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"I/A" ITEM NOTE

From : General Secretariat of the Council
To : COREPER/COUNCIL

Subject : Concept on Strengthening EU Mediation and Dialogue Capacities

COREPER is invited to recommend to the Council to adopt the Concept on Strengthening EU Mediation and Dialogue Capacities, as it has been agreed by PSC on 28 October 2009.

Concept on Strengthening EU Mediation and Dialogue Capacities

I. Introduction

1. Rationale and overall aim

The EU, as a global actor committed to the promotion of peace, democracy, human rights and sustainable development, is generally seen as a credible and ethical actor in situations of instability and conflict and is thus well placed to mediate, facilitate or support mediation and dialogue processes. While mediation is not a new area to the EU, a more coordinated and focused approach will enhance the EU's ability to play a more active international role in this area.

This joint Council and Commission Concept provides a policy basis for EU engagement in the area of mediation and dialogue, and makes concrete proposals on how to strengthen the Union's capacity and support to EU and EU-backed mediators. Based on the tasking by the Political and Security Committee of 31 July 2009, this Concept is part of the follow-up and implementation of the European Security Strategy (ESS) of 2003 and the SG/HR's 2008 Report on the Implementation of the ESS, both of which refer to the EU engagement in the area of mediation and dialogue. This is in line with the broader EU engagement in the area of conflict prevention set out in the Göteborg Programme for the Prevention of Violent Conflicts of 2001 and the European Commission Communication on Conflict Prevention of 2001.

The ESS underlines the relevance of "preventive engagement" and the need to use all conflict prevention instruments at the EU's disposal "including political, diplomatic, military and civilian, trade and development tools". The SG/HR's Report on the Implementation of the ESS explicitly acknowledges the need to "expand (the EU's) dialogue and mediation capacities".

2. Definitions

Mediation is a way of assisting negotiations between conflict parties and transforming conflicts with the support of an acceptable third party. The general goal of mediation is to enable parties in

conflict to reach agreements they find satisfactory and are willing to implement. The specific goals depend on the nature of the conflict and the expectations of the parties and the mediator. A primary goal is often to prevent or end violence through cessation of hostilities or cease fire agreements. In order to ensure peace and stability in the long-term, mediation should be cognisant of and, as appropriate, address the root causes of conflict.

Mediation is usually based on a formal mandate from the parties to a conflict, and the mediator gets involved both in the process and substance of the negotiations by making suggestions and proposals. Facilitation is similar to mediation, but less directive, and less involved in shaping the substance of the negotiations.

Dialogue¹ is an open-ended process which aims primarily at creating a culture of communication and search of common ground, leading to confidence-building and improved interpersonal understanding among representatives of opposing parties which, in turn, can help to prevent conflict and be a means in reconciliation and peace-building processes. Successful dialogue can de-escalate conflict and render more formal mediation unnecessary.

Mediation, facilitation and dialogue thus are distinct but closely related and complementary tools for dealing with conflicts and crises. They have in common that they apply third party assistance to support communication between the conflict parties and, in doing so, use similar communication techniques and methods. The dividing lines between these tools are not always clear, as conflict prevention and peace processes may move back and forth between them. Unless indicated otherwise, this Concept uses the term mediation in a broad sense which is meant to include also dialogue and facilitation processes.

II. EU and mediation

1. Mediation as an EU policy tool

Mediation is an effective and cost-efficient instrument for conflict prevention, transformation and resolution. It is a relevant feature of crisis management at all stages of inter- and intra-state

¹ Dialogue in this context differs from the institutionalized Political Dialogue which the EU conducts with partner countries. Political Dialogue can, however, provide entry points for dialogue and mediation processes aiming at conflict prevention and resolution.

conflicts: before they escalate into armed conflict, after the outbreak of violence, and during the implementation of peace agreements.

The EU is engaged in the entire spectrum of mediation, facilitation and dialogue processes. While, in practice, mediation is thus already an integral part of EU external action, the EU has so far used this tool in a rather ad-hoc fashion. On the basis of this Concept the EU aims to develop a more systematic approach to mediation and to strengthen its mediation support capacity which will allow it to contribute in a more efficient and effective way to preventing and resolving conflicts.

