

DEVELOPING GUIDANCE FOR EFFECTIVE MEDIATION

CONSULTATION WITH REGIONAL, SUBREGIONAL
AND OTHER INTERNATIONAL ORGANIZATIONS

DECEMBER 2012



osce

Organization for Security and
Co-operation in Europe
Conflict Prevention Centre

DEVELOPING GUIDANCE FOR EFFECTIVE MEDIATION

CONSULTATION WITH REGIONAL, SUBREGIONAL
AND OTHER INTERNATIONAL ORGANIZATIONS

JEDDAH, 3–4 APRIL 2012

Published by the Organization for Security and Co-operation in Europe (OSCE)
OSCE Secretariat, Conflict Prevention Centre/Operations Service
Wallnerstrasse 6
1010 Vienna
Austria

Telephone: +43 1 514 36 0
Fax: +43 1 512 36 6996
www.osce.org
Email: info@osce.org

© 2012 OSCE

Rights and Permissions:

All rights reserved. The contents of this publication may be freely used and copied for educational and other non-commercial purposes, provided that any such reproduction is accompanied by an acknowledgement of the OSCE as the source.

Table of Contents

1. Preface – About the Report	4
2. Executive Summary	6
3. Introduction	9
3.1. Objectives of the Consultation	10
3.2. Themes of the Consultation	11
3.3. Methodology of the Consultation	12
4. UN General Assembly Resolution 65/283 – A Collective Response to Prevailing Conflict Situations	13
4.1. Background and Content of Resolution 65/283	13
4.2. Guidance on Effective Mediation	14
5. Drawing Lessons Learned from Regional Organizations’ Mediation Experiences	16
5.1. Choosing the ‘Right’ Mediator	16
5.2. Engaging Local Actors	18
5.3. Conflict Analysis, Stakeholder Mapping and Contingency Planning	19
5.4. Avoiding Relapse of Conflict – Ensuring a Sustainable Peace Agreement	20
5.5. Way ahead – Concluding Remarks	22
6. Key Fundamentals for an Effective Mediation Process	23
6.1. Preparedness	23
6.2. Consent	24
6.3. Inclusivity of the Process	25
6.4. Ownership	25
6.5. Communication	27
6.6. International Norms	27
6.7. Coherence and Complementarity	29
6.8. Implementable Peace Agreements	29
7. Conclusions	31
8. Annexes	32
Annex 1 – Annotated Agenda	32
Annex 2 – List of Participants	35

1. Preface – About the Report

This report focuses on key issues discussed during a two-day Consultation on “Developing Guidance for Effective Mediation”, held in Jeddah, Saudi Arabia on 3 and 4 April 2012.

Hosted by the Organization of Islamic Cooperation (OIC) and organized together with the United Nations (UN) and the Organization for Security and Co-operation in Europe (OSCE), one of the Consultation’s principal objectives was to make a significant contribution to the development of guidance for more effective mediation, which the UN General Assembly requested the UN Secretary-General to develop. The Consultation brought together senior expert-level participants from relevant international and regional organizations familiar with facilitation and mediation processes in order to exchange experiences and identify what constitutes effective mediation.

Structured thematically, the report is intended as a resource for mediators in international and regional organizations and for policy makers and academics analyzing work carried out in the field of dialogue facilitation and mediation.

The report does not reflect the official views of the UN, the OSCE and the OIC or any other regional organization present at the Consultation.

The report was prepared and drafted by the Planning and Analysis Team, Operations Service, OSCE Conflict Prevention Centre, in consultation with the representatives of the UN, the OIC and other international, regional and subregional organizations.

The co-organizers

The United Nations Department of Political Affairs (UNDPA) plays a central role in UN efforts to prevent and resolve deadly conflict around the world. It monitors and assesses global political developments with an eye to detecting potential crises before they escalate, and devising effective responses. UNDPA provides close support to the Secretary-General and his envoys, as well as to UN political missions deployed to areas of tension around the world with mandates to help defuse crises or promote lasting solutions to conflict. With the support of UN Member States, UNDPA has become a more mobile and agile platform for crisis response, capable of rapidly deploying mediators and

other peacemaking expertise to the field and co-operating more closely with international and regional organizations at the frontlines of conflicts.

The Organization of Islamic Cooperation (OIC) is the second largest inter-governmental organization after the UN with a membership of fifty-seven states spread over four continents. The Organization endeavors to safeguard and protect the interests of the Muslim world in the spirit of promoting international peace and harmony among various peoples of the global community. Originally named the Organization of the Islamic Conference, it was established pursuant a decision adopted at a summit in Rabat, Kingdom of Morocco, in 1969. The Organization has consultative and co-operative relations with the UN and other inter-governmental organizations to protect the vital interests of the Muslims and to work for the settlement of conflicts and disputes involving Member States.

The Organization for Security and Co-operation in Europe (OSCE), with 57 participating States from Europe, Central Asia and North America, is the world's largest regional security organization, bringing comprehensive and co-operative security to a region that stretches from Vancouver to Vladivostok. It offers a forum for political negotiations and decision-making in the fields of early warning, conflict prevention, crisis management and post-conflict rehabilitation, and puts the political will of the participating States into practice through its unique network of field operations and its institutions. The OSCE has been directly involved in conflict resolution in Eastern Europe, the Caucasus, Central Asia and South-Eastern Europe. The OSCE traces its origins to the détente phase of the early 1970s, when the Conference on Security and Co-operation in Europe (CSCE) was created to serve as a multilateral forum for dialogue and negotiation between East and West.

2. Executive Summary

Co-operation between the United Nations and regional organizations is anchored in Chapter VIII of the UN Charter and is essential for the maintenance of international peace and security. The importance of mediation for the peaceful settlement of disputes and conflicts and the necessity for collaboration between the UN and other international, regional and subregional organizations in this area was recently reaffirmed by UN General Assembly resolution 65/283 of 28 July 2011. Emphasizing the importance of partnership and co-operation in mediation efforts, the resolution provided the *raison d'être* for the Consultation as it requests the UN Secretary-General to develop guidance for more effective mediation and consult, *inter alia*, also with other organizations.

The Consultation format was conducive to the task of identifying lessons and best practices on effective mediation from the past and on-going mediation experiences of regional and subregional organizations. Drawing on a number of case studies from various regions of the world, participants endorsed the importance of international, regional and subregional organizations in mediation processes and their valuable contributions to the peaceful settlement of disputes, conflict prevention and resolution.

