Effective Negotiation for Transboundary Waters: A Skills Building Course

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Chapter 1

Introduction to the Module

1. 1What is this module about??

The main objectives of this are twofold:

a. Inform
   One of the objectives of this module is to increase the knowledge and skills of stakeholders , actors and interested parties on negotiation skills that that can foster collaboration and win-win outcomes when addressing the management of water resources in Mekong River Basin (MRB)
b. Practice
   It is also provides session plans that will guide trainers to expand and increase these skills. It specifically focuses on skills for successful negotiations that can foster the spirit of collaboration and cooperation in the context of transboundary waters, particularly among the countries of the MRB.

In order to achieve both the objectives, it provides a number of experiential learning exercises that increase understanding of negotiation for transboundary waters. Drawing upon relevant processes and case studies from different contexts and/or countries in relation to transboundary water management, it provides guidance for trainers to design effective learning processes for water resource management practitioners. Differences between people that impact sustainable, efficient water management can happen in many forums, from within the workplace to between stakeholders to between nations. Increasing the skillset of *everyone* involved in basin management helps to make sure that communication and understanding are enhanced, often resulting in better decisions and, ultimately, in a healthier relationship between the river and its people.

This skills-building module offers an opportunity for water resource management practitioners throughout the basin to share experiences of innovative and effective ways to successfully work in contentious water situations. This includes understanding stakeholders and their interests and positions, analyzing their willingness to negotiate, managing the differences amongst stakeholders through models of negotiation, dialogue and collaborative methods that can bring win-win outcomes. The tools, methods and approaches encourage parties to move beyond positional bargaining and the claim/counter claim process.

The stakeholders, actors and interested parties are encouraged to move beyond positions of interests and values, and to practice constructing win–win outcomes based on meeting the common interests and accommodating the values of the parties. When trade-offs are inevitable, negotiation and difference/conflict management principles can help ensure alternative solutions beyond that of expensive legal mechanisms, and give the parties involved more flexibility and control in getting to those win-win outcomes.

The methodology of skills-building in this module is within the context of a training program. It emphasizes experiential learning, and the sharing of expertise amongst participants of the training. The sessions create an environment to learn and practice new skills that are applicable from the individual to the societal level and across a range of real-life situations. The skills-building also highlights the entry points and constraints of managing or transforming differences into win-win outcomes for all parties who have a stake within the river system. The main methodology is that of “action learning” where the participants use their own context as a core part of the learning process, which helps them to internalize the knowledge and skills. Methods proposed for the training centre on collaborative learning

such as group work, presentations, role plays, case studies, debates and other learner-centered methods.

1. 2 Why was this module developed?

Water is a limited resource that is essential for economic growth and environmental and social well-being. Because it affects everyone, managing this precious resource requires balancing the interests and positions of the various individual user groups. Differences amongst stakeholders within and between agencies can increase if this situation is not addressed through coordinated participatory water resources management. Within a basin, an approach that is open to all stakeholders will not only help prevent and mitigate differences but will also bring enormous benefits to society, the basin, and to individual stakeholders.

As water resources are trigger points for many differences, how can we move debates about the resources beyond entrenched positions? What are some less confrontational approaches that bring competing interests and institutions together to craft workable solutions; ones that build community rather than disrupt it? Can we find solutions and outcomes that work across different scales of both time and space? What are some ways we can work more peacefully within contentious situations? Experience suggests that 21st century water demands and associated issues will challenge us to seek new strategies. The scarcity of water, depleting resources within these water bodies, historical claims of boundaries, resource access and use are complex issues and it is these complexities we face which calls for approaches that foster sustained, long-term stewardship which connects people with the environment as well as with their communities.

The MRB is one good example of how these issues are played out. The Mekong River originates from the Tibetan Plateau of the Himalayas, flowing 4800km southwards to the South China Sea. It flows through China, Myanmar, Lao PDR, Thailand, Cambodia and Vietnam, draining an area of 795,000km^2 with 48 percent of the basin shared between Thailand and Lao PDR. The basin is home to over 70 million people, 80 percent of population residing in the Lower Mekong Basin (UNEP, 2009). The Mekong region faces several critical challenges. Among the contributing factors are a rapidly eroding basin, presently affecting 21 percent of its area; declining original forests (only 30 percent of the forests are intact); continued regional population growth(expected to remain at 2 percent per year over next decades); and a threatened and deteriorating ecosystem. Compounding theses challenge are the effects of climate change. All these factors could trigger social and economic instability for Mekong residents who depend on the river system for their livelihoods, with likely environmental impacts.

