MEDIATION IN INTERGOVERNMENTAL NEGOTIATION EXPERIENCES FROM EUROPE

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Abstract

International Relations are complex. They tackle not only complex issues (i.e. right to food) but also involve different stakeholders from all sectors (i.e. states, private cooperation, Non Governmental Organization). As a consequence we are witnessing the emerging of a global civic society. Nation States alone are not able to regulate international issues since they are no longer the only stakeholders. The private Sector, Non Governmental Organizations but also the Scientific Community are equally important in the process of decision making and implementation. Decision making in complex issues with different stakeholders demands a structured dialog orientated process management. Mediation is a resource to deal with conflicts in the international community based on the values of human rights and civilization

The European Union is the first intergovernmental organization in the world. As an international stakeholder the EU is confronted with a variety of challenges. In each international negotiation process the EU is one stakeholder and at the same time all member states are most likely also stakeholders in the same process. Therefore the EU Coordination between the member states is crucial for the success of the EU as an international stakeholder. As the only intergovernmental organization the EU has developed long years of experiences of how to deal with the wide variety of different approaches, cultures and diversity. Europe therefore seems to be good equipped for a dialog oriented culture for dealing with diversity.

In my paper I will lay out the reasons why mediation is an appropriate model for a globalized world in finding sustainable solutions and regulations based on the interests for complex issues with different stakeholders. I will explore one example concerning the question of "Shaping globalization" in the sector of "coffee production". Here stakeholders have negotiated and successfully implemented voluntary standards for sustainable production and marketing of coffee. In my paper I will outline the process and the different steps which have lead to the success of the process.

In conclusion of those experiences the paper will give an outlook into a more systematic approach of how mediation will emerge as one of the major instruments in a globalized world that will support the strengthening of the global civic society.

Introduction: Europe - on the search for a universal civil culture or on the search for a meta-ability how to deal with diversity

Globalization is not a new phenomenon. Even the shortest look into history discloses aspects of globalization in almost each epoch. However in the past those tendencies have been primarily the outcome of wars, colonization and economic exploitation - one national culture was dominating in a specific geographical region. This can be found in the imperial bloom of the Greek period, the Romans, the Persian, the Portuguese, the Spanish, Netherland and the British, to mention only a few European and Middle East Cultures. Those old types of globalizations followed the paradigm of an imperialistic doctrine. Today's globalization seems to be open for almost any nation. Each country that wishes to participate in worldwide business can do so, if it hosts appropriate organisations and markets that can participate. Unfortunately this does not mean that today's globalization is more justice, more human or even fair.

In our world we are confronted with challenges and problems that have grown out of the limited competences and borders of nation states. Today existential questions like fresh water supply, right to food, biodiversity or the question of energy are global challenges. No single nation state let alone one single stakeholder is in a position to control and govern those challenges. All stakeholders have to negotiate voluntarily and find agreements of how to proceed in a way that is good for all of them. Therefore forms and methods are becoming more important that provide an effective approach for multi stake holder negotiations.

In Europe these challenges have been especially noticeable. Europe is the heterogeneities region in the world. Six out of ten culture cluster that could be identified in the last 50 years are in Europe or do have their origin in Europe: Nordic, Germanic, Latin-Europe, Central-Eastern Europe and the worldwide Anglo- and Latin-America Culture[1]. In view of this challenge it is a special accomplishment and again a special new challenge that Europe today has found a way to integrate the European markets, a common currency and a more and more common political and judicial system. Therefore it is a central task for European national governments, organizations, companies and corporation as well as the Non-Governmental Organisations how they could find solutions and good decisions for effective governance and leadership – within Europe and abroad. The stakeholders in Europe are used to the fact that they cannot decide alone about concrete issues in their nation state. In today's Europe the different stakeholders have to meet and negotiate in order to find a salutation that is understood and shared by all stakeholders. Those stakeholders are not only the representatives of others states, but also representatives of corporations and Non-Governmental Organisations. Even in international organisations, like UN Organisations, the European Representatives will meet before the meeting on the UN floor to coordinate the EU internal process of opinion-gathering and at least to try to find a way of how to speak with one voice.

