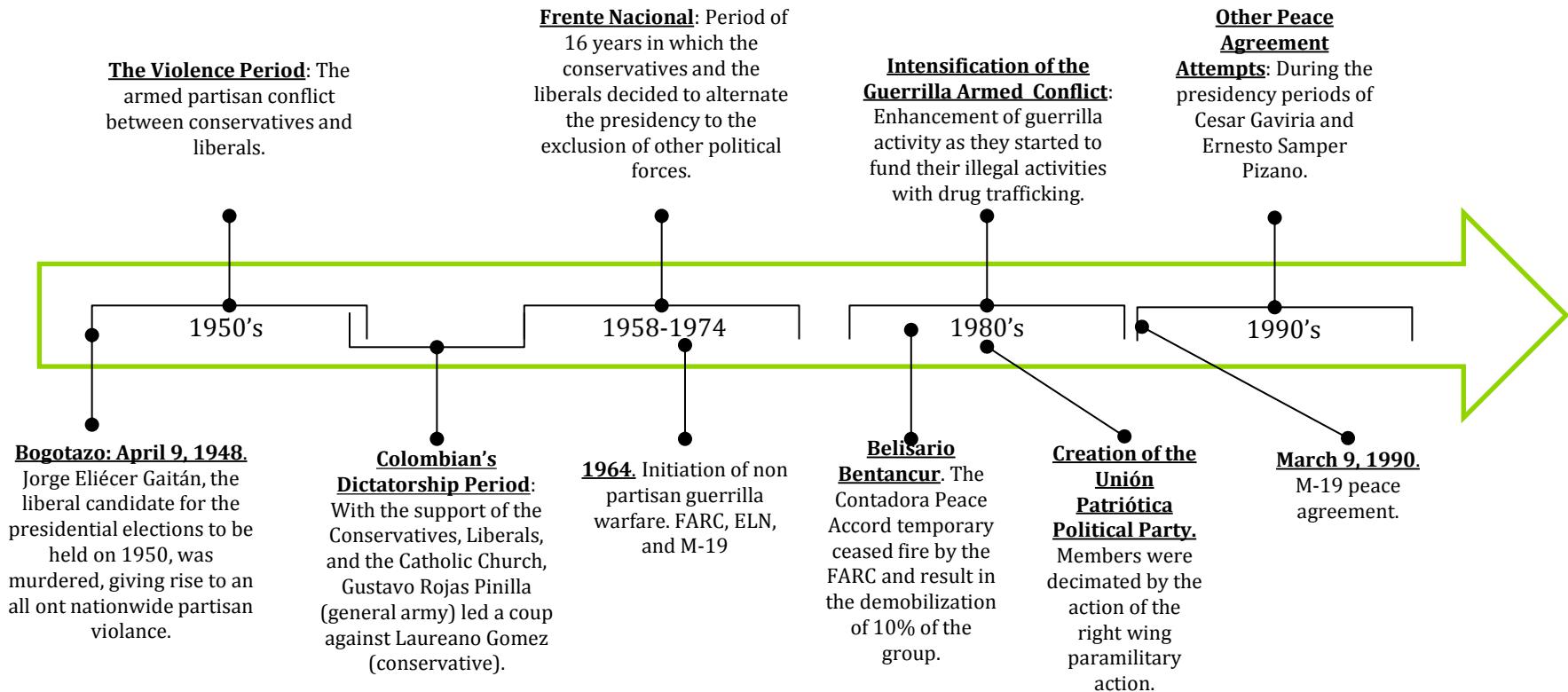


# **THE PEACE PROCESS IN COLOMBIA**

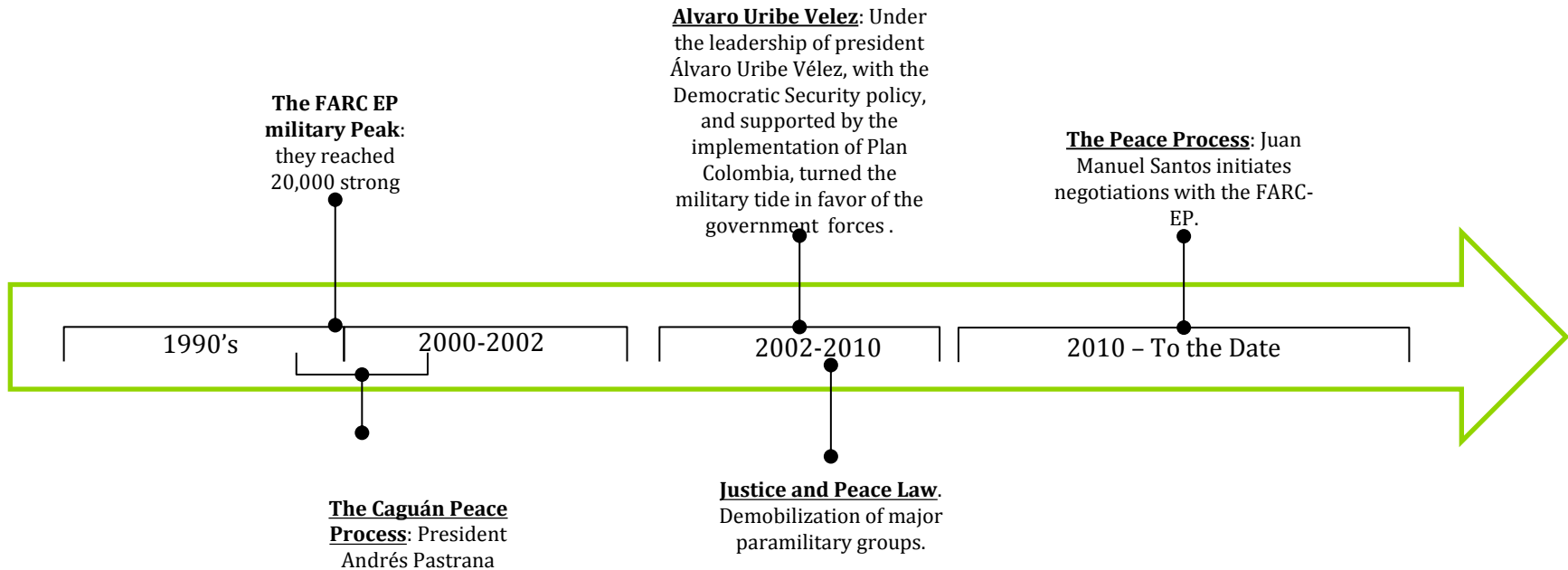
**MERITAS - WEBINAR**

February, 2017

# HISTORICAL ANTECEDENTS LEADING TO THE PEACE PROCESS

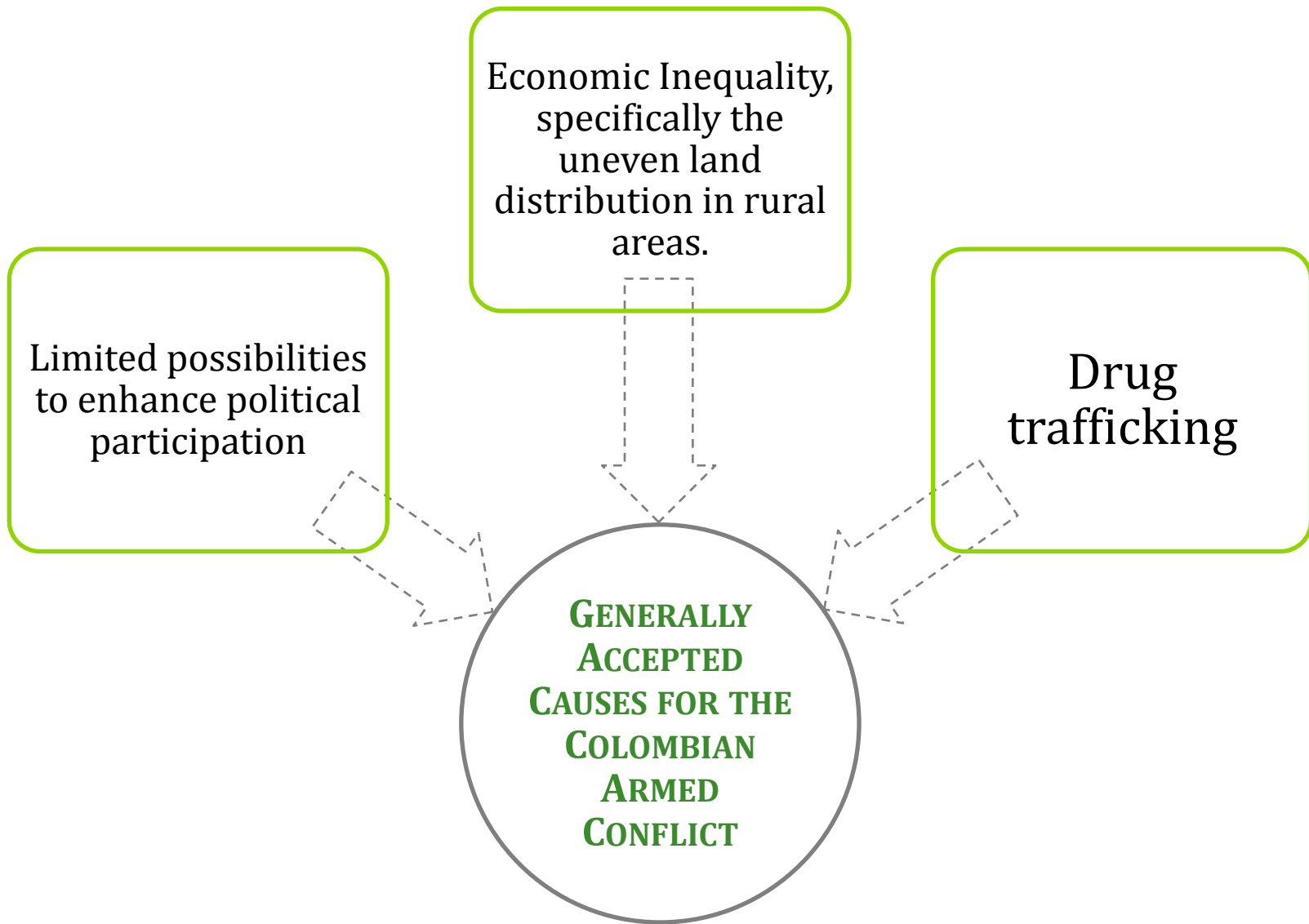


# HISTORICAL ANTECEDENTS LEADING TO THE PEACE PROCESS



# THE FARC PEACE AGREEMENT

- Between February 23, and August 26, 2012: Exploratory Encounter between the FARC and the Colombian Government in Habana, Cuba, with the participation of Cuban Government and the Norwegian government.
- The General Agreement for Peace and Termination of the Armed Conflict was signed on August 26, 2012.
- The Peace Agreement was submitted to the plebiscite vote on October 2, 2016, it was not approved by a margin of 50,2% (against) vs. 49,7% (in favor).
- Renegotiations with FARC to “improve” the peace agreement.
