



The European Union's European Institute of Peace (EIP)

**Framework Contract COM 2011
Lot 1: Studies and Technical Assistance in all sectors**

Specific Contract N° EEAS.K2.2012.005

**European Institute of Peace: costs, benefits and
options**

Final Report

15th October 2012



The project is financed by
the European Union



The project is implemented by
SACO (SAFEGE-COWI)

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LIST OF ABBREVIATIONS

ACP	African, Caribbean, Pacific
ALF	Anna Lindh Foundation
APF	African Peace Facility
ASCPR	Austrian Study Center for Peace and Conflict Resolution
ASEF	Asia-Europe Foundation
AU	African Union
BCPR	Bureau for Crisis Prevention and Recovery
CAR	Central African Republic
CFSP	Common Foreign and Security Policy
CLDD	Career Development and Learning Division (EEAS)
CMB	Conflict Management Board
CMC	Crisis Management Centre (Finland)
CMI	Crisis Management Initiative
CPG	Conflict Prevention Group
CPMD	Crisis Management and Planning Directorate
CPPBM	Conflict Prevention, Peacebuilding and Mediation Instruments division (EEAS)
CPPC	Civilian Planning and Conduct Capability
CRETs	Crisis Response Expert Teams
CROC	Crisis Response and Operation Coordination division (EEAS)
CRTs	Civilian Reaction Teams
CSDN	Civil Society Dialogue Network
CSDP	Common Security and Defence Policy
DCI	Development Co-operation Instrument
DEVCO	Development Cooperation Directorate General (European Commission)
DfID	Department for International Development (UK)
EC	European Commission
ECFR	European Council on Foreign Relations
EDF	European Development Fund
EEAS	European External Action Service
EED	European Endowment for Democracy
EIDHR	European Instrument for Democracy and Human Rights
EIP	European Institute of Peace
ELIAMEP	Hellenic Foundation for European and Foreign Policy (Greece)
EMM	European Monitoring Mission
ENPI	European Neighbourhood and Partnership Instrument
ENTRi	Europe's New Training Initiative for Civilian Crisis Management
EP	European Parliament
EPLO	European Peacebuilding Liaison Office
ERM	Emergency Response Mechanism (African Peace Facility)
ESDC	European Security and Defence College
EU	European Union
EUD	Delegation of the European Union
EU-ISS	European Institute of Security Studies
EU-LAC	European Union – Latin America and Caribbean Foundation
EUMS	European Union Military Staff
EUPM	EU Police Mission
EUSR	European Union Special Representative
FCMD	Fragility and Crisis Management Division (DEVCO)
FIIA	Finish Institute of International Affairs
FPI	Foreign Policy Instrument
FPI	Foreign Policy Instruments service
FRIDE	Foundation for International Relations and External Dialogue (Spain)

FWC	Framework Contract
HD Centre	Centre for Humanitarian Dialogue
HoD	Head of Delegation (of the European Union)
HQ	Headquarters
HR/VP	High Representative/Vice President
IAI	Institute of International Affairs (Italy)
ICG	International Crisis Group
ICMPD	International Centre for Migration Policy Development
IDEA	Institute for Democracy and Electoral Assistance
IFRI	Institut Français des Relations Internationales (French Institute of International Relations)
IFS	Instrument for Stability
INGOs	International Non-Governmental Organisations
INTCEN	EU Intelligence Analysis Centre
IO	International Organisation
IOM	International Organisation for Migration
IPI	International Peace Institute (New York)
MEP	Member of the European Parliament
MST	Mediation Support Team
MSU	Mediation Support Unit (UN)
NGO	Non-Governmental Organisation
OSCE	Organisation for Security and Cooperation in Europe
PAMF	Policy Advice, Technical Assistance, Mediation and Reconciliation Facility
PBCRC	Peace Building and Conflict Resolution Centre (Maze/Long Kesh)
PSC	Political and Security Committee
RECs	Regional Economic Communities (Africa)
RIP	Regional Integration Programme
SIIA	Swedish Institute of International Affairs
SML	Senior Mission Leaders
SSR	Security Sector Reform
SU	Stabilisation Unit (UK)
SWP	German Institute of International and Security Affairs
TA	Technical Assistance
TEPSA	Trans-European Policy Studies Association
TFEU	Treaty on the Functioning of the European Union
UK	United Kingdom
UN	United Nations
UNDP	United Nations Development Programme
US	United States
USIP	United States Institute of Peace
ZiF	Centre for International Peace Operations (Berlin)

EXECUTIVE SUMMARY

The Lisbon Treaty empowered the EU to be a stronger political actor. To help deliver on that prospect, the 2009 Concept on Strengthening EU Mediation and Dialogue Capacities declares the EU's intent to become more actively involved in mediation, facilitation and dialogue processes. To support this objective, this study concludes - based on an analysis of mediation actors and institutional options - that the EU and other interested parties should make political and financial investments along two complementary avenues: consolidate EU capacity and support the development of an independent capacity for mediation engagement.

In 2010 Sweden and Finland proposed the creation of a European Institute of Peace (EIP) to support the EU's mediation engagement objectives. The proposal saw the Institute as a Brussels-based, independent, non-profit organisation with a privileged relationship to the EU. In 2012 the European Parliament requested the European External Action Service (EEAS) to undertake a cost-benefit analysis of an EIP. This study is carried out by independent consultants under the guidance of the Conflict Prevention, Peacebuilding and Mediation Instruments Division within the EEAS.

The study uses the term mediation in the broad sense of the 2009 Concept, also including support to dialogue and facilitation processes, and categorises the services provided by the EU and its partners under seven functions: mediation, facilitation and dialogue processes; deployable capacity; expert advice and research; evaluation, learning lessons and knowledge production; training; financial support to third parties; and a convening and advocacy forum.

Part I of the study provides an overview of existing mediation capacity and practices fulfilled by the EU or other actors in support of the EU. While the study finds that the EU and its partners have grown in capacity and engagement, it concludes that several functions are not or are insufficiently fulfilled at present. These include engagement with proscribed actors, rapid expert deployment for mediation support, targeted thematic process expertise provided at short notice in support of EEAS staff, learning lessons from some mediation engagements, and convening and advocacy at a high-level forum.

Part II of the study explores institutional options to develop capacity for mediation engagement and support. It first looks at those options that could be pursued by EU institutions, jointly with Member States and with a range of existing partners. Secondly, the study examines institutional options that fall outside the EU framework but would be complementary to EU efforts.

In conclusion, the study considers it a low probability that the Common Foreign and Security Policy budget will increase more than incrementally, that the EEAS will be allocated higher staff counts, and that the political consensus for major new initiatives will be achieved. As a result, this study proposes a primary focus on consolidating EU capacity with a *complementary* opportunity to establish a new, independent mediation capacity.

Consolidation of EU capacity can be achieved in several ways. The study suggests four priorities.

Firstly, greater effort could be made to link 'track 1' EU official political engagements and EU financial support to 'track 2' and 'track 3' mediation carried out by civil society actors. Institutionally, this implies strengthened coordination as regards planning, implementation and follow-up on mediation engagements between EEAS and the Development Cooperation Directorate General (DEVCO), both in Brussels and in the field, and between geographic and thematic divisions in both Institutions. It also implies reinforced coordination between the Instrument for Stability and long term programme support.

Secondly, as the primary point of contact on conflict issues and with conflict actors, EU Delegations could be reinforced. They could be provided with adequate training and offered additional assistance from short term experts, and Member States could be encouraged to share the information collection and analysis services already present in their national embassies.

Thirdly, further options to mobilise the European Security and Defence College (ESDC) and the European Institute of Security Studies (EU-ISS) to support EU mediation capacity-building and engagement could be explored. This could involve using ESDC more comprehensively to provide mediation-related training to all EU actors, including EEAS, DEVCO and European Union Special Representative (EUSR) staff; and using EU-ISS capacity for production of short briefings in direct support of EU mediation engagement.

Finally, greater attention could be given to the needs and potential of EUSRs as key actors in EU mediation engagements, in particular in preparing them and their teams and ensuring that lessons drawn from their experience are collected and re-invested in the gradual professionalising of EU mediation.

Irrespective of the success in consolidating EU processes some mediation capacity gaps will remain.

Firstly, the EU would have limited options for engagement with proscribed actors thereby leaving the EU less likely to play a global role in mediation. Secondly, without more streamlined deployment processes, EU institutions and other mediation actors would have limited access to the relevant expertise at short notice. Thirdly, with no managed repository of knowledge and advice on EU mediation capacity, engagement and support, the EU would have less visibility in the mediation community and external stakeholders would struggle to grasp the EU complexity in mediation engagement. Fourthly, important lesson-learning work might not be carried out or would not be available to inform further training and engagement. Finally, if the gaps remained, the EU would have less visibility as a conflict mediation actor in Europe and globally.

The creation of an independent European Institute of Peace could limit these opportunity costs and help fill the capacity gaps.

Through a review of various institutional formats for an EIP, this study concludes that there is no single optimal institutional solution but notes that: 1) in the current political and financial context, the creation of a new EU Institution should be ruled out; 2) a non-profit organisation in the form of an association would have more drawbacks than benefits; and 3) the institutional formats of a foundation or an international organisation would better fit for its purpose, with the latter format presenting the highest level of benefits but also the highest level of risks and requiring more demanding conditions for success.

A range of risks and benefits are associated with each of these two institutional choices, but in each case, those can be balanced against possible risk mitigation and benefits enhancement strategies. The final choice between the foundation and international organisation format is dependent on how stakeholders will decide to rank the respective value of seven institutional assessment criteria identified: added-value, establishment, rights and privileges, governance arrangements, funding, legitimacy and location.

1. INTRODUCTION

ORIGIN OF THE STUDY

The Lisbon Treaty empowered the EU to play a more active political role globally in the context of an increasingly ‘comprehensive approach’ to conflict management and resolution. To help deliver on that prospect, the 2009 *Concept on Strengthening EU Mediation and Dialogue Capacities* declares the EU's intent to become more actively involved in mediation, facilitation and dialogue processes, and to engage in a more effective way both directly as a mediator/facilitator and when providing political, technical and financial support to such activities carried out by third parties. The Concept also notes the EU's aim to professionalise its engagement in mediation and dialogue and to promote the use of mediation as a tool of first response in case of conflict and crisis.

In 2010 Sweden and Finland proposed the creation of a European Institute of Peace (EIP) which could support the EU's mediation engagement objectives. The proposal, which has since been elaborated through discussions led by the NGO *MediatEUR*, sees the EIP as a Brussels-based independent non-profit organisation with a privileged relationship to the EU. Initially staffed by 10-15 experts and running on a €3m budget funded by voluntary contributions, the organisation would eventually seek EU support. While the EIP would not represent the EU formally, it could engage in dialogue and mediation where the EU has interests but cannot act. In support of EU institutions and other actors involved with mediation and conflict management more broadly, the EIP could also produce lessons and contribute to the professionalisation of the field.

In 2012 the European Parliament (EP) appropriated €200.000 to the European External Action Service (EEAS) budget for a pilot project requesting the EEAS to undertake a cost-benefit analysis on the establishment of an EIP. Following a competitive tender, in July 2012 the SAFEGE-COWI Consortium was contracted to undertake the present study under the guidance of the Conflict Prevention, Peacebuilding and Mediation Instruments (CPPBM) Division within EEAS.

SCOPE

As set forth in the terms of reference, this study assesses whether an EIP could serve the EU needs in peace mediation, considers whether EEAS and other EU bodies could be strengthened to provide those mediation and support services, and examines institutional formats for an EIP. In line with the 2009 Concept, the study uses the term mediation in a broad sense which is also meant to include support to dialogue and facilitation processes. Specifically, “mediation is a way of assisting negotiations between conflict parties and transforming conflicts with the support of an acceptable third party. [...] Facilitation is similar to mediation, but less directive and less involved in shaping the substance of the negotiations. Dialogue is an open-ended process which aims primarily at creating a culture of communication and search of common ground.”

METHODOLOGY

The study reviewed documentation on EU policies, regulations and budgets, assessed literature on mediation and dialogue processes and consulted with a wide range of EU staff, Member States, external experts and NGO representatives as a basis for exploring feasibility, institutional arrangements and funding mechanisms. The team employed an evidence-based approach, treating verbal and written statements as data upon which analysis and interpretation was applied. The authors have documented all consultations, though specific comments are not attributed in the study.