The EU will strive to establish and promote the use of mediation as a tool of first response to emerging or ongoing crisis situations. Mediation could also be mainstreamed into other EU conflict prevention and crisis management activities, wherever relevant.

2. EU as an actor in mediation

The EU has a lot to offer as an actor in mediation. It brings value added and creates new entry points for peace initiatives through its political and financial weight and its comprehensive approach to conflict prevention and resolution, involving CFSP/ESDP and Community instruments. The EU is in an excellent position to provide incentives to the conflict parties and can rely on its wide field presence. Mediation processes and, subsequently, the implementation of peace agreements have been and will, where necessary, continue to be supported through the full range of civilian and military crisis management instruments as well as trade and development tools available to the EU. This requires effective co-ordination and communication between all relevant EU actors to ensure that the EU can respond quickly to rapidly evolving situations. The PSC plays a particularly important role in this co-ordination.

Various EU actors (SG/HR, Presidency, European Commission, EUSRs, ESDP missions and European Commission Delegations) can be and have been involved in EU mediation activities (such as those leading to the Ohrid Framework Agreement of 2001 or the Aceh Peace Agreement of 2005).

EUSRs often play a visible role in EU mediation activities and their mandates include a host of mediation- and dialogue-related tasks: supporting stabilisation and conciliation processes, contributing to initiatives leading to settlement of conflicts and to negotiation and implementation of peace and cease fire agreements, facilitating and maintaining close contact with all the parties, etc. Mediation and/or support to mediation processes lead by others should, where relevant, constitute an explicit part of the mandates of EUSRs dealing with acute or emerging crisis situations.

EUSR teams need to be given appropriate training opportunities in the area of mediation and should, where relevant, include individuals who have experience and expertise in mediation. Training should be developed taking into account the broad set of skills needed, given that mediation efforts may involve a wide range of tasks.

The EU needs to develop arrangements which allow it to respond rapidly to conflict situations in which opportunities for mediation exists. The SG/HR, EUSRs, ESDP missions, Commission Delegations, the Presidency and Member States' diplomatic representations should facilitate early EU mediation involvement. The need to establish a flexible and useable roster of experts in mediation processes and related thematic areas and to make provisions for appropriate deployment mechanisms will be explored. Synergies should be sought with Civilian Response Teams and Security Sector Reform pools.

In addition to EU involvement at the highest political level, ESDP missions, Commission Delegations, and the Presidency are frequently engaged with local political and civil society actors in activities of a mediating and confidence-building nature. Mediation training should be offered to ESDP-missions and Commission Delegations, where relevant. These EU activities on the ground play an important role in consolidating and sustaining peace processes and their outcomes, inter alia by strengthening the rule of law and democratic governance, promoting DDR/SSR, supporting confidence-building measures, and establishing a link between processes at the government and community levels. By supporting local mechanisms for mediation and dialogue, these EU activities on the ground help transform relationships between conflict parties, leading to genuine and sustainable solutions in conflict-prone environments

3. Types of EU mediation involvement

In addition to acting as a mediator itself, be it as a lead- or as a co-mediator, the EU can and will continue to play an active role in other, equally important aspects of mediation:

- Promoting mediation: Based on its own experience as a peace project and its engagement for human rights and the rule of law, the EU is a credible promoter of dialogue and mediation as a non-coercive response to tensions and conflict.
- Leveraging mediation: Given its political weight and financial resources, the EU can, as appropriate, provide diplomatic leverage (e.g. as part of a group of friends) and/or economic credence to mediation processes and support follow-up to their outcome through the full range of civilian and military crisis management instruments and EU policies and instruments in the fields of trade, development and crisis response.
- Supporting mediation: The EU can facilitate effective mediation processes led by other actors through capacity building, training, logistical support and the provision of expertise to mediators and conflict parties. This support needs to be well co-ordinated with all actors involved in order to avoid duplication of efforts and fully draw on EU comparative advantages.
- Funding mediation: The EU will continue to provide financial support to formal, informal and grassroots mediation processes.