- On November 24, 2016, the Colombian Government and the FARC signed a the Final Agreement for the Termination of the Armed Conflict and the Construction of Peace.
- The Final Agreement was approved by the Colombian Congress on December 1<sup>st</sup>, 2016.
- On December 13, 2016, the Colombian Constitutional Court ruled in favor of the “fast-track” plan approved by Congress, and which seeks (i) an expedited congressional approval for the laws and constitutional changes the President Juan Manuel Santos needs to implement the peace agreement with the FARC, and (ii) to remove the obligation to vote in a unanimous manner within each political party (*Ley de Bancadas*).



# UNDERSTANDING THE PEACE AGREEMENT

## Objectives:

1. Structural transformation of the rural areas
2. Promotion of equality and democratization of land access
3. Eradication of poverty
4. Development of rural infrastructure
5. Recognition and respect of private property within measures to be implemented for the regularization of the property.

## Agreed Measures

1. **Land Fund.** Creation of a **free distribution Land Fund**, as well as the possibility for low income farmers (*campesinos*) to access to integral subsidies and special loans. The Government will make available 3 million hectare (approx. 2,6% of the Colombian territory) for this purpose during the first 12 years as of the creation of the Land Fund. Such land shall come from: (i) land subject to judicial asset forfeiture (*extinción de dominio judicial*) in favor of the Nation; (ii) land recovered in favor of the Nation (vacant land unduly appropriated or occupied (*baldíos indebidamente apropiados u ocupado*), and recovered through agricultural judicial processes); (iii) land resulting from the update, delimitation and strengthening of the Forest Reserve in favor of the Land Fund; (iv) unexploited land; (v) land acquired or expropriated for social interest or public use motives; and (vi) donated land.