But how can one lead and govern such processes in a cosmopolitical context? One possible answer is, that it is possible to find one global format of professional management that would fit all challenges in any region of the world. The main argument here is that in a globalized world the context of the business, i.e. governance problem is more important than the local or regional culture. The international community is creating own international standards and an effective global governance will have to orientate itself accordingly.

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[1] Gupta, Hanges & Dorfman, Cultural clusters methodology and findings. Journal of World Business (Special Issue on GLOBE), 37, 11-15; 2002

Another answer to that question is that in a globalized world there is a growing need for multicultural orientated Politicians and Managers. This answer is based on the assumption that the cultural context is more important for the people than the business or governance context. This approach underlines that – no matter how globalized the world will be – the structures of the civic societies will always be different from each other. A uniform European or world culture, in which all people share the same values and beliefs, will never exist – such a world would not even be desirable.

No matter which answer will be the right one I am convinced that mediation has an important place in a globalized world. What is needed in a globalized world is a meta-ability to moderate diversity based on common and shared principles. In voluntary negotiations in which the parties are trying to find a good solution for all stakeholders mediation is already at the table – even if no mediator would be present. In the last few years governments in Europe have made important shifts towards using Mediators and Mediation for multi-stake holder negotiations.

Shaping Globalization – how to negotiate voluntary standards for the coffee production and trade

A wide variety of initiatives aiming at developing and implementing voluntary social and ecological standards in sectors ranging from agriculture and forestry to textiles and toys have emerged during the last two decades. Voluntary social and ecological standards are one possible answer to the call for a socially and ecologically compatible form of globalization. In their efforts to fight poverty, a number of donor agencies and Non Governmental Organizations support initiatives advocating the introduction and implementation of voluntary standards. Businesses - multinationals and even small firms, purchasers and suppliers - see competitive advantages in adopting voluntary standards. They offer branding advantage, reduce risks, and can raise supply chain productivity, quality, and innovation.
Increasing globalization demands the balancing of the three pillars of sustainability in order to bring about profound change to the world's system of production and exchange, and thereby to alleviate poverty, reduce social inequity and maintain an ecological balance. The nature of globalization has changed as emerging markets now exert great pressure on all firms to cut costs. This price pressure may undermine sustainability. In this context, voluntary standards represent a chance to palliate the lack of international regulation, or encourage enforcement of (often-ignored) national rules or to go even beyond legal compliance. As long as the standards are combined with efforts to strengthen the rule of law, they can help, but must be recognized as being only one instrument available, and not a panacea.

The German Federal Ministry for Economic Co-operation and Development (BMZ) was the initiator for a project in which all stakeholders together are trying to define voluntary standards. The BMZ having commissioned a desk study, which summarizes the findings of selected and previous outcome and impact, assessment studies and which will be part of a bigger evaluation of German Development Cooperation support to different voluntary standard initiatives. The German Round Table Codes of Conduct (CoC) is a multi stakeholder forum, which elaborates recommendations for the introduction, monitoring and verification of codes of conduct and aims to improve social standards in developing countries, supported the event. Reflecting the desire for an exchange of experience between different stakeholder groups a mediator was needed. To ensure a most efficient mediation process the buy in by all stake holders was essential for the process. Therefore it is important that the mediator or the

mediation team is involved in the preparation process from the very beginning. Only than the Mediator can conceptualize an efficient design for the negotiation process that will meet the principles of mediation and the needs of the participants.

Based on practical experiences we have developed a 6 phases approach:

Pic. 1: 5 step approach for Mediation in Multistakeholder negotiations

I. Phase: Goal Assessment: Acknowledgement that the parties have different views

In the first phase the Mediator will have to bring the parties to a common understanding of their goals. This seems to easy. In practice we are confronted with the fact that the stake holders believe that they do have a common understanding about their goals. In fact they usually don't.