STRUCTURE

Part 1 maps and analyses the mediation and support functions provided by EU institutions and third parties in relation to EU policies. In part 2, the study reviews institutional initiatives that could deliver those functions, including through consolidation of existing EU structures and mechanisms or by creating a new institution. The study finally concludes by setting out options based on costs, risks and feasibility.

PART I: SITUATION OVERVIEW

2. INSTITUTIONS ENGAGED ON MEDIATION

The EU directly mediates in conflicts, supports others that conduct mediations and also employs other organisations to provide such support. This section provides a limited selection of those institutions.

2.1. EU INSTITUTIONS

THE HIGH REP. FOR FOREIGN AFFAIRS AND SECURITY POLICY, VICE-PRESIDENT OF THE COMMISSION (HR/VP)

The HR/VP expresses the collective voice of the Member States in selective conflict-related international fora, for example the Middle East Quartet. In addition, the HR/VP has occasionally acted as a direct mediator between conflicting parties, e.g. the Balkans, where the EU's political, security and financial influence is dominant, thereby allowing the HR/VP to act as 'power mediator'. Such mediation may be carried out by a trusted HR/VP advisor, for example Robert Cooper on Serbia/Kosovo.

EU SPECIAL REPRESENTATIVES (EUSRs)

EUSRs usually have a regional mandate but increasingly also serve as Heads of EU Delegations or Office, e.g. Afghanistan, Kosovo, and Bosnia & Herzegovina. EUSRs typically help facilitate political dialogue among parties in conflict areas and channel information between those parties and the EU. Their ability to act more independently depends on a combination of factors linked to the degree of consensus among EU Member States on the conflict at hand, the degree of proximity of the case to great powers' interests and, to some extent, their personal readiness to take risks.

COMMON SECURITY AND DEFENCE POLICY (CSDP) OPERATIONS

Thus far, CSDP operations have not included a direct mediation mandate. Once on the ground, however, they often have to negotiate their own room of manoeuvre, which may involve talking back and forth between the conflicting parties. This is particularly important for those CSDP missions that have a border monitoring and confidence-building role, e.g. EMM Georgia and EUBAM Rafah. In addition, as the EU seeks to concentrate its action on specific conflict complexes using a broad range of tools, they increasingly operate side by side with EUSRs, having to act in full complementarity with the diplomatic effort, e.g. Horn of Africa, South Caucasus, and Afghanistan.

HEADS OF EU DELEGATIONS (HoDs)

With the Lisbon Treaty, the role of HoDs as diplomatic envoys has been reinforced, a role they perform in parallel to their mission of overseeing EU-funded programmes and projects in the field. In addition, the Lisbon Treaty gives HoDs the ability to act as convenors of the Member States in-country, and therefore to play a potentially pivotal role in the generation of a concerted EU response to a particular conflict or situation of tension. Congruent with their diplomatic status, they are in principle able to talk to a wide range of actors in their host country, including opposition parties, but mostly refrain from contacts with groups qualified as 'terrorist' or 'rebel' by the host government.

2.2. NON-EU INSTITUTIONS

INTERNATIONAL AND GOVERNMENTAL ORGANISATIONS

The United Nations Mediation Support Unit (MSU) serves as a repository of mediation knowledge, policy and lessons learned. It also includes a small standby team with subject-specific mediation expertise that can be deployed to assist mediators in the field. The majority of EU Member States similarly maintain rosters of civilian experts. The UK Stabilisation Unit (SU), the German Center for International Peace Operations (ZIF) and the Swedish Folke Bernadotte Academy (FBA) are among those that have developed effective vetting, training and deployment mechanisms to deliver a broad range of expertise to the field in a timely manner, but their databases contain few dedicated mediation experts. Meanwhile, the US Institute for Peace (USIP) provides mediation support on behalf of the US government, often in cases that fall outside the limits of official diplomacy.

NON-GOVERNMENTAL ORGANISATIONS

A considerable and fast growing number of non-governmental organisations world-wide provide mediation and mediation support services. In Europe they include Conciliation Resources, swisspeace, Community of Sant'Egidio and several others, for example the independent Centre for Humanitarian Dialogue based in Geneva. The HD Centre facilitates discreet high-level talks and carries out broader dialogue projects, including a current EU-project in Libya. Similarly, but set up around the work of former Finnish President Ahtisaari, Crisis Management Initiative (CMI) engages directly on mediation and facilitation initiatives and has been contracted by EEAS to provide external expertise on mediation.

3. MEDIATION AND SUPPORT SERVICES PROVIDED TO AND BY THE EU

The EU and its partners provide a range of mediation and support services, here grouped under seven functions: mediation, facilitation and dialogue processes; deployable capacity; expert advice and research; evaluation, lesson-learning and knowledge production; training; financial support to third parties; and convening and advocacy forum.

3.1. MEDIATION, FACILITATION AND DIALOGUE PROCESSES

Before, during and after the outbreak of violence, communication facilitated by third parties has the potential to reduce uncertainty, make interests known, and generate trust among opposing parties. Such communication assistance has historically been provided to official and unofficial groups and armed and un-armed actors alike. These stakeholders each command different degrees of authority and legitimacy; third party assistance is consequently developed along one or more corresponding tracks. USIP categorises this assistance in four groups, though other definitions exist.

Official diplomacy, here termed 'track 1', covers formal discussions typically involving high-level political and military leaders and focusing on ceasefires, peace talks and treaties. Third party interveners are almost always official. When officials engage with non-state actors it commonly falls under 'track 1½' diplomacy, discussed below. The EU presently acts as a facilitator between Serbia and Kosovo conducting official track 1 diplomacy.

'Track 2' diplomacy involves unofficial dialogue and problem solving activities aimed at building relationships and encouraging new thinking that can inform the formal process. Track 2 activities are aimed at influential academic, religious and other civil society actors who can interact more freely than high ranking officials. The interveners are similarly unofficial, for example swisspeace who in 2001 convened the civil society conference alongside the official 2001 UN Conference on Afghanistan in Bonn. The EU increasingly supports track 2-type projects involving academic and religious leaders via the Instrument for Stability (IfS) and other tools

'Track 1½' diplomacy involves situations where official representatives give authority to non-state actors to negotiate or act as intermediaries on their behalf. In 1994 for example, following a request from US President Clinton, the Carter Center negotiated the departure of Haiti's military leaders, and the independent Norwegian research foundation, Fafo, played a central role in the negotiations that culminated in the official Oslo Accords in the Middle East. It is politically sensitive for governments to engage in track 1½ diplomacy because parties to the talks may include terrorist groups or individuals indicted for war crimes with whom the government cannot officially engage due to political concerns or, in particular circumstances, national legal restrictions. Conversely, NGOs and also AU officials are seldom constrained by such concerns.

'Track 3' diplomacy works at the grassroots level. It is undertaken by private groups to encourage understanding between hostile communities by way of organising meetings, generating media exposure and providing advocacy for marginalised groups. The EU commonly funds such dialogue initiatives, for

example the 2010 conflict mitigation project implemented by the International Rescue Committee in the sensitive Uganda/Kenya border region.

In sum, the EU is increasingly engaged in track 1 diplomacy. Its support to track 2 appears to be growing, and it has a strong track of supporting track 3 dialogue. It has seldom been involved with track 1½ diplomacy, however, given the sensitive nature of the process. Projects such as the IfS supported *All-inclusive Dialogue for the Future of Libya*, led by the HD Centre have the potential to enable the EU to gain information about local conditions, inform its policy development and implementation so that the EU plays more clearly the “unique and differentiated role ... amongst other providers of international peace mediation” resulting from its ability “to pursue both a top-down and a bottom-up approach in parallel tracks” (2009 Concept). This would, however, require a greater combination of political and technical approaches than is currently the case, and, in institutional terms, synergy and continuity between the EEAS conflict management response, the Commission’s long term peacebuilding engagement, and the Member States’ diplomacy.

3.2. DEPLOYABLE CAPACITY

Deployable capacity includes rapid and longer term deployment of human resources to engage in mission-specific tasks. Effective deployment capacity is dependent on four elements: decision-making, financing and contractual regulations, availability of personnel, and duty of care/security/logistics.

Decision-making on conflict engagement is complex anywhere but even more so within the EU, as it involves a variety of levels and actors. Although the establishment of the conflict and crisis management bodies within the EEAS has the potential to increase the coherence of an EU multi-pronged engagement, internal cohesion remains vulnerable due to a lack of clarity on roles and responsibilities and that of reconciling the culture and working methods of the three sources of personnel that make up the EEAS: the Council Secretariat, the Commission, and the Member States. Longer term engagement in mediation and dialogue processes via the support of third party actors is difficult to formulate as it requires at least a five-way consensus among the EUD and DEVCO desk concerned, the newly-created DEVCO Fragility and Crisis Management Division (FCMD), the EEAS desk, CPPBM and the Foreign Policy Instruments Service (FPI) when the IfS is involved. Decision-making on deployments requiring Member States approval, such as the nomination of an EUSR, is similarly subject to the consensus-building process implied in the requirement of unanimity among the 27 members of the Political and Security Committee (PSC).

Financial and regulatory constraints limit EEAS engagement in mediation in several ways. Firstly, the “no staff growth” constraint imposed by Member States makes it particularly difficult for the new services in charge of fostering mediation, such as CPPBM, to assert their institutional role vis-à-vis the longer-established and better-endowed CSDP divisions. It is only thanks to a pilot project initiated by the EP that CPPBM has been able to constitute a Mediation Support Team (MST), occasionally enabling a staff member to be deployed for a brief mission to support a EUD mediation engagement. Secondly, like other EU institutions, the EEAS operates under Article 317 of the Treaty on the Functioning of the European Union (TFEU), which only allows the Commission to manage operational budgets. As a result, it can only utilise its administrative budget for deployment, using its own staff and a limited travel and mission allocation. Thirdly, EUSRs, whose budget is administered by the FPI as part of the CSDP, must abide by the standard and fairly constraining EU Financial Regulations, which leave little room for the funding at short notice of unplanned activities or in-budget reallocations in the field. Fourthly, even if the option exists to hire contract staff via Framework Contracts (FWCs) (in particular Commission FWC Lot 1), there is at present no mediation or even conflict prevention dedicated budgets in the Commission's FWCs, which means that CPPBM or EUSRs have to compete with other EU actors if they want to utilise this mechanism. Finally, many divisions and staff in the EEAS, including EUDs, are still going through a steep learning curve in terms of managing budgets and contracts according to EU regulations. In sum, EU funding and Financial Regulations are ill-suited to rapid responses; while they permit suitable forms of engagement via external contractors when a 1-2 month advance planning is possible, the modalities

thereof are not yet fully mastered by the new EEAS. Funds for long term engagement are available through a variety of instruments, and yet few are targeted to promoting mediation and dialogue; their investment for that purpose requires tighter EUD/DEVCO/EEAS coordination and greater EEAS policy guidance capacity.

Personnel for mediation engagement may in principle come from the EEAS itself, the Member States or external institutions. As described in section 2, in other institutions expert rosters are considered an important tool in supporting mediation or other field deployments as they provide a framework of vetted, trained and available personnel and ensure all issues related to their deployment have been resolved in advance. Roster initiatives are numerous in the EU context, but do not provide a relevant or reliable base for mediation support purposes. Within the EEAS, the Civilian Expert Reaction Teams (CERTs), organised by the Crisis Response and Operational Coordination (CROC) Division and including a 'Reconciliation process and Mediation' profile of 5 members, can be instrumental in ensuring that strategic level needs assessments provided to the EEAS's Corporate Board include mediation engagement. The Civilian Reaction Teams (CRTs) established by Member States, include mediation specialists, but CRT members are seldom available when and for the duration needed, as they depend on national decision-making and the funding of most of their costs. For less urgent medium term engagements, CPPBM is exploring options to secure access to external professional mediation expertise for the benefit of the EU via a pilot project. This could be the prelude to a more regular access to FWCs once the EEAS has acquired the necessary know-how. However, the use of contract experts to support mediation engagement, via FWCs or otherwise, still encounters 'cultural' obstacles both in Brussels and in EUDs, as some offices are unfamiliar with technical assistants engaging in foreign policy issues. Overall, deployment for EU mediation engagement remains constrained by a limited EEAS budget, unreliable access to Member States' expertise, and constraints on hiring and using external experts.

Deployments to fragile states environments sometimes require specific security provisions, including hostile environment training, high risk insurance, stand-by facilities for medical and security evacuation, pre-arranged legal recourse, and – if useful – diplomatic protection. Such safeguards are built into the most advanced roster arrangements and are being organised for CRETs at EEAS. They are also provided for national experts deployed in the context of CSDP operations but are left to the Member States for other deployments involving the CRTs or other civilian experts, e.g. needs assessment missions or EUSR staffing. They are not provided for EU contractors, who are deployed under the sole responsibility of their employer and may be unwilling to assume the risks involved.