From the case studies under discussion, lessons learned and factors identifying what contributes to effective mediation were extrapolated. It was acknowledged that choosing the 'right' mediator, in terms of regional expertise, impartiality, credibility and sensitivities to the process and the conflict parties, was one of the principal prerequisites. Engaging as many actors as possible in the mediation process, not only the conflict parties and relevant stakeholders, but also from other levels of society was also viewed as essential. The need to increase the engagement of women was particularly pertinent. Sound preparation – including tasks such as conflict analysis, stakeholder mapping and contingency planning – in advance of initiating a mediation process also contributed to more effective mediation. A relapse into violence or the re-emergence of a violent conflict was thought to be best prevented through an implementable peace agreement and a sustainable implementation process.

Fundamentals for effective mediation were identified in two working sessions. They were explored within the parameters of the entire 'mediation cycle' – from preparation to initiation and implementation of outcomes – and include the following: preparedness;

EXECUTIVE SUMMARY

consent; inclusivity; ownership; communication; international norms; coherence and complementarity; and implementable peace agreements.¹

- **Preparedness** is crucial for credible, responsible and effective mediation and requires thorough planning of the mediation process, a clear mediation strategy, detailed knowledge of the conflict dynamics, and familiarity with previous mediation initiatives.
- As mediation is a voluntary process, **consent** of the conflict parties is required to be effective and for the mediation process to have legitimacy.
- Effective mediation also draws on the **inclusivity** of the process in that the views and needs of all parties to the conflict as well as those of relevant stakeholders should be represented.
- Inclusivity provides for a sense of **ownership** of the process, another important fundament in making mediation more effective. Ownership promotes the commitment of all conflict parties and the broader society to the mediation efforts, but also facilitates acceptance and implementation of a peace agreement.
- A communication- and information-sharing strategy is essential for effective mediation as it maintains the transparency of the process and makes continued support by the conflict parties, relevant stakeholders and society possible. **Communication** is also vital for purposes of co-ordination in joint or co-led mediation processes to prevent contradictory messages or other communicative errors that can derail a mediation process.
- In today's mediation environment of multiple actors, **international norms** have an impact on the success of a mediation process. Mediators have not only to operate within their own institutional framework of acceptable norms, rules and values, but they must also ensure that conflict parties and stakeholders understand the normative framework of the mediation process.

¹ The final version of the United Nations Guidance for Effective Mediation, as submitted to the UN General Assembly includes the following fundamentals: preparedness; consent; impartiality; inclusivity; national ownership; international law and normative frameworks; coherence, coordination and complementarity of the mediation efforts; and quality peace agreements.

EXECUTIVE SUMMARY

- Given the multiplicity of third-parties involved in mediation, concerted efforts as to *coherence and co-ordination* of mediation are required. This is to prevent duplication of efforts, competition among mediators or other problems that can affect a mediation process, particularly in case of joint or co-led initiatives.
- Fundamental are also *implementable peace agreements*. To make peace agreements implementable they have to be realistic, precise, comprehensive and holistic, leaving no or few issues unresolved or the grievances that led to the conflict in the first place unaddressed. Concrete information as to who does what, when and how need to be included. Guarantors of a peace agreement can also be an effective instrument that aids implementation.



The Co-Chairs of the Geneva Discussions (from right) EU Special Representative Philippe Lefort; Special Representative of the OSCE Chairperson-in-Office for Protracted Conflicts, Giedrius Čekuolis; and UN Representative Antti Turunen finalize their communiqué with colleagues, Geneva, 4 October 2011. (Photo Credit: OSCE/Frane Maroevic)

3. Introduction

The OIC Secretary General, in co-operation with the UN and the OSCE, hosted a consultation on “Developing Guidance for Effective Mediation” on 3 and 4 April 2012 in Jeddah, Saudi Arabia. The Consultation was designed to make a significant contribution to the UN Secretary-General’s fulfillment of operative paragraphs 11 and 17 of the UN General Assembly resolution 65/283 of 28 July 2011 on strengthening the role of mediation in the peaceful settlement of disputes, conflict prevention and resolution.

Resolution 65/283 recognizes the significant role of regional and subregional organizations as mediators. It underlines the importance of partnership and co-operation of international, regional and subregional organizations with the UN, and with each other, for purposes of coherence and complementarity of mediation efforts. As to the development of guidance for more effective mediation, the resolution calls on the UN to consult with Member States and other relevant actors, including regional organizations, “taking into account, *inter alia*, lessons learned from past and ongoing mediation processes.” (UN General Assembly, A/RES/65/283, p. 4, para. 11). Relevant actors, including regional and subregional organizations, are encouraged to follow UN guidance for effective mediation. The Consultation also reflected the emphasis for more systematic sharing of mediation approaches, lessons learned and best practices of regional and subregional organizations as contained in the 2009 ‘Report of the UN Secretary-General to the UN Security Council on enhancing mediation and its support activities.’

Hence, the Consultation contributed directly to the United Nations Guidance for Effective Mediation, which was submitted to the General Assembly in June 2012 as an annex to the report of the UN Secretary-General (A/66/811). The Guidance recognizes this contribution from regional, subregional and other international organizations.

The practice of bringing together the United Nations and regional organizations to discuss issues related to preventive diplomacy and conflict resolution dates back to the UN Secretary-General’s Retreat with Heads of Regional Organizations, held in January 2010 in New York. A two-day workshop on “Preventive and Quiet Diplomacy, Dialogue Facilitation and Mediation – Best Practices from Regional Organizations”, organized by the OSCE Secretary General and held with the UN in Vienna, Austria on 6 and 7 December 2010, provided the first follow-up to the January 2010

INTRODUCTION

event. At the workshop, participants endorsed the possibility of a second follow-up meeting.

To maintain the momentum in enhancing closer co-operation and knowledge-sharing on the use of mediation in conflict prevention, crisis management and conflict resolution, the Jeddah Consultation was conceived as a second follow-up event. The Consultation was envisioned to provide a timely opportunity to explore the aforementioned topic, especially in the context of on-going initiatives to further strengthen mediation and mediation-support capacities in international and regional organizations, advance partnership-building, and engage in relevant knowledge-sharing.