Goals	Relevance				Fulfilment		
	NGOs	Governm.	Business	Point of reference	NGOs	Governm.	Business
Reasonable earnings for all in the chain	6	7	8	44 %	15 %	46 %	71 %
Market access	6	8	8	34 %	10 %	39 %	70 %
Sustainable livelihoods	2	4	6	30 %	9 %	15 %	32 %
Protecting the environment	4	6	10	38 %	18 %	28 %	60 %
Conserving natural resources	8	8	8	28 %	7 %	39 %	80 %
Human rights & social standards	10	10	10	68 %	49 %	74 %	99 %
Decent standard of living	9	9	9	74 %	36 %	53 %	85 %
Decent income & working conditions	9	9	9	63 %	23 %	50 %	88 %
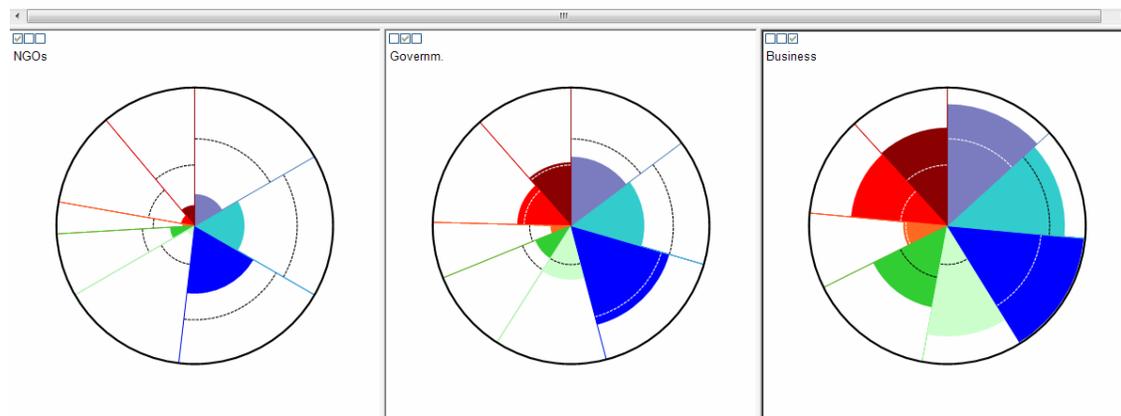
Pic. 2: Goal assessment and visualization with EIDOS Suite

Let us have a closer look to the picture above. First we look at the Table in the upper part: The stakeholders first agree on their goals (table upper left), than each Stakeholder group (in this example: NGOs, Governmental Representatives and Business Community) give their evaluation concerning those goals in regard of a) Relevance (between 10 most relevant / 0 not relevant) (upper center) and b) Fulfillment (between 100% and 0%) (upper left). The 3 graphics at the bottom shows the differences between the tree stakeholders: The wider the degree in the circle the more relevant is the goal in relation to all the other goals, the more color a part has the better is the estimation of the fulfillment.

The example shows that the stakeholders although they share the same goals, they differ fundamentally concerning the relevance and especially the fulfillment of the goals. Whereas the NGOs are more skeptical in their view concerning the fulfillment (less color) the business community is more optimistic in there estimation concerning the fulfillment. Such results are typical in multistakeholder processes and it is very helpful and important that the parties at the table do see and understand how they differ. The acknowledgement of the differences can lead to a better and more transparent negotiation process and is necessary for the next step: the design of the mediation itself. Now the parties literary can see what they are talking about. So from the very beginning of the process lots of "reality" enters the room.