4. Guiding principles

(a) Coherence

Mediation initiatives need to be guided by the principle of policy coherence and undertaken in the broader context of EU policy objectives in external relations.

(b) Comprehensiveness

Mediation is part of the EU's comprehensive toolbox in the area of conflict prevention and crisis management. There are strong linkages and synergies between mediation and other tools available to the EU. Early mediation initiatives in a preventive context can, if successful, pre-empt the need for more expensive ESDP (or UN peacekeeping and peace-building) missions. Appropriate and

well coordinated EU mediation capacities in the field - both in the work of EC Delegations and in the context of ESDP missions - serve as a useful means of fostering political reconciliation, strengthening the rule of law and facilitating the implementation of peace agreements and thus also contribute to early exit of ESDP missions. The mandates of ESDP missions should therefore continue to include mediation-related tasks, as appropriate.

The EU will continue to be involved in mediation processes at various levels – from the governmental to that of local communities - and at different stages - from preliminary talks to the implementation phase of peace agreements. In many parts of the world, the EU has various actors and field presences in place to pursue both a top-down and a bottom-up approach in parallel tracks, which reinforce and inform each other. Building on the EU's engagement at the grassroots level and its emphasis on civil society development, this holistic approach on conflict resolution contributes to the development of a unique and differentiated role for the EU amongst other providers of international peace mediation.

Mediation is also a tool for bridging the gap between early warning and early action in crisis situations. For this to work, ready and flexible resources for facilitating and supporting sustained dialogue and mediation processes need to be available already at an early stage, ideally before the outbreak of violent conflict. At the same time, the EU needs to integrate ongoing mediation-related needs assessments and the identification of possible future mediation needs into its policy analysis and planning processes.

(c) Assessment of risks

Mediation between conflict parties carries certain political risks. In order to safeguard its credibility, the EU needs to assess these risks carefully, including the proposed timing for mediation, before accepting to become involved in a mediation process. Lack of political will to become engaged, failure to be accepted as a mediator by the conflict parties or potential tensions between the EU's normative commitments in the area of human rights and international law and short-term conflict management objectives may pose additional challenges and prevent the EU from becoming involved in a mediation process. Other actors, including NGOs, may be in a better position to do so and the EU may choose to support their activities.

(d) Transitional justice and human rights

In many cases mediation efforts take place in highly complex contexts, where one or several parties to the conflict have committed serious violations of international human rights and humanitarian law. Issues such as holding human rights violators accountable in justice for their actions, reparations to victims, reintegration of ex child-soldiers, restitution of property and land as well as the return of IDPs and refugees have to be tackled during the peace negotiations and the drafting of peace agreements. Although it is widely acknowledged that it is only through justice to victims that enduring peace can be achieved, there are often tensions between these two objectives, and the EU should consider on a case by case basis how best to support transitional justice mechanisms, including addressing impunity.

EU mediation efforts must be fully in line with and supportive of the principles of international human rights and humanitarian law, and must contribute to fighting impunity for human rights violations. In dealing with this task, the EU needs to take into consideration the international experience and expertise available through the UN, EU Member States and other countries active in mediation, NGOs and research bodies. There is also a need to provide efficient guidance and support to EU-appointed and EU-supported mediators on these issues, including through expert advice.

(e) Promoting the participation of women

Women's under-representation in mediation processes and peace negotiations as well as the lack of gender expertise in mediation teams seriously limit the extent to which women's experiences of conflict, and consequent needs for justice and recovery, are addressed in these processes. United Nations Security Council Resolutions 1325 and 1820 on women, peace and security constitute an important framework for EU mediation activities, which should at all stages of the process incorporate the principles contained therein². More specifically, the EU should contribute to promoting women's equal and full participation in the prevention and resolution of conflicts, peace negotiations, peace-building, peacekeeping, humanitarian response and in post-conflict

² See also 'Comprehensive approach to the EU implementation of the United Nations Security Council Resolutions 1325 and 1820 on women, peace and security' 15671/1/08 REV 1.

reconstruction. Mediation processes must adequately account for sexual violence as well as the need to protect civilians from it and to fight impunity. The EU needs to promote the representation of women and the availability of adequate resources for dedicated mediation gender expertise from an early stage of mediation processes onwards.