3.3. EXPERT ADVICE AND RESEARCH

A main source of information on conflict situations for the EU is its broad range of EUDs around the world. Yet, when EUDs report on current developments they seldom have sufficient time and the right type of staff to produce analysis. As coordinators of the EU's external action in the field, EUDs are seeking to rely more on the network of Member States' embassies, which often have security and defence analysts at their disposal. Yet, Member States only share limited sensitive information. Similarly at EEAS HQ, the Intelligence Analysis Centre (INTCEN) is limited by the degree of collaboration between the national services. Besides, the INTCEN and Situation Room remain oriented toward crisis watch rather than prevention. Partial alternatives are provided, e.g. by NGO networks funded by the IfS, such as the *Initiative for Peacebuilding* between 2006 and 2010, and now the Civil Society Dialogue Network (CSDN), which produces expertise on conflict prevention and peacebuilding and channels that information to EU stakeholders thanks to their broad networks of field contacts.

The EU Institute for Security Studies (EU-ISS), whose task it is to support the development of the CFSP, has only occasionally provided targeted policy advice so far. Such focussed expert advice has proven its usefulness elsewhere. It is provided, e.g. by the *Governance and Social Development Resource Centre* (GSDRC), a UK university consortium which constitutes a stand-by research capacity for UK Government departments who can expect a comprehensive report within two days of sending a request. Analyses produced by think tanks such as the International Crisis Group (ICG), Clingendael in the Hague, SWP in

Berlin, IFRI in Paris, Chatham House in London, FRIDE in Spain, IAI in Italy, ELIAMEP in Greece, FIAA in Finland, SIAA in Sweden can also be helpful, but EU staff lack a repository of knowledge enabling them to access their relevant work rapidly. Similarly, if methodology/process-oriented expertise exists in various institutions and databases, it is not readily accessible to EEAS staff.

3.4. EVALUATION, LESSON LEARNING AND KNOWLEDGE PRODUCTION

In comparison with organisations such as the UN, the EU has done little to systematise lesson learning from external engagements, except with regard to CSDP military operations, which benefit from a tradition of lesson learning within the defence establishment. No evaluation process has been undertaken by the EEAS in relation to the experience of EUSRs, whereas pioneer work has been undertaken by the specialised NGO *MediatEUr* in debriefing former post-holders. Under the auspices of CMPD a 'Civilian Lessons Learned and Best Practices Concept' is underway and may also prove useful for EU mediation engagement. The Dutch Clingendael Institute reports however, that civilian CSDP operations are unlikely to establish effective lesson learning processes because they reveal delicate political choices. Meanwhile, CPPBM has contracted out the initial production of best practice materials on EU mediation.

Internally, discussions have also taken place on the establishment of a 'community of practice', that would link, in a first stage, EEAS HQ staff among themselves and with EUD staff in conflict countries, and possibly at some stage involve contact points in Member States' foreign ministries or embassies. This is particularly important as a means to safeguard institutional memory in a permanent context of rapid staff turnover. At present, the process is largely left to personal relationships, which may be explained by the EEAS's recent creation.

3.5. TRAINING

Training is offered in a variety of ways to participants in EU mediation policy design and implementation.

Within EEAS, efforts are on-going under the auspices of the Career and Learning Development Division (CLDD), with content input being provided by CPPBM, to offer key staff, including geographic desks and EUDs, mediation and conflict-awareness training. This comes in addition to various training modules covering negotiation and diplomatic skills which all EEAS staff must master. Particularly important moments in terms of awareness-raising, methodology and experience sharing in conflict management are the one-week training sessions organised for HoDs and EUD Political Advisors once a year respectively. To complement those efforts with more targeted support to EUDs and key geographic departments dealing with crisis and conflict issues, CPBPM has initiated a €300.000 training and coaching pilot project. The information gathered for the present research indicates that the project encounters a high degree of satisfaction among participants.

Both the European Security and Defence College (ESDC), as a permanent network of national training institutions, and the European New Training Initiative (ENTRI), a contracted consortium of NGOs and national institutions financed by the IfS *Initiative for Peacebuilding*, which includes mediation, dialogue, conflict-sensitiveness and peacebuilding in their curricula. In both cases, such training is delivered by institutions such as Sweden's Folke Bernadotte Academy, Finland's Crisis Management Centre, or the Austrian Study Centre for Peace and Conflict Resolution, who belong to both networks. EEAS and the Commission are usually allocated a few places on ESDC-coordinated courses, but those courses are mostly focussed on Member States' interests rather than reflecting jointly agreed priorities with EEAS, and the financing of participants' travel and accommodation is left to the decision of the host institution/State, limiting institutional participation opportunities. Despite these limitations, there is scope to expand the mobilisation of the ESDC network to support EU mediation engagement. For example, the Folke Bernadotte Academy offered a *Senior Mission Leaders (SML)* pilot training project in April 2012, and a first joint training with the Commission's Fragility and Crisis Division has been scheduled.

EUSRs and their staff stand out as the major EU mediation actors left out of the training loop. Whilst EUSRs are convened to yearly EUD training sessions and some of their staff has occasionally participated in EEAS, ESDC or ENTRI courses, no programme is particularly dedicated to their needs. Whereas ENTRI would seem the best vehicle to provide pre-deployment or in-mission training, current IfS regulations do not allow for this as EU personnel and missions may not be the primary beneficiaries of actions within its project funding.

3.6. FINANCIAL SUPPORT TO THIRD PARTIES

In accordance with the broad approach to mediation (2009 Concept), the EU provides considerable financial support to mediation and dialogue initiatives carried out by third parties and to third party capacity-building for mediation.

At times, efforts supported by the EU have been initiated by the third parties concerned, e.g. the UN, private diplomacy actors or regional organisations. At other times, they are the outcome of EU defined initiatives. This includes generic commitments to support conflict prevention and peacebuilding, e.g. EU engagement to support UN mediation, civil society conflict transformation efforts, or AU capacity-building for early warning and mediation. The EU may also decide to act upon a particular conflict situation, e.g. Libya, Central Asia or Sudan. In either case, the initiative is implemented via grants, technical assistance or – in the case of international organisations – contribution agreements. Although this support can be delivered via traditional Commission programmes, the Instrument for Stability (IfS) has emerged as a key vehicle due to its worldwide scope (Article 4.3 ‘Crisis Preparedness’, i.e. long term component) and swift response (Article 3 ‘Crisis response’ component).

Under the *Peacebuilding Partnership*, which is part of the IfS long term programmable component, the Instrument has supported, for example, the UN Mediation Support Unit roster of experts, the OECD-led International Dialogue on Peace Building and State Building, the Civil Society Dialogue Network (CSDN), managed by the European Peace-building Liaison Office (EPLO) and the aforementioned ENTRI training programme. Actions supported by the IfS emergency response component include, for example, the HD Centre's national dialogue process in Libya as described above.

On the African continent, in addition to the IfS, the European Development Fund (EDF)'s African Peace Facility (APF) is an important source of EU support to both capacity-building and operations. The APF finances, for example, the AU High Level Panel in Sudan. The APF also includes an Emergency Response Mechanism (ERM), which facilitates engagement by the AU and the Regional Economic Communities (RECs) in an early response to a conflict, including via mediation initiatives such as in Niger, Ivory Coast and Guinea.

3.7. FORUM/ADVOCACY

Few of the Brussels-based or Brussels-focussed think tanks have EU mediation engagement, and even EU foreign and security policy, under their spotlight. Apart from the European Council on Foreign Relations (ECFR), EU foreign policy engagement is more often on the agenda of national research institutions.

The most active forum for discussion of EU mediation engagement in a multi-pronged approach is at present the above-mentioned CSDN. Funded by a €2m grant under the crisis preparedness component of the EU, the CSDN aims at facilitating dialogue on peacebuilding issues between civil society and EU policymakers. To a large extent, it builds on the experience of the 2006-2010 *Initiative for Peacebuilding* described above, but involves a stronger advocacy/forum function. The project involves meetings, the production of background material such as briefing papers, reports, and policy papers, and occasional training seminars.

A potential new forum on community dialogue and peace process lessons is the Peace Building and Conflict Resolution Centre (PBCRC) in Northern Ireland. PBCRC is in the process of being established on the grounds of the former Maze/Long Kesh high security prison, made possible primarily through the

support of a €18m grant from the Commission for the site renovation. PBCRC aims to be an international centre of excellence dedicated to peacebuilding and transforming societies.

In sum, while there is no dedicated high-level Brussels-based forum to discuss EU engagement in mediation and dialogue processes, there are opportunities for engagement at the working level, in particular via CSDN. As a service to the EU, EU-ISS also regularly serves as a forum for the discussion of EU engagement in conflict areas, usually targeting officials at a somewhat higher level than the CSDN. Its location in Paris, however, limits the engagement with Brussels decision-makers. In the medium term, the Maze/Long Kesh PBCRC, which already benefits from significant EU political and financial support, could become an important forum bringing together policy-makers, mediation practitioners, conflict parties and the broader public to discuss conflict prevention and dialogue issues.

3.8. SUMMARY OF FUNCTIONAL CAPACITY

Annex A to this report summarises the existing capacity of the EU and non-EU institutions across the seven mediation-related functions. Under current conditions, the functions that are not or insufficiently fulfilled by the EU or other actors in support of the EU are:

- Engagement with proscribed actors
- Rapid expert deployment for mediation support
- Targeted process-oriented thematic advice produced at short notice in support of EEAS staff
- Lessons-learning of some mediation engagements
- Forum and advocacy at a high-level forum

Part II of the report examines options for filling these gaps.

PART II: RISKS AND BENEFITS

This part reviews three options for filling the gaps identified in part I of the report. They are 1) reinforcing capacity by building on existing EU-family institutions, 2) creating a new EU legal body, and 3) creating an independent organisation. The latter option is further examined according to seven criteria, including added value, establishment, rights and privileges, governance, funding, legitimacy and location.

4. BUILDING ON EXISTING EU FAMILY INSTITUTIONS

There is wide agreement among all concerned stakeholders that the capacity of the EEAS to support political dialogue processes should be strengthened.

4.1. BUILDING UP LONG-TERM EEAS CONFLICT PREVENTION AND PEACEBUILDING CAPACITY

Given the current financial situation, a significant increase in CPPBM's administrative budget, which would enable for example the Division to deploy staff for short term missions in support of EUDs or EUSRs, is not foreseen. Other EU services will also request budget increases based on new needs – in particular geographic divisions dealing with crisis countries – and a consensus has yet to be built internally as well as among member states, on the importance of conflict mediation in the range of CFSP tools, compared to, for example, civilian or military CSDP missions.

A clearer division of labour and greater coordination among divisions involved in conflict prevention, crisis management and peacebuilding would improve EEAS's effectiveness. The work undertaken by the CPPMB Division to mainstream conflict prevention in EEAS's actions, by developing methodologies, reaching out to other Divisions and offering training programmes promotes such cohesion. Improvements may also be expected from the stabilisation of the roles of coordination bodies such as the Conflict Prevention Group, the Conflict Management Board and Crisis Platforms.

The CPPBM Division may also expand its capacity by calling upon external experts for methodological, thematic or training assistance for itself, other divisions or for EUSRs. For such services, which require professionalism but can be planned in advance, the best vehicle is framework contracts (FWCs). An efficient use of FWCs, which are managed by the EC, can be achieved relatively easily by building up the EEAS's administrative competence to interface with the Commission on such contracts. A dedicated EEAS FWC is not recommended as the EEAS's needs are modest and this could create confusion about the EEAS's mandate. Extending the terms of reference of the Commission's FWC Lot 1 in a future round, e.g. by adding a reference to 'conflict prevention' in the sector dedicated to 'governance/state reform/security' would be helpful in this regard. Alternatively, a broadening of the *IfS Peacebuilding Partnership* target public could be considered to cover the EU's side of the partnership as well as third party counterparts, in order to foster truly joint peacebuilding efforts.