The Consultation was attended by senior representatives of the UN and various international, regional and subregional organizations. In addition to the OSCE and the OIC, the participants included representatives from the Community of Sahel-Saharan States (CEN-SAD), the Conference on Interaction and Confidence-Building Measures in Asia (CICA), the European Union (EU), the Gulf Cooperation Council (GCC), the North Atlantic Treaty Organization (NATO), and the Organization of American States (OAS). The broad participation from the international community allowed for substantial exploration of issues related to the comparative advantages of regional organizations in mediation processes, as well as best practices for co-operation between the UN and other international and regional organizations, thereby contributing to the development of guidance for more effective mediation. (The list of participants can be found in Annex 2 of this report).

3.1. Objectives of the Consultation

The Consultation served two broad objectives: (1) to discuss and exchange lessons learned and best practices from the perspectives of international and regional organizations for the purpose of contributing to the development of guidance for effective mediation, as requested by resolution 65/283; and (2) to further enhance co-operation and partnership between the UN and other international and regional organizations, especially with a view to further operationalizing the role of dialogue facilitation and mediation in conflict prevention and resolution.

The following topics provided the basis for discussion:

- What is effective mediation? Lessons learned from regional organizations.

- The value of guidance for mediation from the perspective of regional organizations.
- Establishing comparative advantage of regional organizations in mediation and effective co-operation between different third-party actors.

3.2. Themes of the Consultation

The Consultation was organized around three main sessions: (The agenda of the Consultation is presented in Annex 1 of this report)

A Background and content of UN General Assembly resolution 65/283 on strengthening the role of mediation in the peaceful settlement of disputes, conflict prevention and resolution

This session imparted information on the background and content of UN General Assembly resolution 65/283. The resolution served as the *raison d'être* for the Consultation as it tasked the UN Secretary-General to develop guidance for more effective mediation and to consult, *inter alia*, with other organizations. Details on the UN Secretary-General's implementation report and the annexed Guidance on Effective Mediation were discussed.

B Mediation experiences from regional, subregional and other international organizations

This session aimed to identify from past and on-going mediation cases under the auspices of regional and subregional organizations what lessons learned and best practices could be extrapolated that accounted for effective mediation. The set of questions outlined above guided the comparative analysis and the discussions.

C Working group sessions

These highly interactive sessions explored and identified the key fundamentals essential for contributing to more effective mediation. Responses and outcomes from this final Consultation session were incorporated into the comprehensive analysis reflected in the United Nations Guidance for Effective Mediation' (Annex 1 of the report of the Secretary-General on Strengthening the role of mediation in the peaceful settlement of disputes, conflict prevention and resolution, A/66/811), and that drew on extensive consultations with UN Member States, the UN system, regional and subregional and other international organizations as well as non-governmental organizations and other relevant actors.

INTRODUCTION

3.3. Methodology of the Consultation

The three plenary sessions and two working groups allowed for the widest participation of representatives from the UN and regional and subregional organizations. Comparative and case-study approaches were among the principal methodological tools to distill lessons learned and best practices from the mediation experiences of respective organizations.

Working group sessions were used to facilitate interactive participation. During the two working groups a set of key fundamentals of mediation were discussed, including preparedness; consent and acceptability; impartiality; inclusivity; ownership; normative frameworks; communication, coherence, co-ordination and complementarity of mediation efforts; and quality peace agreements.



Secretary General of the OSCE, Mr. Lamberto Zannier, and Secretary General of the OIC, Professor Ekmeleddin Ihsanoglu, open two-day Consultation, Jeddah, Saudi Arabia, 3 April 2012 (Photo Credit: OIC)

4. General Assembly Resolution 65/283 – A Collective Response to Prevailing Conflict Situations

After nearly two decades of decline, research shows that the number of conflicts is again increasing. Intra-state conflicts also have a high rate of relapse, meaning that most conflicts re-emerge from failed peace agreements. To a large extent, the nature of conflict has changed. Inter-ethnic disputes, intrastate conflicts and low-intensity confrontations are replacing the more traditional interstate confrontations, although the latter continue to cause instability and impede development. In particular, transnational threats, greed-driven or criminal violence, extremism and terrorism, are game changers in this regard. While mediation continues to be one of the most useful tools for conflict prevention and resolution, given the changing nature of conflicts and their new complexities, mediation efforts are required to adapt and adjust to shifting realities. Resolution 65/283 can be viewed as a collective response to the prevailing conflict situations. Below is a brief outline of the background and content of the resolution as presented at the Consultation.

4.1. Background and Content of Resolution 65/283

Resolution 65/283, adopted in July 2011, is the first resolution dealing with mediation adopted by the UN General Assembly. Participants in the Consultation acknowledged the resolution as a step forward by the international community toward strengthening the role of mediation in conflict prevention and the peaceful settlement of disputes and conflicts. Importantly, the resolution enhances support for mediation among Member States, recognizes the contributions of all key actors and provides new perspectives on the use and further adaptation of mediation to contemporary disputes and conflicts.

The Group of Friends of Mediation, in particular its co-chairs, Finland and Turkey, were key contributors to the adoption of the resolution.² According to the two representatives from the respective countries attending the Consultation, the Finnish-Turkish initiative to establish the Friends of Mediation was based on the recognition that there is a need

² At the time of preparing the report, the Group of Friends of Mediation included 34 UN Member States, the United Nations and seven regional organizations.

GENERAL ASSEMBLY RESOLUTION 65/283

to strengthen the role of mediation and to co-ordinate mediation activities within the international community by bringing together different actors involved in mediation processes. The mediation experiences of Finland and Turkey have also played a role in the initiative which has already yielded concrete results in terms of conceiving and adopting resolution 65/283.

The resolution is significant as it seeks to address some of the challenges associated with mediation processes, in particular in the case of a multiplicity of mediation actors which makes co-ordination essential. Lack of political support and resources for mediation activities have also frequently resulted in mediation being carried out in an *ad hoc* manner, supported only through voluntary contributions. The adoption of the resolution provides an opportunity for mediation to be practiced in a systematic manner, including through increased co-ordination, capacity building and resources allocated to mediation activities. The resolution further requires concrete contributions by all – Member States, international, regional, and subregional organizations and civil society.