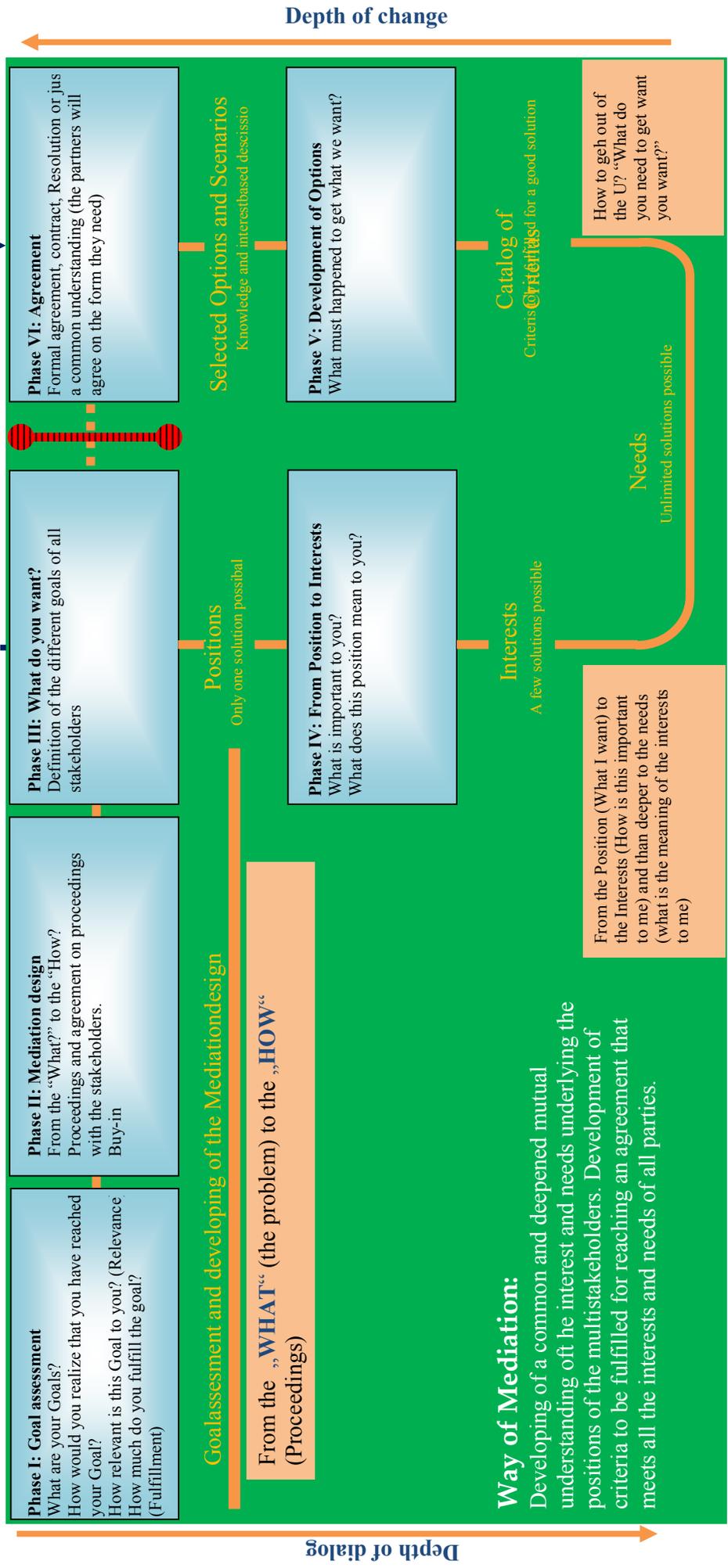## II. Phase: Mediation or Negotiation Design: from the "What?" to the "How?