4.2. LINKING TRACKS 1, 2 AND 3 MORE EFFECTIVELY

As concluded in section 3.1., the EU still lacks the ability to link track 1, 2 and 3 in its response to crisis and conflict. Whilst some parameters of this linkage are and will remain in the hands of the Member States, improvements can be made at the institutional level. This requires principally the development of common working habits between different components of the 'system': geographic desks at EEAS and DEVCO, EUDs, CPPBM, DEVCO's FCMD, and FPI staff managing the IfS. As a bridge between short term reaction, possibly involving the political decision to nominate an EUSR or to dispatch a CSDP mission, and long term programming, managed by the Commission, the IfS has a key function to play in supporting the continuity of EU mediation action. Each conflict country or country at risk should be the subject of a constant flow of communication between the services concerned to maintain a common assessment over time of the levels of engagement required, target audiences, timing, the sequence of support, approaches and instruments to be used. In the majority of cases, the IfS will appear as a better suited

tool to support mediation and dialogue in the ‘hot’ phase of the crisis, whereas Commission programming instruments (European Development Fund (EDF), European Neighbourhood and Partnership Instrument (ENPI), Development Co-operation Instrument(DCI)) will be more appropriate to maintain engagement over the long run.

The transition toward such a seamless treatment of mediation support will not go without a degree of cultural change, whereby EUDs will bear the heaviest burden of adaptation. Firstly, EUDs will have to accept a more ‘hands on’ involvement of EEAS HQ in conflict prevention and peacebuilding programming. Secondly, the Political Sections of EUDs will have to be closely associated with the operational oversight of programmes and projects. Thirdly, EUDs will have to accustom themselves to working with new kinds of service providers represented by conflict management NGOs such as the HD Centre, CMI, St Egidio and others, which focus more clearly on political processes rather than traditional development-oriented technical assistance firms. This cultural change would obviously be facilitated if the need to reinforce the adequate skill-sets were gradually taken into account in the staffing of EUDs in conflict countries, as recommended by the 2010-2011 *Thematic Evaluation of EC Support to Conflict Prevention and Peace-building*.

4.3. INCREASING DEPLOYMENT CAPACITY

As indicated in section 4.1., for non-urgent deployment needs, greater use could be made by the CPPBM of FWCs to procure technical assistance on thematic, methodological or geographic issues with 1-2 month advance notice, building on the current training and coaching contract. At the level of EUDs, there also appears to be scope to direct some of the unused administrative portion of the considerable DCI, EDF or ENPI programme budgets (2-4%) to hire technical assistants or local staff in support of implementation of peacebuilding projects and there seems to remain some unexplored options to use Technical Cooperation Facility (TCF) budgets to develop such projects in ACP (African, Caribbean, Pacific) countries.

Using more actively existing rosters, i.e. Civilian Reaction Team (CRTs), Crisis Response Expert Teams (CRETs), external rosters and ‘informal’ rosters of known individual experts, is also an option, although mobilising Member States' capacity (CRTs or national rosters) will remain conditioned by national decision-making and funding. Even if mediation expertise requirements are the exception rather than the rule in crisis response, it is important that the CRETs be kept relevant to conflict mediation via the presence of the required skill sets among their pool of experts so that the requirements for support to, and or engagement in, political and social dialogue processes can be taken into account in crisis response needs assessments.

4.4. SUPPORTING EUSRs

More focussed support to EUSRs can be steered by CPPBM in the training and lessons-learned domains, as discussed in the respective sub-sections. Calling upon the broader ‘EU family’, the possibility exists that some of the EU-ISS geographic programmes could be oriented toward assistance to particular EUSRs. A precedent for this is the 2007-2010 collaboration between the European Institute of Security Studies (EU-ISS) and the EUSR for the South Caucasus (at the time Peter Semneby), which provided the EUSR with knowledge, outreach and options for engaging prominent personalities other than officials via seminars and workshops in Paris, Brussels and in the field. This enabled the EUSR to act more effectively as a bridge between the conflicting parties and between them and the EU. The standardisation of this line of activity would, however, require a consensus among EU Member States.

4.5. DEVELOPING RESEARCH AND ANALYSIS CAPACITY

As discussed in section 3.3., in-house research and analysis capacity is limited. It is, however, important to distinguish general conflict research, whether thematic or situation-focussed, which is widely available in the public domain, from targeted research, which EEAS needs to support PSC decisions, EUSR action or long term strategic programming. Several instruments may be used for that purpose, combining internal and external capacity:

- Internally, a more systematic use could be made of the Conflict Prevention Group, coordinated by CCPBM, to anticipate conflicts and develop proposals for a tailored EU multi-dimensional response;
- Member States, especially at field level, could be encouraged to put their expertise in peace and security issues more readily at the service of the EU common action coordinated by EUDs, for example by sharing security briefings or risks assessments;
- The general consensus on the need for EU-ISS to refocus its research activities to more directly serve the needs of the EEAS/CSDP and work in greater interaction with the EEAS, could be used to explore options for targeting some of its inputs to support EU conflict prevention. The team change underway, with a new director in place as of October 2012 and new researchers to be recruited, could be an opportunity to consider this option;
- EEAS's and DEVCO's collaboration with NGO networks could be pursued and intensified, building on the experience of the *Initiative for Peacebuilding* and the present CSDN. An assurance of continued EU interest in this area would allow NGOs to invest in capacity. This would still leave some gaps in the provision of thematic process-oriented expertise to EEAS staff at a very short notice.

4.6. TRAINING

Training on mediation and political dialogue needs to be intensified. Two sets of actors deserve particular attention in this regard: EUDs and EUSRs.

- EUDs, particularly the many new HoDs, need to be familiarised with their new roles in ensuring the cohesion of EU political and programmatic action in the field under the Lisbon Treaty. Beyond the valuable annual training programmes offered to HoDs and Political Advisors by the EEAS CLDD, dedicated additional training and coaching assistance of the kind pursued under the current mediation pilot project, and taking into account its results, could be pursued in the future, using the vehicle of FWCs (Commission FWC, Lot 2 *Training*);
- EUSRs and their teams would greatly benefit from an induction course delivered on a timely basis upon commencement of the mission. CPPBM could approach ESDC in this regard or, if this were to become contractually possible, future iterations of the ENTRi consortium. Building on the UN and AU experience, the SML pilot training project could also become a regular feature of the ESDC curriculum. Including Mission Heads, as well as senior EEAS staff and EUSRs, could greatly enhance the cohesion of EU action in conflict settings in the future.

4.7. EVALUATION, LESSON LEARNING AND KNOWLEDGE PRODUCTION

There is scope for expanding on lessons-learning within the present system:

- EUSR debriefings can and should be conducted within the EEAS, with CPPBM offering the most logical abode for this function. Such internal debriefings could be complemented by more comprehensive lessons-learned exercises carried out by external institutions and taking into account broader aspects of EU political and operational engagement. The EU-ISS framework could be used for such comprehensive exercises, building on the model of its successful EUFOR Chad/CAR and EUPM Bosnia and Herzegovina lessons-learned seminars in 2010 and 2012 respectively, but looking at the broader EU conflict prevention and peacebuilding action in conflict areas;
- Geographic and thematic lessons-learned work on EU engagement carried out by NGO networks via the *Initiative for Peacebuilding* in the past and currently by the CSDN, which can bring about valuable perspectives on EU engagement at community level in conflict societies and should therefore continue to be actively supported and used by EU staff;
- The 'Community of practice' initiative under consideration at CPPBM (see section 3.4.) is worth pursuing, with the Division constituting the first port of call on mediation know-how. Other divisions could similarly take the lead in other areas of experience sharing. Such a 'community' requires the tasking of a staff member to establish it gradually and, above all, with a commitment to maintaining it over time.

4.8. FINANCIAL SUPPORT TO THIRD PARTIES

Financial support to third parties is and will remain a Commission prerogative. As discussed in the subsection 4.2., this places a premium on coordination and cooperation between the EEAS and the relevant Commission departments, in particular the FPI, which manages the IfS, the newly created DEVCO FCMD, and EUDs. EEAS, via geographic desks and with the methodological support of CPPBM, must also develop its capacity for long term strategic development programming in conflict countries, with DEVCO FCMD providing implementation programming tools.

4.9. FORUM AND ADVOCACY

The forum function is by definition an external one. Three existing institutions/initiatives belonging to the ‘extended EU family’ have the potential for further development as fora for discussion, exchange of experience and advocacy on mediation-related issues:

- *CSDN*: as already indicated, this NGO-led project could be further nurtured and encouraged;
- *EU-ISS*: the EU-ISS, which is a full member of the set of EU institutions, could more actively serve as a semi-public host for discussions and consultations related to conflict issues and themes. In order to reach the EEAS, Member States and Commission audiences more easily, a larger number of the Institute’s meetings should take place in Brussels than is presently the case. In the absence of its own premises in the Belgian capital, an option would be for the EU-ISS to co-organise events with Member States representations. This formula is regularly used, for example, by the International Peace Institute (IPI) in New York, working with national representations to the UN. It has demonstrated its effectiveness in mobilising Member States’ support on particular issues and, conversely, in providing a committed Member State with a platform to build its agenda in preparation for official negotiations;
- *Maze/Long Kesh PBCRC*: as a symbol of the capacity of European actors to act as peacebuilders, and to be endowed with a first class infrastructure, the PBCRC has the potential – and ambition – to become host to grassroots and high level meetings, which could include activities such as SML trainings and lessons-learned seminars. Through its Brussels Office it could also engage EU decision-makers on mediation.

4.10. SUMMARY OF FINDINGS: SCOPE FOR BUILDING ON EU-FAMILY INSTITUTIONS AND COSTS OF NON-IEP

There exists a broad scope for developing EU mediation and dialogue capacity building on existing institutions. Gaps that cannot entirely be filled at present, and therefore constitute opportunity costs, include:

- Engagement with proscribed actors when such a process cannot be entrusted to an existing institution, as none of the existing NGOs are available or deemed fit for that purpose, or there is a political veto from an EU Member State;
- Limited availability of experts for rapid deployment in support of mediation;
- Lack of ability of EEAS staff to procure thematic process-oriented expertise at short notice;
- Some of the most sensitive elements of mediation engagement lesson-learning;
- High level forum and advocacy on EU engagement in mediation and dialogue.

However, the most striking finding is how scattered are the initiatives in each functional domain of mediation support. While this may be a reflection of the plurality of the EU, and in some ways a tribute to the creativity and dynamism of EU-related actors, this is detrimental to the visibility of existing efforts. The opportunity costs of not creating an EIP are summarised below:

Function/Capacity	Cost of non-EIP
Mediation, facilitation and political dialogue	Very limited options for track 1 ½ engagement with proscribed actors; EU less likely to play global pioneering role as mediation actor
Deployment	Very limited options for deployment of experts at short notice
Expertise & research	Absence of a central repository of knowledge and advice, lack of process-oriented advice, lesser EU visibility in mediation community
Training	

Financial support to third party mediation	globally, continued puzzlement of stakeholders vis-à-vis EU complexity
Evaluation/lessons learnt	Important lessons-learnt work not carried out or not available to inform further training and engagement
Forum/advocacy	Lesser visibility of EU as a conflict mediation actor in Europe and globally

The proposed EIP could help fill those gaps and bring scattered efforts more closely together, without constraining them. On this basis, various possible institutional models for an EIP are examined.

5. CREATING A NEW EU LEGAL BODY

The creation of a new EU legal body could take three different forms.

EU INSTITUTION

The present context would be inappropriate for the creation of a new EU institution, taken into account Europe's financial recession and the fact that such a body would be a direct competitor to the EEAS, whose mandate it is precisely to develop the EU's diplomatic engagement in support of Treaty values and the Union's repeated commitment, via the CFSP and political and financial tools, to act as a key vector for peace in the world.

EU EXECUTIVE AGENCY

The executive agency format can equally be excluded, principally because it would be inadequate for the stated purpose. Firstly, whilst an executive agency is a creation of the Commission to implement a particular programme (Art. 55 of the Financial Regulations), the EIP would not carry out a single programme but a variety of strands of activities, often in an exploratory and tentative manner, without a pre-determined end. Secondly, the domain covered by the EIP would be in substance much closer to the CFSP, and therefore to the EEAS's field of competence, than from the Commission's. Thirdly, according to the Financial Regulations (Art. 54), an Agency may not engage in policy decisions, which is precisely what the EIP would need to do to pursue some of its activities, in particular engagement with proscribed actors and the rapid deployment of experts in response to crises. This model can therefore be discarded.