Hence, the resolution has four key sections, with the first three focusing on contributions by Member States, the UN, and regional and international organizations, respectively. The final section covers contributions to mediation by non-governmental organizations (NGOs) and other segments of civil society. *Inter alia*, the resolution highlights the important role of regional and subregional organizations as mediators and recognizes the importance of the participation of women in mediation processes. In particular, States are encouraged to promote and take advantage of the UN's existing mediation capacities as well as those of regional and subregional organizations. At the same time, the importance of ensuring complementarity and coherence between actors involved in mediation is underlined. All relevant actors are encouraged to develop mediation capacities and structures in close concert.

4.2. Guidance on Effective Mediation

In further implementing the resolution, the UN Secretary-General was tasked to provide two major deliverables: to submit an implementation report and to develop guidance for more effective mediation as an annex to that report. To this end, consultations were held with various actors involved in mediation efforts. Input was provided by governments, international and regional/subregional organizations, NGOs and other segments of civil society, based on a set of five questions which allowed responders to comment

GENERAL ASSEMBLY RESOLUTION 65/283

on the dilemmas and complexities faced in a mediation process. The key themes were as follows: (1) qualities of a good mediator; (2) key attributes of an effective mediation process, including design and implementation (3) effective co-operation between different third-party actors involved in a mediation process; (4) vital elements of a successful peace agreement; and (5) effective implementation of a peace agreement (see UN General Assembly, A/66/811).

The guidance is not meant to be descriptive but rather intended to capture ‘the logic of mediation.’ It is ‘praxis’-oriented and implementable, targeting the wide range of actors involved in mediation and recognizing that there are no ‘one size fits all’ solutions. The guidance is intended to be applicable on a case-by-case basis, aiming to systematize mediation efforts already being carried out and setting up a framework for future mediation activities.



Olusegun Obasanjo (third from left), United Nations Special Envoy of the Secretary-General for peace in the Great Lakes Region, accompanied by Liberata Mulamula (right), Head of International Conference on the Great Lakes Region, has flown in by helicopter to the area near the Ugandan border to urge the rebel leader to maintain a corridor for humanitarian assistance and to continue to observe the fragile ceasefire. 16 November 2008, Jomba, Democratic Republic of the Congo (Photo Credit: UN/Marie Frechon)

5. Drawing Lessons Learned from Regional Organizations' Mediation Experiences

There are different tools applicable to address prevailing trends in the area of conflict and mediation as identified in the section above. Strengthening the role of mediation in the peaceful settlement of disputes, conflict prevention and resolution is one key tool available to the international community. The question remains – how do we ensure success and sustainability at the local, regional, transnational and global levels in mediation processes?

During the Consultation, representatives from regional organizations presented case studies drawing on their own experiences in various mediation processes. Several lessons learned were extrapolated from the presentations and the discussions that followed. A key recognition among participants was that, in itself, the identification of lessons learned from various mediation practices and processes around the globe contributes to enhancing the role of mediation. This section provides an overview of those lessons including identification of the factors that were perceived as having contributed to effective mediation.

5.1. Choosing the 'right' mediator

Successfully selecting the most appropriate mediators is recognized as being of utmost importance in mediation processes. Participants in the Consultation underlined several key qualifications necessary for a mediator. Notions of acceptability and credibility were specifically highlighted. Both entail that the mediator needs to have the consent of the parties and remain impartial, not only to be perceived as such. Building confidence and establishing relations with the parties at the outset and maintaining that trust were acknowledged to be central throughout the mediation process. This requires that the mediator possesses in-depth knowledge about the particular conflict and has a keen awareness of its political, economic, social, cultural and regional specifics. One participant also underlined the need for a mediator or mediating body to promote a win-win strategy, to be able and prepared to act as a communicator – particularly when direct

LESSONS LEARNED

contact between the parties is not possible –, not to rush the mediation process, and to make use of credible leverages and incentives.

Participants emphasized the importance of mediation processes being anchored at the regional level. There was a call for regional and subregional organizations to play a key role in mediation activities as they often have the best knowledge of the local and regional context, and are able to be swift in their response. Reflecting on this, one participant emphasized that the current evolving nature of conflicts transcending national and regional borders make regional and subregional organizations an effective tool to address the various conflict situations. In particular, as a regional organization has an immediate interest and understanding of its region, more regional, tailor-made approaches taking into account potential spill-over effects, are possible.

Simultaneously, the comparative advantages of various mediators, whether regional or international, need to be considered at the time of appointment. The UN, as an international body, may help in linking regional actors, including informing them of ongoing mediation activities. In some situations, direct UN involvement may be negatively perceived if parties are concerned about potential internationalization of the conflict, although it was noted that some similar concerns can exist even with regard to regional organizations. Several participants in the Consultation underlined, however, that UN involvement should be a general principle to be adhered to. At the same time, regional organizations should be given enough space to operate and co-ordinate among themselves.

With a multiplicity of actors involved in mediation processes – including international, regional and subregional mediators – co-ordination and co-operation among them becomes an imperative. Representatives affirmed that, in a majority of cases, appointing a lead mediator would ensure more effective mediation efforts. This was underlined by one organization which had taken stock and counted 12 existing conflicts within its regions, many in which different mediation activities were carried out. Furthermore, the organization was increasingly active in resolving conflicts among its Member States which also underlined the need for co-ordination. Thus, a clear message stemming from the Consultation was the necessity of stepping up co-operation and co-ordination, including information-sharing efforts among the various mediators. Not only does this ensure that mediators operate more efficiently among themselves, but co-operation and co-ordination also contribute to building consent and credibility towards the parties to the conflict. The complexities of one of the case studies presented underlined the importance

LESSONS LEARNED



Young people learn to overcome their prejudices and stereotypes during a multi-ethnic youth leadership workshop supported by the OSCE Spillover Monitor Mission to Skopje and held in September 2005 in Struga, near Lake Ohrid. (Photo Credit: Nansen Dialogue Centre/Albert Hani)

of mediators from various organizations working together, as assumptions were that one organization or one mediator alone would be insufficient to manage a complex situation. Also, the case study clearly demonstrated that co-operation and co-ordination between various mediators was fundamental in initiating a mediation process.