Based on the first insights in the goal assessment the mediator should be in a position to develop a concept of how to get to the goals of the negotiation process. This dialog process management concept or simply mediation concept will have to take into consideration the basic principles of mediation: Freedom to participate (Voluntarily), Participatory, Transparency, and knowledge of all relevant facts. Not to forget of course the "neutral" position of the mediator who lacks the power to impose a decision. A typical design for the negotiation process will include:

- Appropriate methods and tools to reach the goals of the stakeholders
- A mixture of working group meetings and plenary session
- The selection of powerful visualization tools (computer based) to capture the knowledge of the process and to gain a most knowledge based decision making process

Since Mediation is a process orientated approach the design is a good basis for alterations during the process. The task of the mediator is to hold to his responsibility for structuring the process and for not forgetting the goals of the process. It is important to notice that the parties are involved in a process in which they organize themselves. Selfreferential processes are following own laws of proceedings and mediation in itself supports such processes. The role of the mediator in this phase is to support and strengthen all aspects that will support the selforganisational forces of the group as such. The more responsibility the group will take concerning the proceedings the better they will buy in into the structure they are designing for themselves. However the mediator can be very helpful if he or she can give ideas for proceedings – since a mediator is responsible for the structure of the process he or she should be in a position to design suggestions for such a process. In order to make life easier it is desirable to have something like a draft or simply model for Multistakeholder Mediation. As a row model or framework for a concept I have developed a U-Model for Mediation for multistakeholder processes:

U-Model for Multistakeholder negotiation processes in Europe

Depth of change

Depth of dialog

Usual Way: after presenting the problem someone makes a suggestion for a solution

Phase I: Goal assessment
What are your Goals?
How would you realize that you have reached your Goal?
How relevant is this Goal to you? (Relevance)
How much do you fulfill the goal? (Fulfillment)

Phase II: Mediation design
From the "What?" to the "How?
Proceedings and agreement on proceedings with the stakeholders.
Buy-in

Phase III: What do you want?
Definition of the different goals of all stakeholders

Phase VI: Agreement
Formal agreement, contract, Resolution or jus a common understanding (the partners will agree on the form they need)

Phase IV: From Position to Interests
What is important to you?
What does this position mean to you?

Phase V: Development of Options
What must happened to get what we want?

Goalassessment and developing of the Mediationdesign

From the „**WHAT**" (the problem) to the „**HOW**" (Proceedings)

Way of Mediation:
Developing of a common and deepened mutual understanding oft he interest and needs underlying the positions of the multistakeholders. Development of criteria to be fulfilled for reaching an agreement that meets all the interests and needs of all parties.

Positions
Only one solution possibal

Interests
A few solutions possible

Selected Options and Scenarios
Knowledge and interestbased descissio

Catalog of
Criteria Criterias identified for a good solution

Needs
Unlimited solutions possible

From the Position (What I want) to the Interests (How is this important to me) and than deeper to the needs (what is the meaning of the interests to me)

How to geh out of the U? "What do you need to get want you want?"

Phase III: What do the parties want to reach in the process of Mediation

After the parties have agreed on the proceeding the ultimate mediation starts. In order to share as much knowledge and experience as possible even in groups of more than 100 or even 300 participants the mediation design has to look for appropriated methodologies i.e. fishbowl approach, world café, house of comments etc. In this phase the parties share their views concerning what they want to reach in the negotiation process. The end of this phase is reached, when all parties have fully understood the positions of each other. The only differences to other Mediation here is usually simple the size of the group. If you work with large groups the requirements concerning the knowledge capturing and management are huge. Traditional moderation and visualization techniques are easily reaching their limits in such complex environments. That is why we have developed computer based visualization and knowledge sharing tools that support the process of thinking in a group directly. If you need to deal with complex issues our brain is quite limited in processing so many data since it has to work its way thru sequentially. Only the visual cortex is capable in processing lots of information parallel: a picture says a thousand words. Since our visual cortex is especially well equipped for pattern recognition our tools transfer complex data in patterns that are easily understandable and that at the same time store all the information and knowledge of the process as knowledge.[2]

Phase IV: What are the underlying interests?