Within the MRB, there are numerous opportunities to increase the cooperative agenda between the MRB countries to create benefits beyond what individual countries can achieve alone, and in line with the ongoing process of regional integration. Opportunities for cooperative and collaborative spirit in the MRB include:

- Agreements on the outstanding issues related to the implementation of MRC Procedures, including incentives to follow the procedures;
- Agreement on a MRC indicator framework for resource monitoring, scenario and project assessments, and state-of-the basin reporting;
- Agreements on identifying and setting mutually shared and time-bound strategic objectives for basin development as part of the 5-yearly updates of the Basin Development Strategy (making the 'pie' bigger, optimally sequencing projects etc.);
- Joint or cooperative agreements on infrastructure projects, monitoring programs, transboundary protected areas, impact mitigating programs, etc;
- Agreement on the procedure and process to deal with concerns about adverse transboundary impacts caused by water resource development projects (Agreement on environmental hotspots and enforcements ;
- Agreement on regional benefit sharing mechanisms for the sustainable development and management of the basin (this is introduced in the module but not elaborated)
- Agreement on the regional response to climate change including any collective actions decided.

While there are increasing development pressures in the MRB, these pressures do not have to result in conflicts if a regional cooperative agenda is pursued that increases national benefits from water resources development ('making the pie larger') and reduces negative transboundary impacts through increased cooperation and collaboration. As such, one of the main underlying themes in this module is this very spirit of cooperation and collaboration that is part of the core of interactions amongst the stakeholders in the MRB.

This module was also developed to meet the needs in the region with regards to developing capacities in negotiation skills, particularly for transboundary water issues. It provides a starting point to increase the number of qualified resources persons, who are involved in various aspect of the basin management and have to navigate contentious transboundary water issues. It also seeks to address the need for relevant, specialized and topical training materials on negotiation skills in the region. By developing the knowledge and skills base of the stakeholders, actors and interested parties, it is hoped that the module will help strengthen institutions that are involved in transboundary water resource management in the region.

1. 4 How is the module organized?

As referenced earlier, the objective of this module is two-fold. The module is structured in this manner to ensure emphasis is placed on key learning points, the training session plans in each section and to enable quick and easy reference to the materials for both practitioners and trainers.

This module begins with examining the individual's place within a specific context, what needs are considered using a four-fold approach (i.e. basic needs) and how this influences the negotiation styles a person adopts. It then explores some of the basic concepts and skills in understanding transboundary water situations (e.g. understanding stakeholders involved via a rapid stakeholder analysis), and how positions and interests of parties informs their actions and also their willingness to negotiate. A better understanding of why a stakeholder will take certain positions and have certain interests influences the conditions that will allow for these negotiations. These negotiations can then foster cooperation and collaboration rather than allowing for differences or conflicts to escalate.

Subsequently, from this point the module explores some of the specific and different skills that are needed for people to negotiate in a manner that encourages cooperation and collaboration. Various negotiation frameworks are discussed, and specific sessions simulate examples of transboundary water differences, providing a 'safe' space for training participants to use the tools and skills introduced in the earlier sessions. The final section of the module brings the learning and training experience back to the participant, by asking the participant to utilize all the concepts, knowledge and skills relevant to him and asks for the participant to develop a framework for negotiation that work in their own contexts.

Note on vocabulary: In this document, we use the terms "conflict" and "dispute" interchangeably, to signify any action expressed around a difference between two or more parties. If violence is suggested, we use the explicit term, "violent conflict." For years, a common term was Alternative Dispute Resolution (ADR) — "alternative" to either continued conflict or to the win-lose setting of a court of law. In many circles, use of "resolution" is going out of favor, as it explicitly suggests finality to the dispute, which is rarely the case, and implicitly suggests that conflicts are by definition bad. Many disputes are absolutely necessary and can be healthy, as they bring different viewpoints into the same conversation, and often attract attention, resources, and creativity. For all these reasons, many favor either dispute "management" or "transformation," where the energy of conflict is harnessed to a positive outcome.

The sections are organized as follows:

Chapter 1. Introduction

The introduction of the manual will provide advice on setting the context and using this module. One can select a number of sessions from each section and focus on these. This would depend on the objective of using the module. As a trainer it would be useful to glance through all the sections and the conceptual and explanatory part of each section to get an overview of the content what are the skills being developed when designing a training./This section also sets the scene of international hydro-politics and basin management, which is a recurrent theme throughout the whole manual.

Chapter 2. : The Historical Context of Negotiation and Difference Management Capacity Development by the MRC

This chapter provides sessions that will introduce previous learning and training initiatives that the MRCS has undertaken in the past to develop the capacities of the MRCS' staff and that of member countries in negotiation and difference management.