EU TRUST FUND

The EU Trust Fund is an untested model, as it is a novel option foreseen by the revised Financial Regulations due to enter into force on 1/1/2013 (Art. 178). Trust Funds are meant to confer greater visibility to EU action in a particular domain, but also to ensure greater financial management control by the EC when the EU undertakes a joint programme with other donors (Art. 178, 3b). Despite the higher visibility asset, an EIP in the form of a Trust Fund would encounter many of the same difficulties as the executive agency model: it could not take a financial risk (whether it is managed directly by the EC or via delegation by another body) and its transparency and accountability requirements would render it unsuitable to host discrete political engagements. In addition, the finite purpose for which a Trust Fund is created may make it uneasy for an EIP in this format to explore originally unforeseen forms of action. Finally, the draft Financial Regulations provide that a Trust Fund is created for a limited duration (Art. 178, 5). Although one could theoretically define the term 'limited' extensively, it is unlikely that the EC would agree to foresee a longer duration than the standard 3 years associated with programmes. For this combination of reasons, the Trust Fund does not appear as a suitable model.

CONCLUSION: CREATING A NEW EU LEGAL BODY

None of the options involving the creation of a new EU legal body would be appropriate for the EIP.

6. CREATING A NEW NON-EU LEGAL BODY

An independent organisation could take two possible formats: that of a non-profit organisation, including two sub-categories, an association format and a foundation format, and that of an International Organisation (IO). The theoretical option of creating the EIP as a private company can be

excluded as it would not fit the non-profit, political and ethical purpose of the EIP. This should not prevent the EIP from providing consultancy services to clients, e.g. in response to EC tenders.

In order to help identify the advantages and disadvantages of each specific institutional format, a number of criteria can be used.

6.1. INSTITUTIONAL ASSESSMENT CRITERIA

Seven major criteria condition the feasibility of the EIP project.

ADDED VALUE

The EIP must add value not only to existing capacity but also to capacity as enhanced by those improvements that can reasonably be made building on the EU family of institutions, as described in section 4. Taking into account the seven key mediation functions, the EIP would be more consensually supported if it focused on:

- *Mediation, facilitation and political dialogue*: engagement with proscribed actors in which high level contacts are essential to reach a breakthrough, but where a combination of such contacts with a track 2 or track 3 process is impossible or not necessary, since such multi-track approaches can as well be carried out by existing organisations such as CMI, Interpeace, HD Centre and others, including with EU funding (from IfS or from EIDHR);
- *Deployable capacity*: the maintenance of a small roster of no more than 10 of its own employees that could be put at the disposal of the EEAS, an EUSR or an EUD upon demand at 48 hours’ advance notice; like those on the UN MST, those experts would combine mediation training and another of the skills often in demand in conflict environments, e.g. elections, gender, SSR, constitution-making, etc., and they would be occupied with other tasks, e.g. lessons-learnt, knowledge management, methodology development, short notice process-oriented advice, when they are not being deployed;
- *Expertise and research*: the establishment of a gateway associated with a powerful search engine, enabling interested users to quickly identify mediation-relevant sources of information, i.e. documentation, institutions, experts. At some stage, this gateway could be linked to an EU’s internal ‘Community of practice’;
- *Training*: the assignment of one of its staff, as Training Orientation Officer, to tracking mediation training opportunities and maintaining contacts with relevant training institutions so as to guide interested audiences towards the suitable options;
- *Financial support to third party mediation*: the assignment of one of its staff, as Mediation Funding expert, to tracking funding opportunities for mediation engagement from the EU or its Member States, including associated application and contractual modalities, so as to advise customers seeking financial support;
- *Evaluation/lessons learnt*: the establishment of a repository of knowledge on lessons-learnt accessible on its website and, as deemed useful by CPPBM and for the part of the function not assumed by EU-ISS, the organisation of debriefings or lessons-learnt exercises;
- *Forum/advocacy*: the organisation of high level public or private events in Brussels engaging EU senior decision-makers.

Function/Capacity	EIP added value
Mediation, facilitation and political dialogue	Track 1 ½-only engagement with proscribed actors
Deployment	10 member expert roster ready for quick deployment and short notice process-oriented advice
Expertise & research	Gateway/search engine
Training	Training Orientation Officer to provide advice
Financial support to third party mediation	Mediation Funding Expert to provide advice
Evaluation / lessons learnt	Repository of lessons-learnt knowledge on mediation and selective lessons-learning exercises
Forum / advocacy	High level private and public events engaging EU decision-makers

ESTABLISHMENT

The legal process of establishing the EIP should ideally be light and be carried out without delays. Additional time must be allocated to agree on the governance, funding arrangements and scope of activities. Should the EIP be established as a private organisation, legislations across the Member States would have to be compared, taking into account that its core activities would likely be based in Brussels and that a second office would be required in the place of registration. Establishing the EIP as an IO would have other constraints and benefits, which are discussed below.

RIGHTS AND PRIVILEGES

Rights and privileges are significant in reference to three aspects: 1) tax and labour laws, which should be as light as possible to ease the EIP's core funding requirements and give it sufficient flexibility to recruit staff across a range of possible contracts; 2) diplomatic and security protection, which would be essential in some track ½ activities carried out in sensitive conflict environments; 3) access to certain international bodies provided by different types of observer status and allowing a greater degree of voice in such fora, e.g. United Nations, OSCE and others.

GOVERNANCE ARRANGEMENTS

Governance arrangements would have to be such that: 1) the EIP has sufficient legitimacy among the circle of its stakeholders, who must feel sufficiently represented on its Governing Board, but not to the point that exhaustive representation would paralyse decision-making; 2) its Executive Secretary is free to manage day-to-day activities without interference from the Board. In addition, as an institution dedicated to developing excellence in its domain, the EIP would benefit from having an Advisory Council combining prominent mediation practitioners and academics.

FUNDING

Those States initiating the EIP would have to see to it that it is sufficiently endowed for its purpose. The EIP would likely rely on voluntary donations by its members who would have to find a *modus vivendi* on the level of each contribution and the balance to be reached between unrestricted (core) and restricted funding (pre-allocation by the donor to specific domains or specific projects). This would presumably be reflected in the composition of the Board. For example, one could imagine that a seat on the Board would be conditioned by a minimum level of unrestricted contribution.

Access to EC funding, except for additional options to be discussed below in case the EIP had IO status, would be governed by Community Law (Directive 2004/18/EC), which provides that any independent (private or public) body may access EC funding only on the basis of a competitive process. Exceptions to the general rule exist but they are severely limited:

- a number of EU-focussed academic and research institutions (European University Institute in Florence, *Collège d'Europe*, Academy of European Law and European Institute of Public Administration), regularly receive core funding to cover operational costs (but must apply to calls for proposals for project funding);
- specific institutions such as the EU-LAC Foundation, EED and, since early 2012, the Anna Lindh Foundation, are also granted core funding. This is, however, done on a case by case basis and requires a large consensus among EU stakeholders involved (Member States, Commission, EP) on the institution's added value. A degree of uncertainty is therefore associated with such funding;
- certain non-profit organisations in a position of *de jure* or *de facto* monopoly in a particular field (Art. 110(1) of Financial Regulations, Art. 168 of FR Implementing Rules) can benefit from project funding on the basis of direct grants from the EC. Examples in EIP-related domains include the ENTRI consortium and the EPLO-run CSDN as both arrangements were deemed to be the only possible providers of the designated services in their respective areas. Direct contracts, however, are limited to a particular project of a specific duration, and in no manner constitute core funding. Besides, in the absence of a *de jure* monopoly (which is rarely the case), a *de facto* monopoly is usually the

- outcome of several years of good performance by a specific actor in a particular domain. Whilst an EIP may at some point reach this stage, this would not constitute a funding option from the outset;
- direct contracts are occasionally concluded with organisations acting in crisis situations, where particular circumstances justify derogating from the general transparency rules (Art. 110(1) of Financial Regulations, Art. 168(2) of FR Implementing Rules). Typical contracts of this kind are those crisis responses measures concluded under article 3 of the IfS, where the EC may waive requirements for calls for proposals. On the basis of past and present experience, e.g. support to the political dialogue in Kyrgyzstan following the 2010 revolution or at present in Libya, should the EIP undertake field actions, they would typically be of this kind. Yet, the IEP would still have to convince the EC that it is the best implementing agent among a range of entities with which the FPI has collaboration practice.

It is not recommended that the EIP develop a grant-making function, as there is no obvious requirement in that sense, and grant-making is administratively heavy. Should it nevertheless want to allocate small grants to particular actors in conditions of high financial and political risk, the funding source for such grants could not be the EC. In that case, the kind of distinction made for the EED, and also now applied by the Anna Lindh Foundation, could be used, whereby operating funding is provided by the EC, but grant money comes from other sources.

LEGITIMACY

Legitimacy of the EIP has to be appreciated vis-à-vis 3 categories of actors:

- *EU Member States*: legitimacy vis-à-vis EU Member States is mainly related to the potential engagement of the EIP in track 1½ type of activities. A minority of stakeholders see the potential role of the EIP in ‘testing the waters’ in difficult situations (presence of proscribed actors, such as terrorist or guerrilla groups to which EEAS or EUSRs cannot officially reach out to) as unproblematic, as long as it is sensitively handled. The EIP would rely for this on a group of experienced senior persons who would have no official tasking from the HR/VP or the PSC, but would informally ensure they have the necessary backing before undertaking such outreach. On the contrary, a majority of stakeholders, whilst recognising the potential usefulness of such a function, highlight its difficulty: the EIP would need to have the consensus of the 27 before undertaking any initiative; it could not – or not for long – maintain a separate image from that of the EU vis-à-vis conflicting parties, indirectly committing the latter diplomatically; and nobody would take responsibility for the security of an EIP envoy if he or she were to find himself or herself in a dangerous situation, e.g. taken hostage or jailed. In other words, the diplomatic and security risks of such an undertaking would be too high. There is no single response to this dilemma, but a series of parameters in the institutional setup, choice of persons and geopolitical context that may determine whether such a role is possible or not in particular circumstances;
- *Conflict prevention and peacebuilding NGOs*: in order to perform its function as a key repository of knowledge and privileged port of call in the search of mediation expertise by the EU, the EIP would need the active cooperation of the major conflict prevention and peacebuilding NGOs gathered in the EPLO network. Many EPLO members have a long and fruitful record of engagement with the EU. They do not want to lose their current degree of access, and neither do EEAS and DEVCO staff want to lose the benefit of interaction with them. In a context marked by a degree of mistrust among the EPLO community vis-à-vis the way the EIP public consultation process was carried out, the EIP would have, first, to reach out to the EPLO network from the outset, and second, to differentiate itself sufficiently from its members to gain their support;
- *Conflict parties*: legitimacy vis-à-vis conflict parties is partly linked to the same parameters as vis-à-vis EU Member States, but may not always work in the same direction, e.g. an EIP envoy may be considered legitimate by one of the conflict parties confusing him/her with an EU envoy, in a situation in which EEAS or some Member States, precisely, are looking for a rapprochement with the other side. Generally speaking, the higher the status of the EIP envoy is perceived, the greater his/her legitimacy with the conflict parties.

LOCATION

Although a variety of locations are theoretically possible, closeness to EU institutions would represent a definite premium for the performance of several of the EIP's key functions. Locating the EIP in Brussels would enable it to play an effective awareness-raising role on the importance of conflict prevention in general and on specific conflict situations as this would greatly ease the practical problem of EU, Member States and EP representatives participating in its activities. This is essential to its forum function, whether for high visibility public events or for smaller, closed forms of consultations. The possibility for EIP staff and mediators to consult quickly and discretely with EEAS and PSC members or advisors for its more sensitive types of engagements would also be facilitated by geographic proximity. A number of stakeholders even consider this to be a requirement, given the importance of speed and personal trust in such circumstances.

6.2. COSTS/BENEFITS OF ALTERNATIVE INSTITUTIONAL FORMATS AS A NON-EU BODY

CONSTITUTING THE EIP AS A NON-PROFIT ORGANISATION

Broadly speaking, two institutional formats can be considered: the association format (NGO) and the foundation format. Although legislations differ from one Member State to the next, the major differences are:

- A foundation (or 'endowment' in some countries) is a commitment from one or a group of legal or physical persons to earmark a set of financial, physical or legal resources to a general interest purpose. It implies no direct commitment of its founding members themselves to work toward that purpose, and each member is a priori free to decide on the level of its initial or subsequent contributions. It responds to a Board of Governors, the composition of which can include the founding members, as well as co-opted members;
- An association reflects the determination of a group of physical or legal persons to work jointly toward a common goal. It implies a higher degree of direct involvement of its members in its daily activities and involves the payment of a yearly membership fee, which may differ according to types of members, i.e. corporate members, institutional members, NGOs, etc., but is a set amount. This does not prevent members from creating endowments under the association's auspices, to which they could contribute freely, or to fund particular activities. The association's highest governing body is a General Assembly, in which all members are represented but may have different voting rights depending on their level of contribution, as is the case, e.g. for the Bruegel think tank.