5.2. Engaging local actors

To a large extent, the reasons for engaging local actors are similar to those emphasizing the need to select appropriate mediators; that is, involving local actors in the mediation process contribute to establishing consent and credibility with the parties and ensuring an implementable peace agreement. In all the case studies presented during the Consultation, the importance of engaging local actors in the mediation process was underscored. One participant referred to the involvement of track-two actors in order to ensure effective mediation. A wide range of actors were relevant in the various case studies: non-governmental organizations, power structures such as the police and armed forces, elders, women and religious leaders. In one of the cases discussed, non-governmental

organizations were particularly helpful in the mediation process as they were in a better position than the authorities to engage with the communities and people. In another case, elders and religious leaders were key actors as they had more influence in the community than the government. In a third case, successful engagement with the armed forces contributed to the reduction of tension.

Through the establishment of 'good offices', one of the organizations had been able to coordinate confidence-building measures among the various actors. In this particular case, one of the lessons learned was to ensure co-operation across borders, not only with national actors but also with civil society. In another case, the establishment of informal forums comprised of local leaders had facilitated frank discussions on the causes of the conflict.

The engagement of women in mediation processes received particular attention among several of the Consultation's participants. Strengthening the role of women as mediators and as representatives of parties in a mediation process was highlighted. Participants noted with particular regret that the number of women engaged in mediation activities continues to be low. Resolution 65/238 explicitly stresses the importance of including women at all levels and in all aspects of the peaceful settlement of disputes, conflict prevention and resolution and, in that regard, was seen as an important step to increase the engagement of women.

5.3. Conflict analysis, stakeholder mapping and contingency planning

Regional organizations emphasized that preparing a conflict analysis, including stakeholder planning and contingency planning, in advance of initiating a mediation process contributes to effective mediation. This required the establishment of a clear understanding of the conflict, its root causes and dynamics as well as the actors involved, and various interests and stakes at play. Conflict analysis also guides mediators in assessing which local/regional actors need to be engaged in order to ensure inclusion of all relevant parties in a mediation process.

In one of the case studies presented, a regional organization was confronted with shifting alliances and fractionalization within the parties. A multiplicity of agendas, at times conflicting and contradicting, a lack of co-ordination among a number of mediators, and a variety of parties to the conflict continues to delay a peaceful settlement of the conflict.

LESSONS LEARNED

Another regional organization presented a case in which a large faction broke away from one of the key parties and established its own group, causing substantial setbacks in the mediation process as well as in the implementation of the peace agreement. In the same case, the mediator was faced with two critical issues that made the process difficult: first, one central leader was imprisoned and therefore unreachable; and second, there was no one party to represent all factions.

The complexities illustrated in the mediation processes above require mediators to adapt their mediation strategies to continuously-altering conflict dynamics and new actors. Participants underlined the importance preparing for the possibility of such complexities arising by undertaking proper contingency planning. The conflict analysis should take into account various scenarios that may occur in the mediation process as well as appropriate response options to reduce the vulnerability of the mediation process to such changes. To this end, it was emphasized that mediators need to have proper understanding of the various parties; where they come from and who and what they represent. The potential of spoilers in a mediation process was raised in this context as well. Awareness of who the spoilers are and ways to address this issue was seen as an important part of conflict analysis and contingency planning. Moreover, mediators should pay careful attention to possible forum shopping practiced by various actors. One participant noted that, in many cases, a mediator may function merely in the role of a proxy of a regional or international power. In other situations mediators may also be used or misused by the parties to the conflict.

In general, regional organizations stressed that timeliness was a key factor for successful mediation. Hence, a crucial part of the conflict analysis is assessing when the time is 'ripe' for mediation. In some of the cases presented, the so-called 'war on terror' had made mediation efforts particularly challenging with parties accusing each other, *inter alia*, of being terrorists. Participants underlined that a key precondition to a successful mediation process was the readiness and commitment of the parties to engage in mediation. With a proper conflict analysis mediators would be able to recognize the 'window of opportunity' required to initiate a mediation process.

5.4. Avoiding relapse of conflict – ensuring a sustainable peace agreement

Participants underscored the importance of ensuring a sustainable peace agreement in order to avoid a relapse of crisis/conflict. After all, this is the *raison d'être* of initiating a



The Special Representative of the OSCE Chairperson-in-Office for the Transdniestrian settlement process, Ambassador Erwan Fouéré, briefs journalists during a working visit to Moldova by the mediators and observers in the 5+2 talks, Chisinau, 6 November 2012. (Photo Credit: OSCE/Igor Schimbator)

mediation process in the first place. The various regional and subregional organizations drew several lessons from the various cases they had been engaged in. Key factors were extrapolated from these cases.

For one, mediation processes need to be based on a mediation strategy. The strategy should incorporate three phases of the mediation process: (1) preparations ahead of a mediation process, including selecting the most appropriate mediator or mediators and conducting a conflict analysis, stakeholder profiling and contingency planning; (2) actual mediation with the parties; and (3) mechanisms and processes required to ensure an implementable peace agreement. To this end, participants noted the importance of establishing policies and programmes of prevention through confidence-building measures, including education, continuous consultations and mediation activities at the local level. Generally, short-, medium- and long-term programmes should concretely set out the agreed measures to be taken by the parties. One participant specifically underlined that a long-term strategy was a prerequisite for sustainability. Participants also recognized that

LESSONS LEARNED

there is no ‘quick fix’ or ‘one size fits all’ solution in mediation activities. Mechanisms to ensure the implementation of a peace agreement need to be tailor-made and applicable to each specific conflict.

There were several concrete examples which illustrated the need and manner in which to develop a mediation strategy for the implementation phase of a peace agreement. In one case presented, the role of the respective regional organization was threefold: first, to provide financial and political support to the process; second, to establish a monitoring mission for a defined period of time; and third, to support more long-term peace building by focusing on local governance. In another case, monitoring of elections and increased trade were important elements in supporting a sustainable peace agreement.

Participants agreed that dedication and sustained attention by mediators was a crucial factor in contributing to a successful mediation process. However, at the same time, mediators should set criteria for an exit strategy in order to avoid becoming ‘part of the problem’, as one participant noted. Hence, one main lesson identified from the various experiences presented by the participants was to ensure local ownership and allow the parties to lead the implementation process. It was emphasized that third parties should not replace national institutions; therefore the importance of passing on knowledge and capacity to local actors was fundamental in order to avoid a relapse of conflict and to secure a sustainable peace agreement.