Chapter 3. Understanding and Working with the Four-fold Approaches for Negotiation

This chapter explores the four stages of intractable or contentious issues and suggests that each of these stages should be addressed by looking at the relationship of four distinct lenses through which we relate to the world, each of which corresponds with four corresponding needs, conscious planning of meeting design and setting the rules of the road.

Chapter 4. Stakeholders, Issues and Conditions for Negotiation

This chapter explores the understanding about the word 'difference/conflict' within specific national and individual contexts. It presents a tool to do a rapid assessment of the issues within a transboundary water context. It also explores the ways that negotiating parties find collaborative solutions to contentious issues by conducting an analysis of the situations and the stakeholders involved, what their positions and interests are , as well as the influence they wield in that specific situation. It also draws upon what are some are some of the enabling conditions and constraints that either encourage negotiation/collaboration or other management options to the differences MRB context.

Chapter 5. Effective Negotiation Skills for Transboundary Waters

This chapter explores some of the basic facilitation and negotiation skills that are crucial for those who are who may be involved in contentious transboundary water issues in their professional work. The skills that are addressed in this section include active listening, negotiation styles in relations to specific cultural norms, reframing and facilitation.

Chapter 6. Effective Negotiation Frameworks for Transboundary Waters

This chapter explores various negotiation frameworks for international transboundary waters and centers on one specific framework, i.e. the hydro-trifecta framework for negotiation and collaboration. The section also develops the skills and capacity of participants to experience and use specific negotiation and facilitation skills in a simulation of the fictional Pandal Basin case study through group discussions and role-plays.

7. Annex of Supporting Materials

This section provides the complementary materials for the module. These include:

- suggestions for various training scenarios,
- 11 MRB case studies
- A complete and fictional case study of the *Pandal Basin* pack for the role play and simulation exercises. In this module, the fictional Pandal Basin case study is suggested for use in various learning activities: analysis of stakeholders and issues, understanding positions and interests better, process of multi- party negotiation. The trainer can use this pack in various ways in the training they design and deliver

- Personal and Organizational Monitoring and Evaluation Framework for Capacity Development. The Kirkpatrick Four-Level Training Evaluation Model and its rationale, descriptions of the indicators to evaluate the learning, the process and also sample questionnaires and interview questions are minutely described. There is also a simple template for planning a personal or organizational action plan after the training has been conducted. For organizations and trainers who use this module, this can be the monitoring and evaluation framework that is used.

8. References and further readings

This section provides a list of written and online materials that are referenced for this module. The resource list is also useful for trainers to extend their knowledge on the topic, and to share with the participants of trainings as further readings.

Below is the tabular description of the contents of the module:

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1.4 How to use the manual
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1.7 Introduction to Hydro politics
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3.1 Understanding and Working with Four Fold Approaches
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3.3 Needs: Physical, Emotional, Intuitive and Spiritual **For the Trainer:** 3.4 Needs(Physical, Emotional, Intuitive, Spiritual):Relationship between the 4 Needs
Chapter 4: Stakeholders, Issues and Conditions for Negotiation
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4. 2 Positions and Interests in Negotiation **For the Trainer:** 4.2a Moving from Positions to Interests – The Water Game 4.2b Stakeholders, Positions and Interests – The Pandal Basin Scenario
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6.1 Best Practice for Water Related Negotiations in the Region
6.2 Water, Rights, Needs, Benefits, Equity **For the Trainer:** Water Negotiations Role Play: the Pandal Basin Case Study
6.3 Synthesis of Multi-discipline, Collaborative and Governance Water Negotiation Framework **For the Trainer :** 6.3a Understanding the Water Negotiation Frameworks 6.3b Making it Relevant to You

Annex
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7.3 Different Training Scenarios
7.4 Personal and Organizational Monitoring and Evaluation Framework for Capacity Development
References and further readings

1.5How to use the module

There are 4 major conceptual chapters in this module i.e. **Understanding and Working with the Four-fold Approach as Individuals for Negotiation**; **Negotiation and Conditions for Negotiations for International Transboundary Waters; Effective Negotiation Skills for International Transboundary Water Management; Effective Negotiation Frameworks for International Transboundary Waters**-see above for full description). Each chapter is divided into sub-topics. Each sub-topic (unless indicated differently) includes theoretical explanation of the topic, followed by a training session plan for trainers The session plan is a step-by-step process that can assist trainers to conduct the session following adult learning principles.

The module is also designed so that a reader or a trainer can pick and choose materials from different chapters and sub-topics depending on the learning or training objectives. For the trainer, the target group and duration of the training are also crucial. Each sub-topic includes guidance that will help the trainer have a better understanding of the topic and facilitate a learning process based on the target audience, duration or length of the training and the learning objectives that have been set.