## INTEGRAL RURAL REFORM



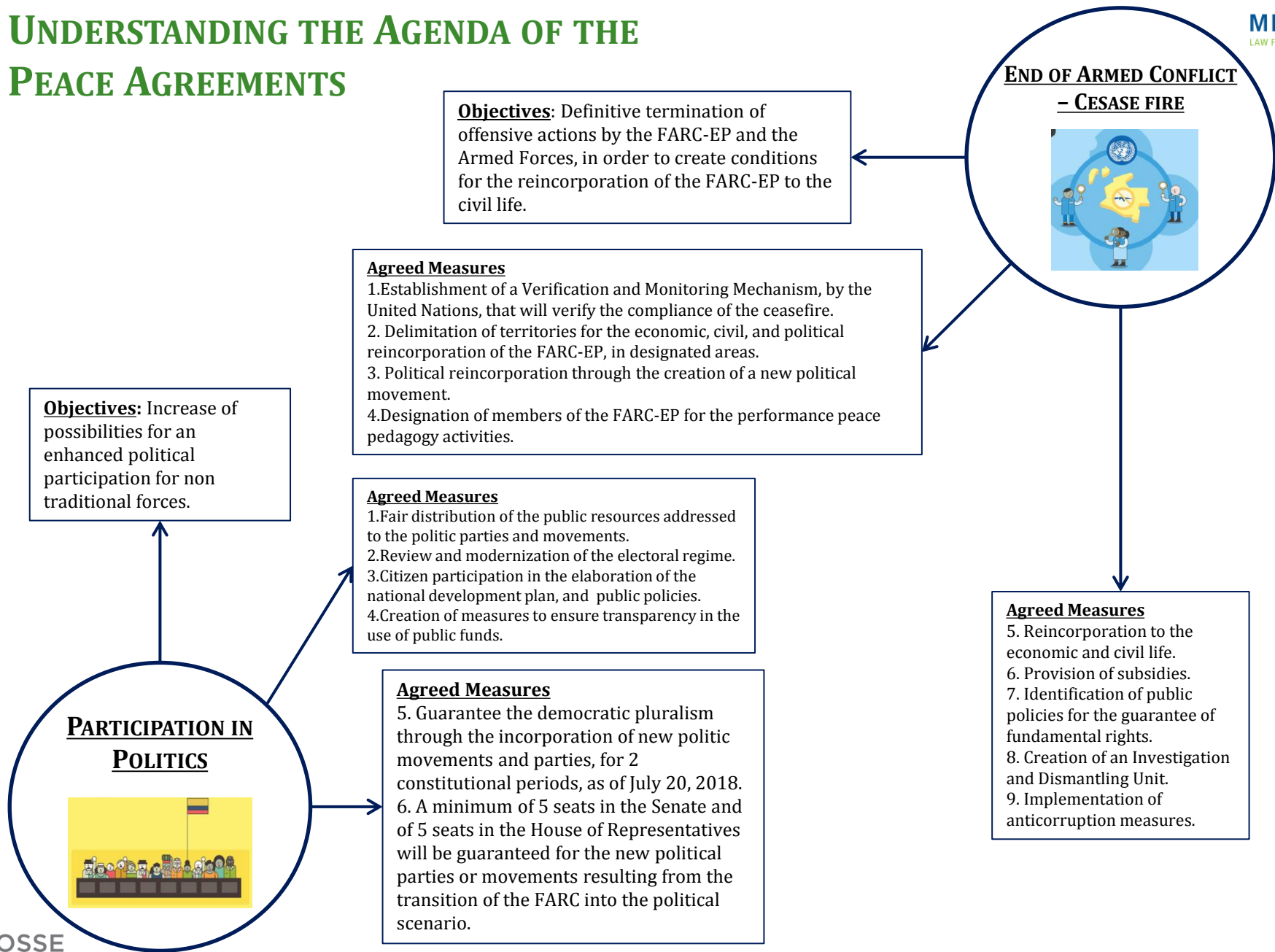
## Agreed Measures

5. Creation of a land registry (*Sistema General de Información Catastral*) through which land registry information shall be formalized and updated.
6. Creation of a rural jurisdiction for the protection of the ownership title rights of the low income farmers (*campesinos*).

## Agreed Measures

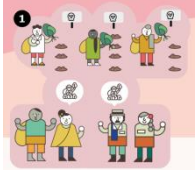
2. Access to land which includes access to watering systems (*sistemas de riego*), subsidized loans, technical assistance, trading support, among other resources required to work the land.
3. Legalization of land ownership. This shall be done (among others) through the creation of Reserve Rural Zones (*Zonas de Reserva Campesina*).
4. Restitution of land to the armed conflict displaced victims.

# UNDERSTANDING THE AGENDA OF THE PEACE AGREEMENTS



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## ADDRESSING THE DRUG TRAFFICKING PROBLEM



### Objectives:

1. Promotion of the voluntary substitution of illegal crops.
2. Improvement of the livelihood conditions of the communities affected by the use and consumption of illegal drugs through the implementation of new public policies.
3. Dismantling criminal organizations.