5. EU cooperation and coordination with other international actors

Given the multitude of potential actors in international peace mediation, close coordination is essential in order to determine who, in a given mediation initiative, would take on the lead role and who would play a supportive role. This decision will have to be taken depending on considerations of comparative advantage for the lead role in a particular case.

The UN is the most important actor in the area of international peace mediation and has, over the years, developed a high level of expertise. The report of the UNSG on "Enhancing Mediation and Its Support Activities"³ summarises this experience, provides guidance for action and examines future challenges, both for the UN and other actors involved in mediation.

Even though the UN plays a pre-eminent role in international peace mediation, other actors, like the EU, have important roles to play. The EU is a global actor and its political, developmental and security interests go well beyond its neighbourhood. It will therefore continue to offer its mediation (support) services whenever relevant and as part of its comprehensive approach to conflict prevention and resolution. This, of course, needs to be done in full co-ordination with other actors.

The development and consolidation of the EU's mediation capacities and mediation support tools will lead to additional entry points for third party peace mediation and contribute to strengthening the overall capacity of the international community in this area. Regional actors, including the OSCE and the AU, are playing an increasingly active role. In many instances they are the first to respond in mediation cases based on the advantage of being knowledgeable on local and regional dynamics and credible third parties in the regional context. The EU will continue to co-operate closely with the UN and its Mediation Support Unit, including in such areas as training and support to regional organisations in their efforts to strengthen their mediation capacities.

³ S/2009/189 of 8 April 2009.

6. EU financial instruments to support mediation initiatives

The two most relevant financial instruments to currently support mediation activities are the Instrument for Stability (IfS) and the African Peace Facility (APF). The IfS contains a specific facility – the Policy Advice and Mediation Facility – which enables the funding, at relatively short notice, of activities in the context of a particular crisis, e.g. of the UN-Secretary General’s Envoy for Myanmar or of the dialogue between the Laos Government and the Hmong diaspora facilitated by an international NGO. Other mediation processes and activities either of a larger financial scale or as part of a wider process are funded under separate IfS financing decisions, e.g. the UN/AU joint mediation support team in Darfur or NGO mediation activities in Mindanao.

The long-term component of the IfS includes the Peace-building Partnership. This Partnership aims to mobilise and consolidate civilian expertise on peace-building issues. With regard to mediation, it is envisaged to support the Stand-by Team of Mediation Experts in the UN Mediation Support Unit to work on the link between natural resources and conflict. The Initiative for Peace-building, which comes under the aegis of the Peace-building Partnership, funds a consortium of civil society organizations working on a series of subject areas including mediation.

The APF provides for support to (inter alia) mediation initiatives by AU and African sub-regional organisations (SROs) and the strengthening of their relevant capacities in this area. More specifically, with a view to ensuring flexible and rapidly accessible funding for first stages of AU/SRO-led mediation activities (as well as preparatory stages for African peace operations), an Early Response Mechanism has been established.

Activities in the area of and related to mediation carried out by the EUSRs and ESDP missions according to their mandates are financed through the respective budgets of the EUSRs and ESDP missions.

7. EU mediation support capacities

Mediation processes are often identified with outstanding personalities who play a key and visible role. Mediation is, however, a team effort which requires substantial expertise, knowledge,

technical capacity, engagement at different levels over time as well as co-operation with other actors in order to be effective and to improve its chances of success. Strengthening mediation capacity, as mandated by the ESS, therefore also requires strengthening mediation support capacity. For the EU, this involves provision of operational support to ongoing mediation and dialogue initiatives, assessment of lessons learned, identification of best practices and, as appropriate, the development of guidelines for the EU practice in the area of mediation, developing training and capacity building in the area of mediation as well as networking and co-ordination with other actors in crisis management.