An organisation created by States would not normally take the form of an association. This format may be appropriate if the EIP were to be set up by a group of prominent personalities acting in a private capacity, or by a group including a diversity of stakeholders, e.g. States, EP, prominent personalities and corporations. The Bruegel think tank, incorporated as an association under Belgian law, has such a diverse membership (see Annex C). Most non-profit bodies initiated by groups of States or involving prominent personalities take the form of a foundation as this reflects a political commitment to a cause rather than a legal commitment to work toward that cause directly, e.g. Asia-Europe Foundation (ASEF), EU-LAC Foundation, and Anna Lindh Foundation (details at Annex C).

Taking into account the seven assessment criteria spelled out in section 6.1., the advantages and disadvantages of the two formats appear to be:

- *Added value*: there would be no major difference between the two formats. In terms of perception, however, it may be easier for the EIP to demonstrate that it adds value if it differentiates itself from the outset from the many NGOs active in the field, by formatting itself as a foundation. This is also linked to its legitimacy (see below);

- *Establishment*: the legal requirements for creating an association are much lighter than for a foundation. It is particularly so under Belgian law, especially if the latter should have a large number of founding members as is the case, e.g. for the EED. This factor, however, has to be balanced against the need for a careful and lengthy preliminary analysis and discussion of the types of memberships desirable, and the associated rights and obligations, which have to be enshrined in the statutes of the association at its creation;
- *Rights and privileges*: neither the association, nor the foundation has particular advantages in this regard: they are subject to the common legal system of their host country, which may impose a heavy labour law burden, as is the case in Belgium for example, and offers few tax exemptions; they do not benefit a priori from special treatment in terms of EU funding; and their personnel have no diplomatic status and protection;
- *Governance*: in either case, beyond the legal requirements, governance is largely a matter of negotiation amongst the members. A foundation created by a group of States would normally include all Members on its Board, but may also include e.g. the EC, with or without voting rights (with: ASEF; without: Anna Lindh Foundation), and others, such as MEPs or prominent personalities. This may lead to a fairly large and diversified body, such as is the case for the EED (up to 41 members representing EU Member States, EU institutions and the EP), leading some stakeholders to wonder whether decision-making will be manageable. An association would typically provide for the General Assembly to delegate many decisions to a smaller-size Board. This would enable a lighter type of management, but assumes that the Board has and keeps the confidence of the members, which requires much advance fine-tuning to set the right conditions for this to happen. In either case, governance arrangements must reflect a balance between rights and responsibilities. This is particularly delicate if the EIP were to be created by different types of legal stakeholders. For example, International IDEA – which is legally an IO – decided to remove NGOs from sitting on its governing Council in 2006, as it was realised that the original combination of States-NGOs led to an unsustainable imbalance between voice and liability; by contrast, Bruegel, which only includes more ‘established’ types of members, seems to have found a satisfactory arrangement among a diversified membership;
- *Funding*: creating the EIP as an association would be problematic from the funding perspective, as it would require either fairly steep membership dues if it gathered a rather small group of stakeholders, which would likely be the case at the beginning, or major canvassing efforts to mobilise a large number of members/contributors to make it financially viable. Accordingly, most non-profit organisations created exclusively or largely by States take the form of a foundation (see Annex C). This, however, bears some risk, stemming from the fact that financial contributions to a foundation are voluntary. The financial sustainability of the EIP would therefore be narrowly linked to the continued political commitment of the founding members to its purpose. A successful example is ASEF, which has proven its sustainability since its creation in 1996. This, one may hypothesise, can be traced to the continued high-level commitment of the States involved and the interest of the private sector in its activities, linked to the prominence of Asia in the global economy. Other such foundations are less successful. Anna Lindh, for instance, receives insufficient resources from its founding members despite the high political prominence of Euro-Mediterranean relations and is therefore actively seeking to diversify its sources of income. Similarly, EU-LAC, established on the basis of a commitment of the 2011 Europe-Latin America Summit, experiences a gap between the political and financial commitment of its creators. Concerns about its sustainability and the desire to give it greater visibility have led to the initiation of its transformation into an international organisation. The creation of the European Endowment for Democracy (EED) is too recent to draw firm conclusions. In a first stage, its administrative costs will be offset by an EC operating grant (some €6 m), but its long term financial sustainability remains to be guaranteed, which requires an increased commitment by participating States. Operating grants such as conceded to Anna Lindh,

EED and EU-LAC at the outset are, however, exceptions to the general rule and can in no case be considered as a constituting a long term secure mode of funding;

- *Legitimacy*: as alluded to above, the more the EIP were to differentiate itself from existing conflict prevention and peacebuilding NGOs, the greater its legitimacy with this group of stakeholders would become. This would plead for the foundation rather than the association format. The same would probably be true vis-à-vis EU Member States to the extent that a foundation makes possible the mobilisation of prominent persons separately from financial commitment in a way that is not possible for an association. The political prominence of members of the EIP's Governing Board and possibly of its Executive Director/Secretary would presumably be an important factor of access to senior EU decision-makers as well as to conflict parties, although in the latter case this might increase the risk of confusion between EIP representatives and EU officials, and on-site contacts with proscribed parties in track 1½ approaches would have to be carried out by trusted advisors in order to maintain discretion;
- *Location*: the location criterion has no bearing as such on the institutional format, although further legal research would be needed to identify the respective legal and financial costs and benefits of the association and foundations formats, should the EIP's main HQ be located outside Belgium.

CONSTITUTING THE EIP AS AN INTERNATIONAL ORGANISATION

As the examples of International IDEA or the International Centre for Migration Policy Development (ICMPD) indicate (see Annex C), it would be possible to conceive the EIP as an international organisation (IO). Advantages and disadvantages of such an option would be:

- *Added value*: as an IO, the EIP would differentiate itself most from an NGO. However, establishing the EIP as an IO suggests that it would ambition to carry out, even in the limited range of its functions, a fairly intensive programme of activities from the outset. This would be easier to justify if the EIP saw itself as a service to a broader range of actors than only the EU, for example including the UN. In that case, it would, however, have to open its membership to other States who have demonstrated their commitment to promote mediation, in particular in the UN context, the 'Group of Friends of Mediation' initiated by Finland and Turkey;
- *Establishment*: the establishment of an IO is usually considered as fairly heavy because of the higher legal commitment implied (respect of international law and in particular the Vienna Convention on diplomatic relations). However, this largely depends on the number of its members, the degree of like-mindedness and the balance of influence of the States creating it. For example, the ICMPD was established by two States only, Austria and Switzerland, in a process that took less than a year. Thirteen other members gradually joined, all of them medium-size or small states. Homogeneity is an element of cohesion and therefore a determinant of efficiency and image clarity. Limited membership also makes it easier to obtain the necessary ratifications by national Parliaments. It does not prevent an IO to collaborate in joint projects with non-Member States and/or the EC in an effective way, as the 'MIEUX' border/migration expert facility demonstrates in the case of the ICMPD;
- *Rights and privileges*: as an IO, the EIP would benefit from two valuable advantages:
 - Exemption from national tax and labour legislation: this would alleviate its administrative burden at the same time as it would make it easier to offer attractive remuneration packages and thereby secure high quality staff. The EIP could also apply more flexible recruitment procedures, in particular for short term experts, than most national laws allow. Those advantages would be particularly significant if it were established in Brussels;
 - Privileges and immunities: as international civil servants or officials, EIP representatives would benefit from the rights and protections conferred to the diplomatic status. This would be particularly important if the EIP were to play a role that is not appreciated by the

national authorities in high risk environments. In addition, EIP Member States would be more inclined to offer physical security protection to EIP staff acting in a diplomatic capacity rather than staff working as private persons. Yet, this could also limit the freedom of movement for EIP staff, as they would likely have to comply with member states' security requirements.

- *Governance*: as an IO, the EIP would be governed by a Board constituted of all Member States. It could keep the option open of inviting other IOs to become members, as ICMPD does, or close it, as IDEA did in 2006, when it removed from its Statutes the initially existing clause including IOs as well as non-profit organisations as associate members. Flexibility and efficiency in EIP action as an IO would firstly depend on the degree of like-mindedness of its Member States, which is partly a function of its size, and secondly, on the degree of independence conferred to its executive body;
- *Funding*: core funding would be provided by the Member States who could either negotiate fixed budget keys, or leave contributions to national decisions, as International IDEA does, or, as an intermediate solution, set no fixed keys but ensure that “it is preferable that the costs should be divided among them in equal shares” (ICMPD). Having IO status would provide the EIP with an additional EC funding option: it could benefit from EC Contribution Agreements; a form of arrangement usually preferred by IOs as it enables them to manage funds from the EU using their own rules and leaves their visibility intact. However, such funding is only accessible once the IO has undergone a ‘Six-Pillar Assessment’ to ensure that it respects a number of international standards as regards accounting, audit, procurement, internal controls, public access to information, and an annual publication of the beneficiaries of EU funds. This is a long process and therefore cannot be considered a possible funding mechanism from the outset. A Contribution Agreement would not prevent the EIP as an IO to access other kinds of EU funding via grants or contracts, as is commonly done by ICMPD and the International Organisation for Migration (IOM) for example. In addition, the EIP statute could foresee the possibility of obtaining funds from private companies, foundations, or governments (members or not). EIP activities involving political or financial risks could be left to those members or sponsors (e.g. the Soros Foundation) who accept such risks, ruling out EC money for such a purpose.
- *Legitimacy*: being an IO would confer the EIP both higher benefits and higher risks. On the one hand, this would enhance its status, visibility, access to EU senior decision-makers, conflict parties and international fora alike (for example, it could have an IO observer status at the UN). On the other hand, this would sharpen the risk associated with prominence, i.e. that of confusion between the EIP and the EU. Such a risk, which has at times affected the EU’s relations with International IDEA, would be even higher in a domain of action as closely related to EU foreign and security policy as mediation and political dialogue. It would be softened if the EIP were to be constituted of only a small number of small or medium-sized EU Member States and included non-EU actors.
- *Location*: the need for its location in Brussels might be lesser as it would be compensated by a higher visibility and access to the EIP overall. Nevertheless, for maximum efficiency in its engagement with the EU, the EIP would still require an office in Brussels, as ICMPD does and International IDEA is in the process of establishing, precisely for that purpose.

6.3. CONCLUSION ON CREATING A NEW NON-EU LEGAL BODY

The findings of sections 6.2 are provided in summary form in Annex B below. As the table indicates, there is no ‘optimal’ format for an EIP, but a range of risks and benefits associated with each choice, which would have to be balanced against possible risk mitigation and benefits enhancement strategies, and balanced across a series of criteria. Overall, it is possible to conclude that the non-profit association format would have more drawbacks than benefits and would bring fewer advantages than the other two possible institutional formats, foundation and international organisation. A foundation would be less advantageous than an IO in several areas, but leave the future more open in terms of the expansion of its

membership. The IO format brings the highest level of benefits but also the highest level of risks. The IO format would be most appropriate if founding members intended to create and maintain the EIP as a limited membership organisation. The choice in favour of the foundation or the IO format, however, is ultimately dependent on how interested stakeholders would decide to rank the respective value of the seven institutional assessment criteria.

7. CONCLUSIONS AND OPTIONS

This study proposes that the EU could achieve stronger foreign policy impact by investing politically and financially in mediation and support activities, especially in conflict countries where the EU is already committing large resources. Estimating a low probability that the CFSP budget will increase more than incrementally, that the EEAS should be allocated higher staff counts, and that the political consensus for major new initiatives will be achieved, this study recommends that the EU and other interested parties invest along two complementary avenues to: 1) consolidate EU capacity and 2) support independent capacity development.

7.1. CONSOLIDATE EU MEDIATION CAPACITY

Among possible options to be pursued internally, jointly with Member States and with a range of existing partners, the following priorities stand out:

- A greater investment should be made in linking direct EU track 1 engagement with track 2 and 3 activities, such as EU financial support to civil society actors. Institutionally, this implies strengthened coordination as regards planning, implementation and follow-up on mediation engagements between EEAS and DEVCO, both in Brussels and in the field, and between geographic and thematic divisions in both Institutions. It also implies reinforced coordination between IfS and long term programme support;
- There is a particular need to reinforce EUDs, as the prime point of contact for conflict issues and with conflict actors, ensuring that they are provided with adequate training, exploring all avenues to offer them additional assistance from short term experts, and encouraging Member States to share the benefits of much better endowed information collection and analysis services on conflict issues as is currently the case in national embassies;
- Further options to mobilise ESDC and EU-ISS to support EU mediation capacity-building and engagement should be explored: using EDSC more comprehensively to provide mediation-related training to all EU actors, including EEAS, DEVCO and EUSR staff; and using EU-ISS capacity for production of short briefings in direct support of the EU's mediation engagement;
- Greater attention should be given to the needs and potential of EUSRs as key actors in EU mediation engagements, in particular in preparing them and their teams and ensuring that lessons drawn from their experience are collected and re-invested in the gradual professionalising of EU mediation.