### Agreed Measures

1. Creation of the Comprehensive National Program for the Substitution and Alternative Development.
2. Implementation of programs for the substitution of illegal crops through comprehensive development plans involving the participation of communities.

### Agreed Measures

3. Creation of a National System for the Attention of the Illegal Drugs Consumer.
4. Development of a new strategy against the corruption activities associated with drug trafficking, and strengthening the abilities to detect, control and report illegal financial operations.

### Agreed Measures

1. Creation of the Commission for the Implementation, Follow Up, and Verification of the Final Peace Agreement and Conflict Resolution, which shall have a term of 10 years as of January 2019.
2. Implementation of mechanisms to verify the compliance of the agreements by international entities (i.e. United Nations) and representatives.
3. Approval of a Draft Plan for the Implementation of the Peace Agreements.

**Objectives:** Verifying the agreements, and the status and advances in their implementation, and identify any delays or deficiencies.

## IMPLEMENTATION, VERIFICATION AND PUBLIC APPROVAL



### Agreed Measures

5. Use of the resources from the General Participation System and the Royalty General System, as well as the funds received by international.
6. Amendments to the local regulations in order for the departmental, and local development plans to include the adequate measures to guarantee the implementation of the agreements.
7. Promote the participation of the private sector in the implementation of the agreements



# UNDERSTANDING THE AGENDA OF THE PEACE AGREEMENTS

**Objectives:**

1. Acknowledgement of the victims and of the responsibility before the victims.
2. Participation of the victims in the process, clarification of the truth and claim for the damages caused to them.
3. Guarantee the end of the armed conflict and the implementation of the amendments resulting from the peace agreements.
4. Reconciliation of the Colombian citizenship.

**Agreed Measures:** Creation of the Comprehensive System for the Truth, Justice, Reparation and Non-Recurrence

**JUSTICE FOR THE VICTIMS OF THE ARMED CONFLICT**



**\*\*Special Jurisdiction for Peace. ("SJP")**

1. Autonomous special jurisdiction in charge of deciding over serious violations to the International Humanitarian Law or to Human Rights (E.g. genocide, war crimes, torture, etc.).
2. Everyone that participated directly (i.e. illegal armed groups, State agents, and paramilitaries who financed or collaborated with the commission of the crimes) or indirectly (E.g. politicians, entrepreneurs that directly or indirectly participated in the commission of the crimes) in the armed conflict is subject to the SJP.
3. In charge of providing certainty and security to the persons involved in the Comprehensive System for the Truth, Justice, Reparation and Non-Recurrence.

**\*\*Sanctions to be Imposed**

**by the SJP** include limitation of liberty for periods between 5 to 8 years.

**\*\*SJP**

1. Conformed by the (i) Court for the Recognition of Truth, Responsibility and Establishment of Facts and Conducts; (ii) Peace Court; (iii) Amnesty or Pardon Court; (iv) Court for the definition of the legal situation for cases different than the ones abovementioned; and (v) Special Unit for the Investigation and Accusation.
2. Shall have a duration term of 10 years as of the effective date in which all the courts start functioning, and an addition term of 5 years to conclude their judicial activities.

## COSTS RELATED TO THE POST CONFLICT PERIOD



Subsidies and loans for and estimated amount of USD 450 million from the United States and €475 million from the European Union, that will be contributed to 4 funds created for these purposes.



As per calculations made by the Colombian Congress, the first period of the Post Conflict (this is the next 10 years) will have a cost of approx. 90 billion Colombian pesos (Approx. USD30 billion).

Colombia could reach an annual increase rate of 5,9% of the domestic gross product, in the years following the approval of the Final Peace Agreement.

# ISSUES ADDRESSED IN THE FINAL PEACE AGREEMENT



## **Integral Rural Reform:**

1. A commission of experts will be created to review the reform.
2. Recognition and respect of private property.



## **Special Jurisdiction for Peace:**

1. May only receive claims for the first 2 years as of the date it starts functioning.
2. Introduction of foreign experts that may give their opinion and concept regarding the cases the SJP is deciding.
3. Review of the decisions made by the SJP, by the Colombian Constitutional Court.
4. Exclusion of State agents who committed crimes within the armed conflict for personal profit.



## **Integral Reparation of Victims:**

1. FARC-EP shall prepare and present an inventory with all the assets that were used to finance the armed conflict, that will be used to repair the victims.
2. The Government fixed some specific territories in which the former armed actors may comply with the imposed sanctions (“effective restriction of liberty”).