This is the more traditional mediation phase. In multistakeholder processes it is important to give the right frame since it is rather unusual for the representatives to speak openly about the underlying interests and even needs for them and their organizations. Methods like Shuttle Mediation and Caucasing can be quite helpful in this phase. The end of this phase is reached when the parties have developed a catalog of criteria that have to be fulfilled for an agreement everybody could say "yes" to. All parties have to agree on those criteria.

Phase V: What options do the parties have to fulfill their interests and needs?

Now the parties have to show their creativity. Special methods such as the traditional Brainstorming or moderation with the 6 heads model by Edward de Bono or the Disney Method will support the parties in finding new ways and to enlarge the cake. Based on the deepened understanding of the underlying interests and needs of everybody the parties can take care for themselves and develop solutions even for different scenarios. It is helpful to have computer based visualization tools since the criteria and the knowledge to deal with is

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[2] Since knowledge is more than information it is crucial how to store information of the process. The difference between information and knowledge is, that knowledge is information in its context: i.e. you might have all the information concerning a city map – but it becomes knowledge only if you want to know how to get from point A to the train station – now you are sorting all you stored information into an action plan "how do I get to the train station", so you are putting the information which you posses into a context of action – that's what we call knowledge).

quite complex. At the end of this phase the options will be evaluated against the criteria. Now the participants can select the solution that will meet their needs and interests best.

Phase VI: How do fix the results?

Once a solution is agreed on it needs a formal ending. The group itself will decide in which form they want to treasure the outcomes of the process, whether it will be a recommendation, a letter of understanding, a formal treaty or Resolution depends on the stake holders and the context of the process. It is advisable to introduce standard project management tools if need into the process of implementation, so that everybody can be sure concerning the next steps.

Back to the concrete Example of "Voluntary Standards in Coffee Production"

In the concrete project "shaping globalization" the partners had huge difference in the beginning. Those differences existed not only in their estimation of the relevance and fulfillment of the goals but also in their positions and concepts of how to reach the goals. In a series of meetings, discussions and mediations the parties gained a better and deeper understanding of their own positions, the positions of the other parties and the underlying interests and needs. Trust developed during the process between the parties and the social behavior in the group changed. In the beginning certain prejudices and ideologies dominated the process. The NGO representatives have been especially skeptical towards the governmental representatives and even more towards the managers from the coffee companies. The managers believed in the beginning that NGO representatives are dangerous for their business interests. During the process the managers learned that they are depending on the NGOs if they really want to have independent certificates for their products. Vice verca the NGOs learned that they would have to agree to procedures that ensured that they can trust the business people since otherwise their fight for more rights and sustainability would be worthless. Only if both parties are working together all three goals of sustainability are reachable. The state representatives on the other hand had to learn that they are not neutral but also holding certain interests and responsibilities (i.e. legal framework, democratic legitimization etc.) and therefore welcomed more and more the work of the mediator. It took almost one year and several meetings and roundtables in the producer countries as well as in the consumers' countries to establish the necessary trust and to develop a depended understanding that at the end break way for a common process for sustainable and fair coffee production along the whole value chain. The result today is a voluntary standard for fair trade and for sustainability. Most coffee producers have agreed to these standards and are certified by the NGOs. Now the consumers have the choice.

Conclusion

Our experiences with multistakeholder processes such as the shaping globalization process or the European-African Forum in 2007 during the German EU Presidency have shown that mediation and mediators can support such international processes in a very productive way. Done in the right way Mediation is a powerful approach for the international challenges. It supports the parties in finding their own solutions in a participatory and transparent way in the framework of voluntarily negotiations. By doing so, mediation supports and enhances the developing of a world civil society without neglecting the cultural differences and without the danger of leveling down the richness of the differences in our world. Mediation therefore, that is my strong believe, is the appropriate approach for a globalized world in which dialog is the path for mutual understanding and peaceful conflict resolution in which the differences are becoming a strength and not a weakness.