An example that illustrates the way one can use the module is described below.

Chapter 4: Understanding and Working with the Four-fold Approach as Individuals for Negotiation. In this part there are explanations for 3 sections:

- 3. 1 Four Worlds Framework
- 3. 2 Meeting Design for Collaboration
- 3. 3 Needs: Physical, Emotional, Intuitive and Spiritual

From the training perspective, some of these sections provide theoretical information for presentations and facilitated discussions, while other sections provide instructions on how to conduct role-plays and activities related in training. Each session plan contains all the steps and activities a trainer is responsible for in the learning process, including estimates for session time, lists of materials needed, learning objectives, and summary descriptions of all relevant conceptual material (see Figure 1). Be aware that if the learning process in the individual session is changed, there may be need to revise the learning objectives.

For the trainer, knowledge on the content and answers to questions can be found in the theoretical and explanatory part of each section. This can be distributed to participants of trainings as pre-course readings or as handouts after a session has been conducted. This part can be used in a number of ways: to reinforce learning for the technical reference of the trainers, and for use in training presentations.

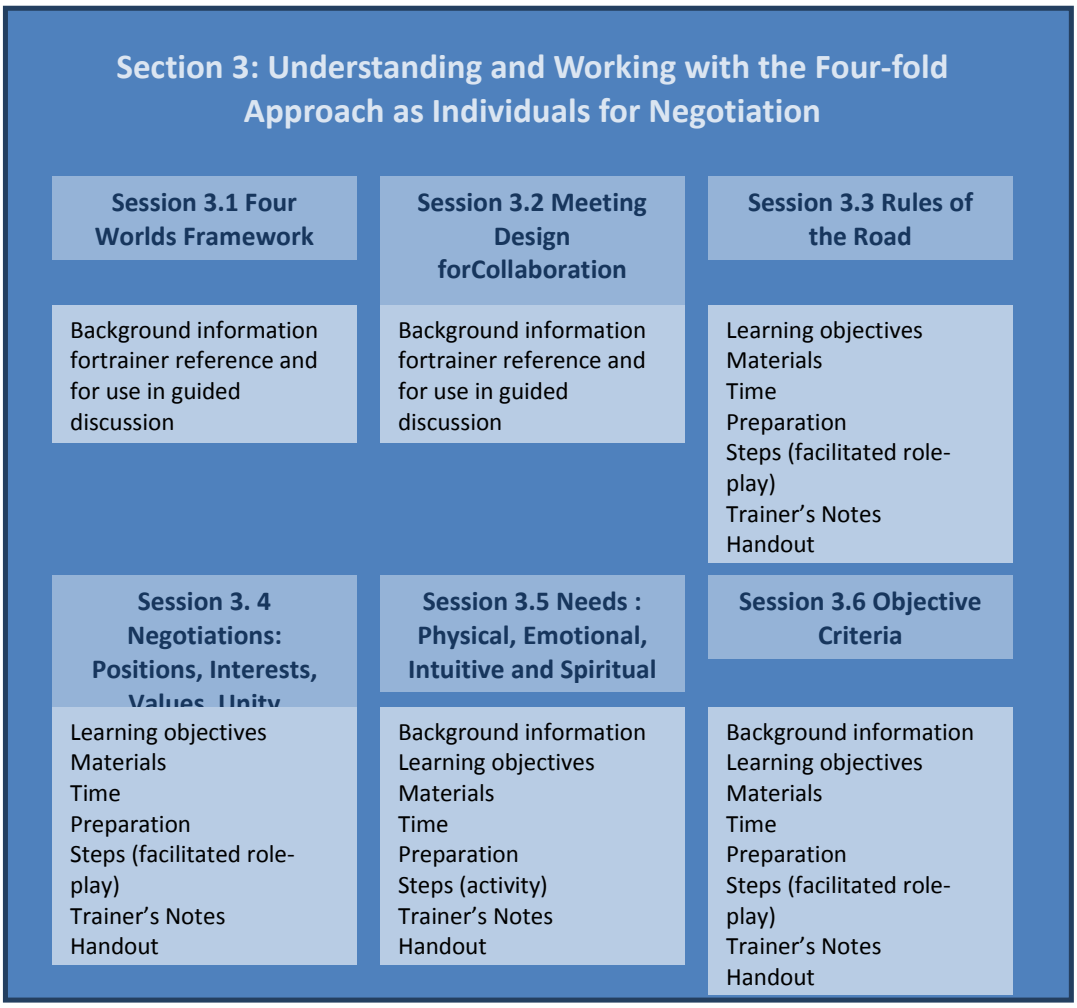


Figure 1. Visual Representation of Sample Section (including several sessions with information and activities designed to inform, to provoke discussion, and to provide skill-building activities).