5.5. Way ahead – concluding remarks

In conclusion of the session, participants recognized the usefulness of exchanging ideas, knowledge and lessons across international, regional and subregional organizations. There was broad agreement that this practice should continue. Other proposals for the way ahead in strengthening mediation activities included the establishment of regional centres of mediation and a think tank on peace in Europe, the consolidation of a mediation network among organizations, the creation of a communication platform among mediation actors allowing for further partnership, and joint training and capacity building activities.

6. Key Fundamentals for an Effective Mediation Process

During the working sessions the participants considered a set of key fundamentals for efficient and effective mediation processes. The key fundamentals identified take into account the various phases of a mediation process: from preparations to initiations and implementation of outcomes. This section provides an overview of the various fundamentals as discussed in the working sessions.

6.1. Preparedness

For a mediation process to be successful, mediation efforts need preparation. Preparedness entails a thorough planning of the process and a clear strategy, including a timeframe and overview of resources available. The timeframe should be based on an assessment of whether or when the time is ripe for initiating the mediation process in addition to realistic expectations of progress. Adequate resources and appropriate expertise for the duration of the mediation is essential. At the same time, anticipation of unforeseen elements and events, such as possible spoilers or a local/regional crisis situation that could complicate and distract the mediation process, should be given consideration. Correspondingly, preparations should be flexible enough to allow the best option available to be chosen rather than imposing 'pre-designed' solutions or forcing decisions as this may prove counter-productive.

Selecting appropriate mediators is a key element in the preparation phase. In particular, two principles should guide the selection process. First, mediators should have in-depth knowledge of the conflict situation, its history and the parties involved. This ensures the necessary sensitivity and awareness to political, economic, social, and cultural issues associated with the conflict, which are important throughout the mediation process. Moreover, such in-depth knowledge ensures an accurate mapping of the conflict, an essential task in the development of a proper mediation strategy. Second, the impartiality of a mediator should be a key consideration in his or her selection as the mediation process should not be perceived as biased by one or more parties. Only an impartial mediator is able to build trust and confidence with the various parties to a conflict.

KEY FUNDAMENTALS

During the mediation process itself, other key attributes of a mediator are important. In particular, the mediator should be able to facilitate communication between parties and manage their expectations. Facilitation of communication is particularly important when the different sides are not engaging directly with each other. Managing expectations is imperative in ensuring continued participation by all parties throughout the mediation process. Maintaining the balance between being realistic, on the one hand, and optimistic on behalf of all parties to the conflict, on the other, is a challenging but an essential part of managing expectations.

6.2. Consent

A fundamental prerequisite for a successful mediation process is the parties' consent to both, the mediator and the mediation process. While 'ripeness' for mediation is an important element in generating consent, the mediator should actively seek to generate such consent. The mediator's ability to gain consent is best ensured through (1) his or her own credibility; and (2) his or her ability to present mediation as a necessary, or at least, most favourable option for the conflict parties.

The notion of credibility is closely linked to that of consent as the mediator and the mediation process are dependent on being perceived as credible among the parties in order to achieve consent. The parties should also have a minimum of confidence and trust in the other parties' credibility and intentions to reach an implementable peace agreement.

Confidence building between the mediator and the parties, as well as between the parties, is essential in attaining consent. The mediator should be guided by certain values of fairness and remain mindful of the normative framework in which he or she operates. By and large, for a mediation process to be successful it needs to be perceived as fair and impartial by all the involved parties. While achieving consent is a prerequisite when initiating a mediation process, maintaining consent is central throughout the process. However, this is also one of the key challenges in a mediation process. The mediator's mandate may reinforce his or her position, though it does not guarantee consent by the parties, particularly from the side of non-State actors who are not bound by the mandate. To reduce the risk of losing consent from either party, mediators should – at least at the outset – lay down clear terms of reference, including the main issues to address and the minimal conditions for negotiations. This can also ensure continuity in the case

of a change in mediators. Mediators should act as guardians of these terms of reference throughout the mediation process.

6.3. Inclusivity of the process

For a mediation process to be effective, outreach to all relevant parties is crucial. While it may be challenging to bring all parties to the table and attain consent on initiating mediation, the mediator should reach out to every conflict party including those refusing direct contact. This requires a prior identification of all relevant parties to a conflict and should be part of the preparations in advance of mediation process initiation. At the same time, however, parties should have the upper hand in determining who should or should not be included in the mediation process. Yet, the parties 'right of veto' is a debatable question with its own limitations; hence a 'cost benefit analysis' of who to include and who should only be kept informed should be implemented. On the whole, efforts that successfully include all affected parties' with the consent of those concerned increase the prospect of an implementable peace agreement.

Particular attention should be paid to whether civil society is to be included in the mediation process. Weak parties may be supported by the involvement of a non-governmental actor, as mediation processes are most often characterized by an asymmetrical power structure between the conflicting sides. Thus, the inclusion of civil society should be decided on a case-by-case basis taking into account the context. Alternatively, civil society may be approached on a 'parallel track' either through the mediator or another third party.

Careful consideration should also be given to non-recognized/controversial parties. Mediators should take certain precautions when approaching them, for instance, when deciding on the venue of the meeting.

6.4. Ownership

The key principal of ensuring ownership implies a commitment by all relevant parties to the mediation process and the implementation of a peace agreement. Without a certain degree of dedication from all parties to engage and contribute throughout the process, the risk of failure is high. In particular, the mediator should avoid imposing solutions or forcing decisions upon the conflict parties without ensuring their consent. In general,

KEY FUNDAMENTALS



UNMIS Head Addresses Civilians and Rebel Forces in Northern Darfur

Jan Pronk (standing at table), Special Representative of the UN Secretary-General for Sudan and Head of the United Nations Mission in Sudan (UNMIS), addresses members of the Sudan Liberation Army (SLA-G19) and the civilian population, urging SLA-G19 to refrain from attacks and engage in peace talks. 17 October 2006, El Fasher, Sudan (Photo Credit: UN/Fred Noy)

the parties should be the decision-makers in the mediation process while the mediator should focus on managing his or her advisory role. Careful preparations in advance of the mediation process are required in order to maintain this balance.

The support of constituencies is imperative for the successful implementation of a peace agreement. Hence, the mediator and the conflict parties should ensure ownership of the process among the relevant constituencies. To address this, a communication- and information-sharing strategy should take into consideration the necessity of creating ownership within the broader society. This way, constituencies are kept informed about developments in the process and have opportunities to engage and participate.