7.2. SUPPORT THE DEVELOPMENT OF INDEPENDENT CAPACITY

Building on internal EU mediation capacity, even if genuine and steady, will still leave some gaps. Mediation functions that cannot reasonably be filled by existing structures in the foreseeable future include: 1) engagement with proscribed actors in track 1½ negotiations; 2) rapid deployment of experts for mediation assistance and quick provision of process advice; 3) some of the most sensitive elements of mediation engagement lessons-learning; 4) the provision of a high level forum for public and private meetings on EU engagement in mediation. In addition, the very complexity of the EU's institutional system and plurality of actors involved calls for a home bringing together the efforts of all actors working for higher visibility, the cross-fertilisation of ideas and experiences and the gradual shaping of a common vision and identity. This home could be provided by the creation of an independent institution, potentially named the European Institute of Peace (EIP).

This study concludes that there is no single optimal institutional format for an EIP but notes that: 1) in the current political and financial context, the creation of a new EU Institution should be ruled out; 2) a

non-profit organisation in the form of an association would have more drawbacks than benefits; and 3) the institutional formats of a foundation or an international organisation (IO) would be a better fit for its purpose, with the IO format presenting the highest level of benefits but also the highest level of risks and requiring more demanding conditions for success.

A range of risks and benefits are associated with each of these two institutional choices, but in each case, those can be balanced against possible risk mitigation and benefits enhancement strategies. The final choice between the foundation and the IO format is dependent on how stakeholders will decide to rank the respective value of the seven institutional assessment criteria identified: added-value, establishment, rights and privileges, governance arrangements, funding, legitimacy and location.

ANNEXES

ANNEX A: SUMMARY OF FUNCTIONS

CAPACITY FUNCTION	EU Institutions	Bodies acting under an agreement with the EU	Other bodies acting on their own initiative	Gaps
Mediation, facilitation and political dialogue	<ul style="list-style-type: none"> - HR/VP & Special advisers - EUSRs - HoDs - CSDP missions 	<ul style="list-style-type: none"> - Independent Experts/Companies, Govt agencies, NGOs, or IOs under FWCs or other contracts - NGOs via grants, e.g. CSDN - IOs via contrib. agreements, e.g. MSU 	<ul style="list-style-type: none"> - MS diplomatic services - NGOs (INGOs & local NGOs) - Governments' think tanks - IOs (not EU-led but close coordination, e.g. Cyprus, Horn of Africa, Sudan) 	<ul style="list-style-type: none"> - Engagement with proscribed actors
Deployment <ul style="list-style-type: none"> - Rapid deployment - Longer term deployment 	<ul style="list-style-type: none"> - CRET - CPPBM (occasional) - CRTs 	<ul style="list-style-type: none"> - Independent Experts/Companies, Govt agencies, NGOs, under FWCs or other contracts 	<ul style="list-style-type: none"> - National rosters 	<ul style="list-style-type: none"> - Rapid deployment of experts for crisis response
Expertise & research <ul style="list-style-type: none"> - Geo (A) - Thematic (B) - Methodology/process (C) - Contacts/network (D) - Real time info (E) 	<ul style="list-style-type: none"> - EUDs & EEAS geo desks (A, D, some B, E) - EUSRs (A, B, D) - K2 (B, C) - INTCEN (E) 	<ul style="list-style-type: none"> - EU-ISS (A, B) - National think tanks - University consortia (TEPSA) - CSDN 	<ul style="list-style-type: none"> - National think tanks - NGOs and independent think tanks, e.g. ICG - National intelligence services 	<ul style="list-style-type: none"> - Targeted policy briefings delivered at short notice
Training	<ul style="list-style-type: none"> - Internal EEAS training 	<ul style="list-style-type: none"> - ESDC network - ENTRI - Pilot – coaching & training CPPBM 	<ul style="list-style-type: none"> - National training institutions - NGOs (MediatEUR, Swisspeace, CSDN) 	
Financial support to third party mediation	<ul style="list-style-type: none"> - N/A 	<ul style="list-style-type: none"> IOs, Govt agencies, NGOs under direct contract or via consultants for: <ul style="list-style-type: none"> - APF (ERM) - IfS art.3 (crisis response) & 4.3 (Partnership for Peacebuilding) - EC thematic programmes (EIDHR) - EC geographic programmes (ENPI, EDF, DCI) 	<ul style="list-style-type: none"> - Anna Lindh grants - Some Member States 	
Evaluation / lessons learnt	<ul style="list-style-type: none"> - CMPD, but limited to CSDP operations and political constraints - Incipient 'community of practice' 	<ul style="list-style-type: none"> - Some EU-ISS for operations - Some CSDN - EC internal evaluations (DEVCO) 	<ul style="list-style-type: none"> - MediatEUR (EUSR debriefings) - Academics/NGOs 	<ul style="list-style-type: none"> - Lessons-learning on some mediation engagements
Forum / advocacy		<ul style="list-style-type: none"> - EPLO/CSDN - Occasional EU-ISS - Ad hoc conferences in national capitals and abroad 	<ul style="list-style-type: none"> - National think tanks - Political party foundations - NGOs (at home & abroad) 	<ul style="list-style-type: none"> - High visibility events engaging EU decision-makers

ANNEX B: OPTIONS FOR EIP AS NON-EU BODY

EIP AS A NEW NON-EU LEGAL BODY

INSTITUTIONAL ASSESSMENT CRITERIA	EIP AS A NON-PROFIT ORGANISATION				EIP AS AN INTERNATIONAL ORGANISATION	
	EIP AS AN ASSOCIATION		EIP AS A FOUNDATION			
ADDED VALUE (IN RELATION TO FUNCTIONS)	<i>Benefits: none</i>	<i>Nuances: N/A</i>	<i>Benefits: neutral</i>	<i>Nuances: N/A</i>	<i>Benefits: difference from NGOs clearly visible</i>	<i>Nuances: N/A</i>
	<i>Risks: confusion / competition with NGOs</i>	<i>Mitigation: maintain high selectivity of activities</i>	<i>Risks: neutral</i>	<i>Mitigation: N/A</i>	<i>Risks: ambitious and demanding in time/financial resources</i>	<i>Mitigation: create as a service not only to EU but to other IOs (UN)</i>
ESTABLISHMENT	<i>Benefits: light legal requirements</i>	<i>Nuances: creation conditioned by prior study & negotiation on rights & responsibilities among diverse members</i>	<i>Benefits: N/A</i>	<i>Nuances: N/A</i>	<i>Benefits: none</i>	<i>Nuances: N/A</i>
	<i>Risks: none</i>	<i>Mitigation: N/A</i>	<i>Risks: relatively lengthy process if large number of members</i>	<i>Mitigation: limit membership</i>	<i>Risks: requirement of long process of ratification by National Parliaments</i>	<i>Mitigation: keep membership small and homogeneous</i>
RIGHTS AND PRIVILEGES	<i>Benefits: none</i>	<i>Nuances: N/A</i>	<i>Benefits: none</i>	<i>Nuances: N/A</i>	<i>Benefits: national tax and labour law exemption; diplomatic protection and greater access to security protection</i>	<i>Nuances: Member States may limit freedom of movement in return for security assistance and diplomatic immunity</i>
	<i>Risks: national labour and tax laws of host country apply</i>	<i>Mitigation: register outside Belgium but examine implications for other factors, incl. costs, access, visibility, etc.</i>	<i>Risks: national labour and tax laws of host country apply</i>	<i>Mitigation: register outside Belgium but examine implications for other factors, incl. costs, access, visibility, etc.</i>	<i>Risks: none</i>	<i>Mitigation: N/A</i>
GOVERNANCE ARRANGEMENTS	<i>Benefits: flexibility in choice of governance arrangements</i>	<i>Nuances: long initial negotiation process to agree governance arrangements among diverse members</i>	<i>Benefits: flexibility in choice of governance arrangements</i>	<i>Nuances: imbalance level of contribution / level of rights and responsibilities among members</i>	<i>Benefits: N/A</i>	<i>Nuances: N/A</i>
	<i>Risks: imbalance level of contribution / level of rights and responsibilities between categories of members</i>	<i>Mitigation: examine closely successful models to avoid pitfalls</i>	<i>Risks: heavy decision-making process at Board level and/or Board interference in day-to-day activity management</i>	<i>Mitigation: examine closely successful models to avoid pitfalls</i>	<i>Risks: unanimity requirement in decision-making</i>	<i>Mitigation: keep membership limited and homogeneous; provide de large autonomy of day-to-day decision-making by Executive body</i>

FUNDING	<i>Benefits:</i> core funding secured	<i>Nuances:</i> individual contributions high if membership limited	<i>Benefits:</i> possibility for members to scale their contributions; theoretical option to access EC operating grants	<i>Nuances:</i> need to ascertain sufficient core base and maintain balance core/earmarked funding among members; access to EC operating funds subject to demanding political conditions	<i>Benefits:</i> possibility for additional EC funding source ('Contribution Agreement')	<i>Nuances:</i> demanding and lengthy process and conditions to access EC funding as Contribution Agreement
	<i>Risks:</i> large membership required to render funding secure; no privileged access to EC funding	<i>Mitigation:</i> intense canvassing required to gather sufficient number of members	<i>Risks:</i> imbalance among members in global contributions and core/earmarked funding proportion	<i>Mitigation:</i> political negotiations	<i>Risks:</i> agree on contribution key or face funding insecurity	<i>Mitigation:</i> permanent high level engagement to ensure sufficient level of contributions
LEGITIMACY	<i>Benefits:</i> none	<i>Nuances:</i> N/A	<i>Benefits:</i> neutral	<i>Nuances:</i> depends of prominence of individuals involved	<i>Benefits:</i> high potential degree of legitimacy viz. EU, conflict parties, NGOs	<i>Nuances:</i> lack of trust of some conflict parties in EU reflects negatively on EIP's ability to act
	<i>Risks:</i> depends on capacity to differentiate itself from other NGOs active in the field	<i>Mitigation:</i> involve prominent persons in Board or Executive secretariat	<i>Risks:</i> N/A	<i>Mitigation:</i> N/A	<i>Risks:</i> image confusion EIP-EU vis-à-vis EU itself, conflict parties, international fora	<i>Mitigation:</i> strive for small group of like-minded States rather than exhaustive EU membership
BRUSSELS LOCATION	<i>Benefits:</i> EU proximity facilitating engagement	<i>Nuances:</i> possibly perceived as competition by EPLO members	<i>Benefits:</i> EU proximity facilitating engagement	<i>Nuances:</i> N/A	<i>Benefits:</i> EU proximity facilitating engagement	<i>Nuances:</i> increased risk of identity confusion with EU
	<i>Risks:</i> high operating costs under Belgian labour and tax laws	<i>Mitigation:</i> N/A	<i>Risks:</i> high operating costs under Belgian labour and tax laws	<i>Mitigation:</i> remote possibility to access EC operating grant	<i>Risks:</i> increased risk of identity confusion with EU	<i>Mitigation:</i> work on distinct image and strive for small group of like-minded states rather than exhaustive EU membership
SUMMARY OF COSTS/BENEFITS	Creating the EIP AS AN ASSOCIATION would have more drawbacks than benefits		Creating the EIP AS A FOUNDATION would entail higher benefits than an association format but lesser benefits than an IO format, and leave the future of EIP membership more open to future developments		Creating the EIP AS AN INTERNATIONAL ORGANISATION would entail the highest benefits but also the highest level of risks and tends to condition the success of the EIP by its small size maintained over time	

ANNEX C: MODELS OF NON-EU LEGAL BODIES WORKING CLOSELY ASSOCIATED WITH THE EU

INSTITUTIONAL MODELS

Asia-Europe Foundation (ASEF): established on the basis of a solemn declaration of the 1996 Euro-Asia summit, created in 1997, headquartered in Singapore, the ASEAF has the mission to “promote greater mutual understanding between Asia and Europe through intellectual, cultural and people-to-people exchanges.” Funding comes from voluntary contributions of participating governments (48 countries from Europe, Asia and Oceania), most of which in the form of core funding, and private corporations. ASEF is governed by a Board made of one representative each of the participating States, with a balanced Asian/European chairmanship. The EC provides a modest operating grant and large project funding.