One of the unique features of the module is its focus on interactive activities that trainers can use to build skills and facilitate learning. Some of the activities in this module are free-standing, while others rely on a fictional basin scenario designed for role play activities. The fictional basin scenario allows participants to practice real-world skills without letting real-world politics affect their ability to interact creatively with the material.

The module also includes a set of MRB case studies (adapted and sourced from the MRCS). Each case study describes a transboundary water issue, the context of this specific case, the interventions that were done, practices applied, and the main outcomes. These case studies could be swapped as role-play scenarios as well. Otherwise, they are available to trainers for facilitated group discussion, analysis, and future training use as needed.

1. 6 Description of various training scenarios

For the trainer: How to tailor the training?

As explained earlier the materials in this module can be used to design training for a specific context. However, in order to design a course or learning event effectively the trainer you will need to consider the objectives and the target group.

Based on a needs analysis of capacity development/training needs or an agreed training need (identified in the organization or other entities), the different sessions from the appropriate learning blocks can be used to achieve the training objectives. If the training is for a specific site, use the current understanding and application of the context the participants come and incorporate this in the training.

The training process can be used in any given context related to addressing the transboundary water issues, as well developing the capacities of professionals who find themselves in the middle of these issues and need to be able to negotiate and collaborate to find solutions or options to the current situation that is not working to benefit all parties.

A number of training scenarios are included in this module as an example. Below is a summary of these training scenarios. Detailed training plans can be found in Part 7.3(Different Training Scenarios).

No	Training Scenario	Target Group	Duration	Learning Objectives
1	One off overview on basic negotiation skills for transboundary waters	- High-level Mekong country decision makers - MRCS personnel	1 day	- Increase participants' understanding of the transboundary waters issues from various perspectives and scales - Develop the ability of participants to reframe interpersonal differences and apply this within the context of transboundary waters - Introduce the participants to a wide range of negotiation tools, models and frameworks - Provide a space for participants to practice and demonstrate their negotiation/mediation skills
2	One off training on negotiation skills for transboundary waters	- MRCS personnel, - Line managers and other officers involved trans boundary water resource management - Other MRCS stakeholders	3 days	- Increase participants' understanding of the transboundary waters issues from various perspectives and scales - Develop the ability of participants to reframe interpersonal differences and apply this within the context of transboundary waters - Introduce the participants to a wide range of negotiation tools, models and frameworks - Provide the environment for participants to practice and demonstrate their negotiation/mediation skills

		and partners		
3	Field based training workshop on negotiation skills for transboundary waters	- Line managers and officers involved trans boundary water resource management specifically - MRC personnel	5 days including 1 day of field visit	- Increase participants' understanding of the transboundary waters issues from various perspectives and scales - Develop the ability of participants to reframe interpersonal differences and apply this within the context of transboundary waters - Increase skills of participants to analyze stakeholders, issues and conditions for negotiations within a transboundary waters context - Introduce the participants to a wide range of negotiation tools, models and frameworks - Provide a space for participants to practice and demonstrate their negotiation/mediation skills

Table 1. Examples of different training design scenarios.

1. 7 Introduction to Hydro-politics

Water management is, by definition, dispute management. Water, unlike other scarce, consumable resources, is used to fuel all facets of society, from biology to economies to aesthetics and spiritual practice. Moreover, it fluctuates wildly in space and time, its management is usually fragmented, and it is often subject to vague, arcane, and/or contradictory legal principles. There is no such thing as managing water for a single purpose—*all* water management is multi-objective and based on navigating competing interests and values. Within a nation these interests include domestic users, agriculturalists, companies that generate hydropower recreationists, and environmentalists—any two of which are regularly at odds—and the chances of finding mutually acceptable solutions drop exponentially as more stakeholders are involved. Add international boundaries, and, without careful re-crafting of the issues involved, the chances decrease exponentially yet again.

Surface and groundwater that cross international boundaries present increased challenges to regional stability because hydrologic needs can often be overwhelmed by political considerations. While the potential for paralyzing disputes is especially high in these basins, history shows that water can catalyze dialogue and cooperation, even between especially contentious riparians, those who live along a river. (Interestingly, “riparian” has the same root as “rival” signifying that those who share access to a river by nature can have competing interests.)There are 276 rivers around the world that cross the boundaries of two or more nations, and untold number of international groundwater aquifers. The basin areas that contribute to these rivers (Figure 2) comprise approximately 47% of the land surface of the earth, include 40% of the world’s population, and contribute almost 80% of freshwater flow (Wolf et al. 1999).