Overall, the notion of ownership is closely related to the principle of inclusivity of all relevant parties in the mediation process. The process should be sensitive towards the interests of other concerned stakeholders, recognizing that an agreement between two or

more parties often affects other actors at the regional level. Therefore, the mandate and terms of reference should be accepted by all parties, including concerned stakeholders.

Some participants highlighted the need for a balance to be struck, in particular when ownership of a mediation process may be more limited. This may happen, for example, during negotiations on obtaining a ceasefire. However, in such cases the mediation process should ensure that ownership is established with all parties at the earliest stage after a ceasefire has commenced.

6.5. Communication

Communication is fundamental in all phases of a mediation process. In the preparatory phase, a communication- and information-sharing strategy should be developed which takes into account context-sensitivity and confidentiality and forms part of the preparedness. Throughout the mediation process, a balance between transparency and confidentiality should be sought including sound judgment on the timeliness of releasing information to the public. Some participants felt that this was one of the challenges of designing an inclusive process.

To build and ensure continued public support for mediation efforts, the mediator should on a regular basis inform the public about the process and, in particular, on the benefits stemming from successful mediation. The international community and other international actors involved should also be kept informed about the process, thereby ensuring their continued support and avoiding multiple voices addressing the same topics from a variety of angles.

Coherence in the mediator's communication with various parties and actors is also crucial as it avoids sending contradictory messages. To facilitate this, a limited number of spokespersons should be encouraged to work jointly on developing a structure and network to co-ordinate communication.

6.6. International Norms

The expansion of the international system has altered the scope and power distribution causing a significant evolution of international norms and practices. This creates challenges in reaching consensus on these new international norms and their implementation.

KEY FUNDAMENTALS



The Co-Chairs of the Geneva Discussions – Pádraig Murphy, the OSCE Chairmanship's Special Representative for the South Caucasus (l), EU Special Representative Philippe Lefort and UN Representative Antti Turunen – at a press conference in Geneva, 12 December 2012.

As mediation is conducted within a normative and legal framework, it is important to keep in mind the implications this has for mediators with regard to mandates, normative expectations or international legal issues.

The emergence of a variety of third parties also provides a challenge in this regard. Previously the UN and its Member States were the primary actors involved in mediation. However, many new third parties, including regional and subregional actors and NGOs, are now involved in mediation, peace-building and conflict resolution. They also perform their mediation efforts within the framework of the norms and rules of their own respective institutions.

The mediation process should not, and in reality does not, operate in a 'norm vacuum'. Various norms and values are constantly at play throughout the mediation process. Participation by new actors in mediation processes thus means that, in addition to the UN Charter, mediation must also adhere to those norms that are subscribed to by other actors, depending on the regional context in which the mediation is occurring. Any

mediation process should therefore also be mindful as to which norms are being pushed by which actors and also recognize evolving norms that are not accepted by all parties or only by a few.

6.7. Coherence and complementarity

The multiplicity of actors involved in mediation efforts brings with it opportunities and challenges. For one, the multiplicity of mediators may be useful to enhance inclusivity and ownership among affected parties. A mediation process with only one mediator may experience difficulties in reaching out to all parties and establishing consent among them. The involvement of regional or local mediators, for instance, can increase chances for ensuring the engagement of all relevant stakeholders.

The involvement of several mediators in a process requires coherence and co-ordination. This makes complementarity essential in order to avoid duplication of efforts and sending contradictory messages. The appointment of a lead mediator is an optimal approach as this unifies the stance of all mediators involved. In this case, the mediation strategy should clearly outline the responsibilities of various mediators, and co-ordination mechanisms should be devised and agreed upon. In particular, the mediation process should take into account the comparative advantages of the various mediators, whether regional or international. The 'subsidiary principle' should also be kept in mind. Therefore, before involving international actors, issues may best be dealt with at the local, national or regional levels.

Generally, an unambiguous and transparent communication strategy should explain the role of third parties involved, and particularly the role of the lead mediator. It is also essential to maintain the balance between transparency and confidentiality if there are joint or co-led mediations. While a mediation process should be conducted in a confidential manner, other involved mediators need to be consistently kept informed about developments.

6.8. Implementable Peace Agreements

To ensure an implementable peace agreement, mediators should pay attention to several key tenets. Proper preparations are fundamental to initiating a mediation process, but they also form an essential part of the implementation phase itself. In general, knowledge

KEY FUNDAMENTALS

of preceding agreements and other attempts to settle the conflict is valuable, as is drawing on the experiences of previous failures and successes. Mediators should be prepared to tackle resistance by, *inter alia*, developing response options so that appropriate solutions can be considered.

An implementable peace agreement should adhere to three central principles. First, it should be realistic, precise, comprehensive and holistic. It should take into account the 'big picture' of a conflict and not be limited to only certain parts or issues. Leaving critical issues unresolved or grievances unaddressed should be avoided as this may lead to a re-emergence of violent conflict. Second, the peace agreement should acknowledge a prioritization of actions in the implementation phase. This includes identifying concrete actions that should be taken by whom, when and how. To ensure that the actions are carried out, incentives and penalties should be carefully developed. Finally, to safeguard the successful implementation of a peace agreement, monitoring mechanisms and capacity building efforts between the parties should be an integrated part of the agreement.

Overall, the mediation process requires legitimacy in procedure and outcome. Parties need to have confidence and trust in the implementation of the peace agreement. To this end regional and/or international support should also be considered. Establishing guarantors of the peace agreement can be an effective instrument; however, such guarantors should be international actors able to provide leadership and guarantees for the process through, *inter alia*, financial, political and/or military support.

7. Conclusions

The Consultation on 'Developing Guidance for Effective Mediation' was significant not only in its contributions to the United Nations Guidance for Effective Mediation. It also reaffirmed the importance that mediation initiatives hold for the peaceful resolution of conflicts and conflict prevention in general. Building on and complementing the many efforts that are already underway between the UN and other international, regional and subregional organizations in terms of partnership-, network- and capacity-building, the Consultation also provided an opportunity to make visible the many mediation initiatives on the part of regional actors. The Consultation was recognizant of the richness of case studies from the various regional and subregional organizations. Serving as a reminder of the complexities, challenges and difficulties that mediators face every day, the Consultation made noticeable the profound opportunities that avail themselves if conflict parties and relevant stakeholders are amenable to mediation initiatives. It further comes as good news that on 13 September 2012, the UN General Assembly adopted by consensus resolution 66/291, which took note of the report of the Secretary-General and encouraged all relevant actors involved in mediation to use the Guidance for Effective Mediation. The Guidance in particular will be most useful in assisting with the peaceful settlement of disputes and conflicts and in enhancing the mediation and mediation-support capacities of regional and subregional organizations.