III. Measures to strengthen EU mediation capacities

When developing its mediation capacities, the EU will make best use of the resources and expertise which are already available in the EU including its Member States, as well as with the United Nations, regional organisation such as the OSCE and the AU, national, local and civil society actors. The initial aim for the EU is to optimise the use of existing tools and instruments in the area of mediation by ensuring close co-operation and co-ordination, internally and with other actors, leading to coherence and complementarity.

1. Strategic and horizontal aspects

- The SG/HR, EUSRs, ESDP missions, Commission Delegations, the Presidency and Member States' diplomatic representations should facilitate timely EU mediation involvement or support to mediation initiatives of others.
- The EU needs to ensure policy coherence and coordination between political/diplomatic efforts and financial and other support to mediation and dialogue processes, connecting the EU's high-level engagement with grass-roots initiatives.
- In addition to acting as a lead- or co-mediator, the EU will continue to provide different kinds of mediation support to other actors which, in a specific mediation process, may be in a better position to take the lead.
- Effective support needs to be provided to EU-appointed and EU-backed mediators on how best to contribute to transitional justice mechanisms and to fighting impunity for human rights violations.

- The EU will seek to identify female mediators, promote the representation of women and the availability of gender expertise from an early stage of mediation processes.
- Mediation and mediation support should constitute an explicit part of the mandates of EUSRs dealing with acute or emerging crisis situations, where relevant.
- Mandates of ESDP missions should, where relevant, include mediation-related tasks.

2. Operational support

- Financial and logistical support will be provided to EU-appointed and EU-backed mediators, as necessary and feasible.
- Access to expertise on mediation processes and related thematic areas will be made available to EU-appointed and EU-backed mediators (including EUSRs), as necessary, drawing on expertise available in EU institutions, Member States, the UN and other partners, including non-governmental organisations and think-tanks.
- The benefits and the feasibility of establishing a roster of experts in mediation process and related thematic areas, will be explored, possibly in co-operation with the United Nations and other partners. In due course the Secretariat and the Commission will come back to Member States with their findings.

3. Training

- Training, capacity-building and coaching opportunities for mediators and their staff as well as key EU actors involved in facilitating and supporting mediation efforts need to be developed and further strengthened, building on and co-operating with existing training practices and opportunities in EU institutions, Member States, the UN and other partners.
- Training opportunities need to take into account the broad set of skills needed, given that mediation efforts may involve a wide range of tasks.
- More in-depth specialized training should be offered to those directly involved in mediation or mediation support whereas basic skills should be included in the training offered to ESDP-missions and Commission delegations.
- Mediation training could be included in the curricula of the ESDC and of relevant national training institutions.

4. Knowledge management

- Efforts should be made to strengthen the EU's common analysis and diagnostics capabilities as a basis for mediation engagement, drawing on the joint capacity of EU institutions and Member States.
- Best practices and lessons learned need to be gathered systematically, and guidelines developed, in co-operation with the United Nations and other partners, including non-state actors.
- The possibility to bring together key mediation actors for regular exchanges of experiences and best practices will be explored.

5. Outreach and co-operation

- The EU will strengthen its cooperation and networking with international partners, relevant non-governmental organisations and institutions, drawing on their knowledge, expertise and contacts.
- The EU will co-operate closely with the UN and its Mediation Support Unit, with the AU, the OSCE and other regional organisations, and with key national players.

An informal Mediation Support Group (MSG)⁴, consisting of representatives of the Council Secretariat and the Commission, will be the focal point for co-ordinating the activities outlined above, in close co-operation with the Presidency and Member States.

Activities undertaken by the EU institutions will be developed in a gradual manner, starting with pilot projects. Costs arising from these activities will be financed through existing financial instruments, in particular the IfS, and within their budgetary limits.

IV. Review

This Concept, including the modalities for co-ordination, is to be reviewed in the relevant Council bodies, taking into consideration the experience gathered in the course of its implementation and potential institutional changes. Such a review process should be initiated no later than 12 months after this Concept has been adopted.

⁴ The MSG will draw on existing human resources.