Within each international basin, demands from environmental, domestic, and economic users continually increase, while the amount of freshwater in the world remains roughly the same as it has been throughout history. Given the scope of the problems and the resources available to address them, avoiding violent water conflict is vital. Disputes are expensive, disruptive, and interfere with efforts to relieve human suffering, reduce environmental degradation, and achieve economic growth. Developing the capacity to monitor, predict, and pre-empt transboundary water differences particularly in developing countries, is key to promoting human and environmental security in international river basins, regardless of the scale at which they occur. Yet conflict can yield positive results as well, providing opportunities for dialogue, increased mutual understanding and improved relationships and integrated planning.

A general pattern for the development and transformation has emerged for international basins over time. Riparians of an international basin implement water development projects unilaterally first on water within their territory, often without consultation with its neighbors, in attempt to avoid the political intricacies of the shared resource. At some point, one of the riparians, generally the regional power, will implement a project which impacts at least one of its neighbors. This might be to continue to meet existing uses in the face of decreasing relative water availability. This project which impacts one's neighbors can, in the absence of relations or institutions conducive to conflict management, become a flashpoint, heightening tensions and regional instability, and requiring years or, more commonly, decades, to resolve.

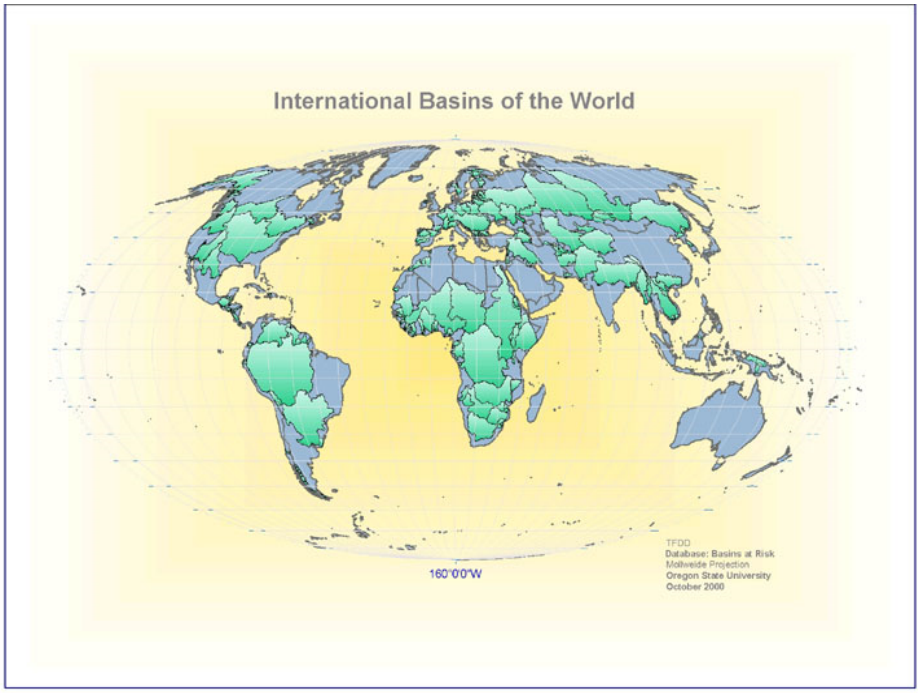


Figure 2. International Basins of the World.

There is some room for optimism, though, notably in the global community's record of resolving water-related disputes along international waterways. For example, the record of acute conflict over international water resources is overwhelmed by the record of cooperation. Moreover, the most vehement enemies around the world either have negotiated water sharing agreements, or are in the process of doing so at the time of writing, and once cooperative water regimes are established through treaty, they turn out to be impressively resilient over time, even between otherwise hostile riparians, and even as conflict is waged over other issues. Violence over water does not seem strategically rational, hydrographically effective, or economically viable. Shared interests along a waterway seem to consistently outweigh water's conflict-inducing characteristics and also the impacts of climate change.

Similarly, these stresses and opportunities for cooperation can be seen in the MRB as well, and the MRB continues to be one of the examples of problem-solving water –related issues and contentions. Like much of the world, the MRB faces rising populations and growing economies, both of which put new strains on agriculture and power supplies. Compounding these issues are rising sea levels and other impacts of climate change. As in many multilateral basins, not all riparian states are party to the 1995 Mekong treaty and the Mekong River Commission, challenging some aspects of basin-wide decision making. Yet the Mekong is also an example of collaboration, going back to 1957, and allowing for joint data collection and analysis, and much regional input for decision making.