Anna Lindh Euro-Mediterranean Foundation for the Dialogue between Cultures (ALF): created in 2005 in the context of the Euro-Mediterranean Partnership, and headquartered in Alexandria (Egypt), the ALF aims to enhance mutual understanding among cultures across the Mediterranean. It works primarily via the support of civil society projects and functions as a ‘network of national networks’ incorporating more than 3000 organisations overall. Its Board is made up of one representative each for the 43 participants in the Barcelona process with a balanced European/Southern Mediterranean chairmanship; the EC has observer status. The ALF has received two successive €5 m direct grants from the EC and benefits from a €7 m operating grant since the beginning of 2012. Given the constraints associated with EC funding, it has, however, phased out the use of such funding for grants to civil society, and is gradually turning toward private sources and individual governments.

EU-LAC Foundation: established on the basis of a commitment made at the 2010 Europe-Latin America Summit, the EU-LAC Foundation aims to enhance the visibility of EU-LAC relations by providing a forum for debate and joint endeavours among the business, academic, and civil society actors across the two continents. Established in 2011 in Hamburg, the Foundation is governed by a Board of 61 members representing each of the members (27 EU, 33 Latin America/Caribbean) and the EC. The Foundation was granted a €4.5 m subsidy by the EC in May 2012, as a contribution towards the launch of its activities. It has undertaken to transform itself into an IO in order to enhance its visibility and funding opportunities.

International Centre for Migration Policy Development (ICMPD): established in 1993 by Austria and Switzerland as an IO, ICMPD currently has 15 members, mainly medium-sized countries from Central and Eastern Europe and the Balkans. It provides assistance to states around the world in the development of migration and border management policies. One of its flagship programmes is the ‘MIEUX’ Facility, managed in cooperation with the EC and benefiting from EC funding, which provides short-term technical assistance to national and regional administrations worldwide on the basis of a roster of experts from EU Member State’s public administrations. Headquartered in Vienna, ICMPD has a representative office in Brussels. It is governed by a Policy Steering Group on which each contracting party is represented with one seat. While “the contracting parties assume full financial responsibility for the ICMPD’s regular costs”, there are no assessed contributions and “ICMPD may accept project grants, voluntary contributions, donations and other gifts.”

European Endowment for Democracy (EED): established on the basis of a Council declaration made in December 2011, the EED has the status of a foundation registered under Belgium law. Its main objective is to foster democratisation in countries in political transition, primarily via grants to civil society actors. The EED is governed by a Board of Governors composed of up to 41 members including representation from all EU Member States, the EC, EEAS, the EP (up to 9 members) and prominent persons in the field of democracy support/democratic transition (up to 3). EU Member States have entered a moral obligation to provide sufficient funds to support the EED’s activities, but contributions remain voluntary. The EED may also draw funds from other public or private sources. An operating grant of approximately €6 m will be provided by the EC to help launch its activities. EC funds, however, will not be used for small grants bearing a high degree of financial and political risk.

Bruegel: Bruegel is a think tank working in the field of international economics created in Brussels in 2005 and incorporated as a non-profit association (ASBL) under Belgian law. Bruegel has 3 categories of members: State Members (currently 19 EU Members), Corporate Members, and Institutional Members (national public bodies or IOs). Its highest decision-making body is the General Assembly, in which voting rights are granted according to the level of respective contributions. Most decisions, however, are made by a smaller Board (currently 11 members), including on the choice of senior recruitments and research programmes. A Scientific Council of 8 recognised economists provides advice to the Board and the quality control of its activities.

ANNEX D: LIST OF INTERVIEWEES

Jonas	ALBERTH	Executive Director, Folke Bernadotte Academy
Peter	ASHMAN	Former Executive Director, European Foundation for Human Rights
Timothy	BAINES	Policy Officer, Fragility and Crisis Management Unit, DEVCO
Esra	BALUT	Senior Research Fellow, Eastern Mediterranean & Turkey, EU Institute of Security Studies
Guy	BANIM	Conflict Prevention, Peacebuilding and Mediation Division, EEAS
Ulla	BERGQVIST	Mission Support Unit, Civilian Planning and Conduct Capability
Carl	BILDT	Foreign Minister of Sweden
Chiara	BISCALDI	Senior Analyst, EU Advocacy and Research, International Crisis Group
Andrew	BRADLEY	Director, Office of International IDEA to the EU
Franziska	BRANTNER	Member of the European Parliament
Irina	BRATOSIN	Project Coordinator, MediatEUR
Didier	CANESSE	Deputy Representative to the Political and Security Committee, Representation of France to the European Union
Tim	CLARKE	CSDP Policy, Partnerships and Agreements, Crisis Management and Planning Directorate (CMPD)
Veronica	CODY	Head of Division, Capabilities, Concepts, Training and Exercises
Alfredo	CONTE	Head of Strategic Planning, EEAS
Anna	CRAENEN	Counsellor, Permanent Representation of Sweden to the EU
Roxana	CRISTESCU	Crisis Management Initiative, Head of Brussels office
Sarah	DEGEN-HEINEMANN	Head of ENTRI Programme, Centre for International Peace Operations (ZiF)
Nona	DEPREZ	Team Leader Finance Cell, Stability Instrument Operations, Crisis Response and Peacebuilding, Service for Foreign Policy Instruments
Sylwia	DOMISIEWICZ	Counsellor, Foreign Policy and EU External Action Unit, Permanent Representation of Poland to the EU
Michael	DOYLE	Deputy Head of Unit, Instrument for Stability Operations, Service for Foreign Policy Instruments
Herta	ECKART	Head of Brussels office, International Alert
Anna-Karin	Amb. ENESTROM	Representative of Sweden to the Political and Security Committee
Peter	ERICSON	Deputy Director-General, Head, Security Policy Department
Sabine	FISCHER	Head of Research Group Russia/former Soviet Union, German Institute for International and Security Affairs (SWP)
Tom	GALLOWAY	Desk Officer Libya, EEAS
Ralph	GENETZKE	Head of Mission, International Centre for Migration Policy Development
Kenny	GLUCK	Head, Libya Project, Humanitarian Dialogue Centre
John	GOULD	Common Foreign and Security Policy Counsellor, Permanent Representation of the United Kingdom to the EU
Giovanni	GREVI	Head of Brussels Office, Senior Researcher and Research Coordinator, FRIDE
Anna	HALLERMAN	Conflict Prevention, Peacebuilding and Mediation Division, EEAS
Volker	HAUCK	Head of Programme, Conflict, Security and Resilience, ECDPM
Hadewych	HAZELZET	Head of Section - CSDP Policy, CSDP Policy, Partnerships and Agreements, Crisis Management and Planning Directorate (CMPD), EEAS
Peter	HEDLING	Lessons Learned & Best Practices, CSDP Policy, Concept and Capabilities, EEAS

Damien	HELLY	Head of Africa Programme, EU Institute of Security Studies
Antje	HERRBERG	Director, MediatEUR
Kerstin	HOETZEL	Academy of European Law, Brussels Office
Andrea	IFF	Project Coordinator/Senior Researcher, swisspeace
Anna	JACKSON	CivCom Delegate, Permanent Representation of the United Kingdom to the EU
Joelle	JENNY	Head, Conflict Prevention, Peacebuilding and Mediation Division, EEAS
Ignas	JONYNAS	Policy Officer, Strategy, Coordination and Inter-Institutional Relations, ECHO
Eileen	KELLY	Deputy Head of Office, Northern Ireland Executive Office, Brussels
Daniel	KEOHANE	Head of Strategic Affairs, Brussels Office, FRIDE
Sven	KOOPMANS	Political Advisor to the EU Special Representative for Sudan and South Sudan
Jeremy	LESTER	Advisor on Conflict Prevention and Peacebuilding to the Managing Director, Africa
Josephine	LIEBL	Senior Policy Officer, European Peacebuilding Liaison Office
Ronan	MAC AONGUSA	International Relations Officer, Stability Instrument Operations
Keith	Amb. McBEAN	Representative of Ireland to the Political and Security Committee
Stéphane	MECHATI	Deputy Head of Unit, Partnerships with Member States, Protocol and Diplomatic Questions, EEAS
Diego	MELLADO	Democracy and Electoral Observation Division, EEAS
Christian	MEUNIER	Deputy Head of Unit, Budget, Finance, Relations with other Institutions, Service for Foreign Policy Instruments
Antonio	MISSIROLI	Director, EU Institute for Security Studies
Anita	MULLER	Director, Head of Programs, swisspeace
Gerry	MULLIGAN	Head of Office, Northern Ireland Executive Office, Brussels
Marc	OTTE	Former EU Special Representative for the Middle East
Katia	PAPAGIANNI	Head of Mediation Programmes, Humanitarian Dialogue Centre
Maria	PAPAMICHAIL	Head of Sector Training in Headquarters, Career and Learning Development, EEAS
Jonas	PAUL	Head of Office, Franziska Brantner MEP
Luis	PERAL	Senior Research Fellow, International Response to Conflict Situation, EU Institute of Security Studies
Cedric	PIERARD	Policy Officer/Programme Manager – Peacebuilding Partnership, Service for Foreign Policy Instruments
Jean-Marc	PISANI	Acting Head, Crisis Response Planning and Operations, Crisis Response and Operational Coordination, EEAS
Maciej	POPOWSKI	Deputy Secretary General, European External Action Service
Pamela	PREUSCHE	CivCom Delegate, Permanent Representation of Germany to the EU
Gerrard	QUILLE	Policy Advisor - Security and Defence, Directorate-General for External Policies of the Union, European Parliament
Sari	RAUTIO	Counsellor, Political and Security Committee, Permanent Representation of Finland to the European Union
Johannes	SCHACHINGER	Team Leader, Head of Mediation Support Team, Conflict Prevention, Peacebuilding and Mediation Division, EEAS
Peter	SEMNEBY	Former EU Special Representative for the South Caucasus
Andrew	SHERRIFF	Senior Programme Officer, ECPDM
Patrick	SIMONNET	Deputy Head of Unit, Fragility and Crisis Management Division, DEVCO
Olof	SKOOG	Permanent Chair, Political and Security Committee

Karolina	STASIAK	Desk Officer Mauritania, EEAS
Pia	STJERNVALL	Counsellor, Coordinator for Mediation, Ministry of Foreign Affairs of Finland
Arnaud	SUQUET	Political Advisor to the EU Special Representative for the Horn of Africa
Sylvain	TARREAU	Conflict Prevention, Peacebuilding and Mediation Division
Gyorgy	TATAR	Budapest Centre for the International Prevention of Genocide and Mass Atrocities
Catherine	THEODOROU-KALOGIROU	Head of Division, Partnerships with Member States, Protocol and Diplomatic Questions, EEAS
Vittorino	TONUTTI	Deputy Head of Unit, Regional Programmes Latin America and the Caribbean, DEVCO
Nicholas	TWIST	First Secretary, Permanent Representation of Ireland to the European Union
Marc	VAN BELLINGHEN	Deputy Head, Conflict Prevention, Peacebuilding and Mediation Division, EEAS
Alvaro	VASCONCELOS	Former Director, EU Institute for Security Studies
Phil	VERNON	Head of Programmes, International Alert
Koen	VERVAEKE	Head of Division, Horn of Africa, East Africa, Indian Ocean, EEAS
Wolfram	VETTER	Conflict Prevention, Peacebuilding and Mediation Division, EEAS
Paul	WALTON	Executive Director, Anna Lindh Foundation
Malgorzata	WASILEWSKA	Head of Division, Democracy and Electoral Observation, EEAS
Hans-Bernhard	WEISSERTH	Acting Head, European Security and Defence College
Fredrik	WESSLAU	Political Advisor to the EU Special Representative for Sudan and South Sudan
Ingrid	WETTERQVIST	Democracy Support, Democracy and Electoral Observation Division, EEAS
Erik	WIDMAN	Head, Security Division, Swedish Ministry of Foreign Affairs
June	WILKINSON	Head of Regeneration Sites Team, Maze/Long Kesh Peace Building and Conflict Resolution Centre
Catherine	WOOLLARD	Executive Director, European Peacebuilding Liaison Office (EPLO)
Ekatarina	YAKOVLEVA	Programme Officer, Regional Programmes Latin America and the Caribbean, DEVCO
Alexandros	YANNIS	Strategy Advisor, EEAS

ANNEX E: SELECTIVE BIBLIOGRAPHY

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