8. Annexes

Annex 1 – Annotated Agenda

Background

The consultation on “Developing Guidance for Effective Mediation” is designed to make a significant contribution to the development of guidance for more effective mediation, which the UN Secretary-General has been requested to undertake in fulfilment of operative paragraphs 11 and 17 of the UN General Assembly resolution 65/283. The resolution asks the United Nations to consult with Member States and other relevant actors, including regional organizations, on the guidance. Given this focus, the event will serve two broad objectives: (1) discuss and exchange lessons learned and best practices from the perspective of regional, subregional and other international organizations for the purpose of contributing to the development of the guidance for effective mediation; and (2) further enhance cooperation and partnership between the UN and regional, subregional and other international organizations, especially with a view to further operationalize the role of dialogue facilitation and mediation in conflict prevention and resolution.

Working Sessions

3 April 2012

9:30–9:30 Registration

9:30–10:15 Welcome and opening address by Professor Ekmeleddin Ihsanoglu, Secretary General of the Organisation of Islamic Cooperation

Opening address by Lamberto Zannier, Secretary General of the Organization for Security and Co-operation in Europe

Opening address by Mr. Oscar Fernández-Taranco, Assistant Secretary-General for Political Affairs, United Nations

10:15–10:45 Keynote address by Ambassador Sayyed El-Masry, Advisor and Special Envoy of the OIC Secretary General for Peace in Southern Philippines

- 10:45–11:15** Tea break
- 11:15–12:15** Background and Content of UN General Assembly resolution 65/283 on strengthening the role of mediation in the peaceful settlement of disputes, conflict prevention and resolution
- Presenters** Finland, Turkey and the United Nations Secretariat
- 12:15–13:00** Mediation Experiences From Regional, Subregional And Other International Organizations
- Moderator** Ambassador Abolhassani
- Speakers** Dr. Ibrahim Sani Abani, CENSAD
Mr. Johannes Schachinger, EU
Ambassador Hassan Bin Abdullah Al Mahmud, GCC
Ms. Sandra Katalina Montana Licht, OAS
Ambassador Yahaya Lawal, OIC
- 13:00–14:00** Luncheon hosted by the Secretary General of the OIC, and prayer break
- 14:30–16:45** Mediation Experiences from Regional, Subregional and Other International Organizations (con't)
- 16:45–17:00** Information About Working Group Sessions

4 April 2012

- 9:00–10:30** Working Groups Sessions
Each working group will discuss a set of fundamentals for effective mediation processes. In particular, the groups should discuss the challenges of implementing these fundamentals and the potential dilemmas that might arise throughout the process. A list of fundamentals will be provided ahead of the conference.

Working group 1:

- Facilitator** Ambassador Habib Kaabachi/UN
- Rapporteur** Dr. Hasan Abedin, OIC
- Participants** Ambassador Yahaya Lawal, Ambassador Habib Kaabachi, Dr. Ibrahim Sani Abani, Mr. Cenk Uraz, Mr. Kelvin Ong, Ms. Alice Ackermann, Ms.

ANNEXES

Trude Johnson, Mr. Calin Rolo Stoica, Mr. Kanat Tumysh, Ambassador Esat Safak Gokturk, Ambassador Jarno Syrjala

Working group 2:

- Facilitator** OSCE/UN
Rapporteur Mr. Abdunnur Sekendi, OIC
Participants Ambassador Tarig Bakhiet, Ambassador Abolhassani, Mr. Hasan Oker Gurler, Ms. Roxaneh Bazergan, Mr. Philipp Lustenberger, Mr. Pascal Heyman, Mr. Johannes Schachinger, Ambassador Hasan Bin Abdullah Al Mahmud, Ms. Sandra Katalina Montana Licht, Mr. Zeki Levent Gumrukcu

10:30–10:45 Tea break

10:45–11:45 Working Groups Sessions (con't)

12:00–13:00 Plenary on Findings of Working Groups

Moderator Moderator: OSCE/UN

Presenters Presenters: Rapporteurs

13:00–15:00 Luncheon and prayer break

15:00–16:00 Final Session and Concluding Remarks

Speakers OIC, UN, OSCE

16:00 Cultural Programme: Tour of Old City of Jeddah

Annex 2 – List of Participants

Key Note Speaker Ambassador Sayed Kassem El-Masry

**Community of Sahel-
Saharan States
(CEN-SAD)** Mr. Ibrahim Sani Abani, Acting Secretary General
Dr. Abdelraouf Abdelaal

**Conference on
Interaction and
Confidence Building
Measures in Asia
(CICA)** Mr. Kanat Tumysh

European Union (EU) Mr. Johannes Schachinger

Finland Ambassador Jarno Syrjälä

**Gulf Cooperation
Council (GCC)** Ambassador Hassan Bin Abdullah Al Mahmud

**North Atlantic Treaty
Organization (NATO)** Mr. Calin Rolo Stoica

**Organization of
American States (OAS)** Ms. Sandra Katalina Montana Licht

**Organization of Islamic
Cooperation (OIC)** Ambassador Vefahan Ocak
Ambassador Mahdi Fathalla
Ambassador Tarig Ali Bakhiet
Ambassador Yahaya Lawal
Ambassador Habib Kaabachi
Ambassador Abolhassani
Mr. Cenk Uraz
Dr. Shaher Awawded

ANNEXES

OIC continued Mr. M. Amanul Haq
Dr. Hasan Abedin
Mr. Abdun Nur Sekendi
Mr. Raouf Salama

OIC New York Office Ambassador Ufuk Gokcen

Organization for Security and Co-operation in Europe (OSCE) Mr. Lamberto Zannier, Secretary General
Mr. Pascal Heyman
Dr. Alice Ackermann
Ms. Trude Johnson

Turkey Ambassador Esat Şafak Göktürk
Mr. Zeki Levent Gümrükçü

United Nations (UN) Mr. Oscar Fernandez-Taranco, Assistant Secretary-General
Mr. Kelvin Ong
Ms. Roxaneh Bazergan
Mr. Philipp David Lustenberger