Lessons for the International Community

Despite their complexity, the historical record shows that water disputes *do* get resolved, and that the resulting water institutions can be tremendously resilient. The challenge for the

international community is to get ahead of the "crisis curve,"[1] to help develop institutional capacity and a culture of cooperation in advance of costly, time-consuming crises, which in turn threaten lives, regional stability, and ecosystem health.

One productive approach to the development of transboundary waters has been to examine the benefits in a basin from an integrative perspective. This has regularly required the riparians to get past looking at the water as a commodity to be divided, and rather to develop an approach, which equitably allocates not only the water resource, but the benefits derived from it.

[1] This refers to the pattern described above, where unilateral development can lead to a crisis point, and only then to a long, arduous path of negotiations.

Chapter 2

The historical Context of Negotiation and Difference Management Capacity Development by the MRC

This session summarizes the efforts made by MRC in the recent years, i.e. from the period of 2006 to 2013 regarding skill building on negotiation related aspects.

The MRC has organized a series of regional trainings in the past years aimed at hydro-politics and negotiation and difference management; ways of changing perception through thinking of basins without boundaries; approaches to enhancing and sharing benefits; and techniques towards building institutional capacity. The efforts targeted to representatives from the MRC Secretariat (MRCS); different groups of participants at Member Countries including National Mekong Committees (NMCs) and relevant Line Agencies in Cambodia, Lao PDR, Thailand and Vietnam. The objectives of these trainings and activities were to build capacity at the individual and institutional levels, and inform and shape policy. The skill building trainings have been supplemented by a number of exchange visits to other international river basins on various focuses. In addition, several skill building trainings on negotiation skills have also been organised at national level with support from the ICBP and NMCs.

The first highlighted effort during the period was the collaboration between USAID and MRC on transboundary conflict management. Building on earlier work in 2005, when the MRC Environment Programme (EP) had support the Working Group (WG) on Conflict Management and Mitigation, MRCS invited USAID to participate in MRCS meetings held by the WG. The WG consisted of representatives across all MRC programs with activities related to conflict management and participatory decision-making. One output from Working Group meetings was a "concept note" for consideration by senior staff that would support development of an overall conflict management strategy, which supports implementation of Goal 2 of the MRC Strategic Plan 2006-2010. Resources people who had involved in the support to MRC/EP included experts from U.S. Environmental Protection Agency (U.S. EPA); Institute for Water Resources, U.S. Army Corps of Engineers; Conflict Prevention and Resolution Center, Oregon State University; and Environmental Cooperation-Asia (ECO-Asia), a regional program of the United States Agency for International Development (USAID).

In June 2, 2006, Novotel, Vientiane Lao PDR, USAID and MRCS conducted a planning meeting on Promoting Regional Cooperation in the Mekong River Basin. The objective of the meeting was to share experience and build common understanding of effective methods, tools and terminology for addressing transboundary conflict prevention and resolution, and launch collaborative engagement between USAID and the Mekong River Commission Secretariat on transboundary water cooperation. At the meeting, MRCS identified the following proposed activities:

(1) conducting a historical analysis and mapping of conflict and cooperation;

(2) developing common conflict management terminology for use by MRCS and NMCs;

(3) developing a conflict management strategy for MRC;

(4) developing ideas for improved institutional arrangements and capacity at MRCS to support conflict management; and

(5) building capacity within MRC programmes.

As follow up with the planning meeting, a Conflict Management Program Inception Workshop on Promoting Regional Cooperation in the Mekong River Basin was organized in June 5-6, 2006 at Udon Thani, Thailand for participants from the four MCs of MRC. The workshop launched a new program of cooperation to raise awareness of and promote the use of improved conflict management policies, plans and mechanisms among the MRC Member Countries. The workshop also discussed capacities for supporting implementation of Goal 2 of the MRC Strategic Plan; raised awareness and introduce principles, tools, and techniques for conflict management; identified

priority of MCs in strengthening regional cooperation; and established common understanding and relationships among MCs on conflict management to enable more effective regional cooperation.

The Second Regional Workshop under the MRC/ECO-Asia Regional Cooperation Initiative on Promoting Regional Cooperation in the Mekong River Basin was held in August 22-23, 2007 at Don Chan Palace Hotel, Vientiane, Lao PDR with key agenda focused on improving understanding on Benefits of Transboundary Waters Cooperation and strengthening Human and Institutional Capabilities for Regional Cooperation. The Workshop discussed the Transboundary Hotspots/Issues including the flood-related hotspots and issues, and how MRC can use hotspot/issue mapping as a programme support tool to emphasize the benefits of hotspots mapping and linkage to achieving MRC's Goal 2 on regional cooperation. Other contents as Conflict Prevention/Management Tools and MRC Conflict Prevention and Management Terminology were also introduced.