## **Political Participation of the FARC-EP:**

1. Reduction of 30% (compared to the last agreement) in the amount of funds that will be used to finance their political party.

# ELN PEACE NEGOTIATIONS

- The peace negotiations with the ELN initiated in Quito, Ecuador, on February 2017.
- The main difference between this process and the peace process conducted with the FARC, is that there is no certainty that all members are committed with the peace process. The above considering that the ELN lacks of a strong central command or secretariat which does not allow to have a unified consensus in connection with a demobilization.
- The 6 points of the negotiation agenda includes:
  - (i) Civilians' participation.
  - (i) Peace democracy
  - (ii) Transformations to achieve peace
  - (iii) Victims
  - (iv) Implementation

# OPPORTUNITIES AND CHALLENGES GOING FORWARD

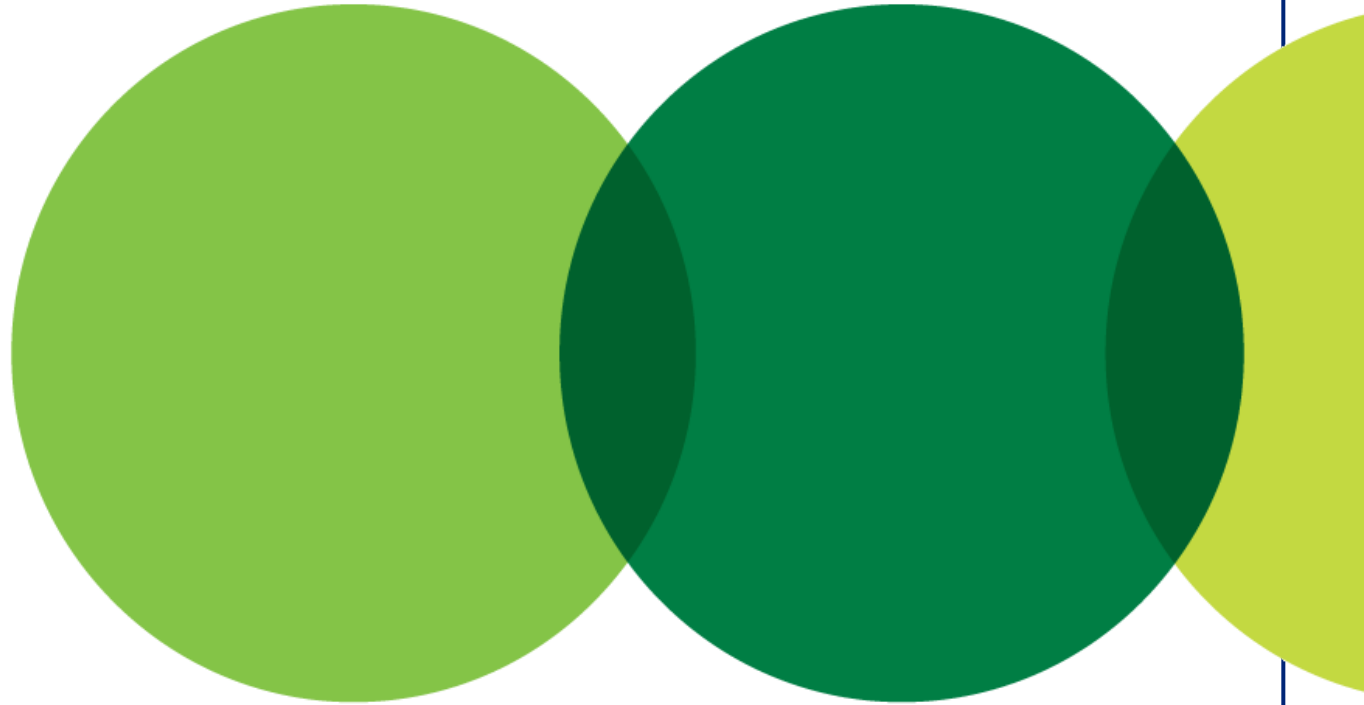
## ●● Challenges:

1. Extremely divisive process.
2. Funding the Peace Process by means of a new Tax reform.
3. Trump phenomenon vis a vis a perceived shift to a more socialist model.
4. Avoid derailment that could lead to a surge in violence due to presidential and congressional elections in 2018.

## ●● Opportunities:

1. Enhanced sense of peace and security, hopefully leading to an increase in foreign investment.
2. Streamlining and institutionalizing new political processes.

POSSE  
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