In the following years, MRC/EP and USAID continued to organize a series of Regional Training on Transboundary Water Conflict Prevention and Management. The first training was in May 29 – 30, 2008 at Sukhothai Hotel, Bangkok, Thailand. The Training brought in Global Experience in Transboundary Hydropolitics, as reference to identify types of Disputes (Existing and Potential-Hotspots) encountered by MRC. The training also provided knowledge for understanding Conflict and Responses and Dispute Management and Participatory Techniques and tools, as well as the analysis of Obstacles and Opportunities to apply in MRC context. This training then was replicated to benefit another group of participants from all four MCs in the similar trainings organized at Lao Plaza Hotel, Vientiane, Lao PDR in September 29-30, 2008 and on 23-25 June 2010 in Bangsaen, Chonburi, Thailand.

The support in building capacity led by MRC-EP and USAID continued with the involvement of World Wide Fund (WWF) in delivering another Training Workshop on Collaborative Decision Making: Addressing Transboundary Issues at the Champasak-Stung Treng Wetland. The workshop was organized in Champasak Grand Hotel, Pakse, Lao PDR in 15-16 July 2009. The resource persons came from Institute for Water Resources (US Army Corps), World Water Council and ECO-Asia. The workshop raised discussions on why collaborative decision making and negotiation is important for addressing transboundary issues and provided key practices and tools; principles and approaches for designing a collaborative process. In addition, key functions, activities and capacity limitations of the Transboundary Management Committee in addressing transboundary issues were also identified and discussed.

The second highlighted effort by MRC regarding capacity development on negotiation competence was led by MRC/Flood Mitigation and Management Programme (FMMP), with a series of training workshops developed from expertise support of UNESCO-IHE in Netherlands. The MRC/FMMP attempted to enhance the cooperation between member countries through the building skills and strengthening knowledge and capacities for the MRC Secretariat, National Mekong Committees (NMCs), and its line agencies in addressing trans-boundary flood issues. The three training workshops, and three Exchange Study Visits to relevant International and Regional river basin organizations (RBOs) and Mekong related flood trans-boundary issues were among the effort to benefit the MRC Secretariat, the NMCs and line agencies, professionals and managers.

The first workshop on Water Resources Development and Flood Management in a Transboundary Context was organized in Hanoi Water Resource University, Ho Chi Minh City, Viet Nam in 3-7 March 2009. The second one was on Anticipating and Resolving Flood Issues, Differences and Disputes in the Lower Mekong Basin in 3-10 June 2009, organized at the Mekong Institute, Khon Kaen, Thailand. The third one on Technical Tools to Address Transboundary Issues was organized in 16-20 November 2009 at The National University of Laos, Lao-Japan Human Resource Cooperation Centre, Vientiane, Lao PDR. The Exchange Study Visits included the trip to Yangtze River Basin in China during 12-17 October 2009 and to Euro on Transboundary River Basin and Flood Management in North-Western Europe (Delft, Maastricht, Liege, Koblenz, Mainz, The Hague) during 7-17 September 2009.

The third highlighted effort in the field was to support the process of finalizing the first IWRM-based Basin Development Strategy for the Lower Mekong Basin, as a key statement by the LMB countries of their intention to share, use, manage and protect the Mekong water and related resources in an equitable and sustainable way to achieve a key part of the 1995 Mekong Agreement that is "to promote, support, cooperate and coordinate in the development of the full potentials of sustainable benefits to all riparian States". This process requires much analytical work and negotiation between countries, or between sectors, to find the 'middle ground' or 'balancing point' on which all key players and stakeholders are prepared to agree. All of this requires strong IWRM understanding and capabilities across the basin, and across institutions, and time for consultation and to develop preferred negotiating positions. Developing strong negotiation skills amongst the key actors in the member countries and at MRCS is an essential aspect of these negotiations.

In 2008, a study tour was organized to the Columbia River Basin (US/Canada) for senior Government officials, which focused on key issues related to the preparation and negotiation of the IWRM-based Basin Development Strategy. In November 16-19, 2010, the MRC Integrated Capacity Building Programme (ICBP) and Basin Development Plan Programme (BDP) designed and organized a three-and-a half-day Negotiation skills participatory training workshop in Siem Reap, Cambodia. The workshop was to build negotiation skills in order to enhance international cooperation on water management and development in the Mekong River Basin and to support the negotiation processes related to the IWRM-based Basin Development Strategy. It was evaluated successful and highly appreciated by MCs where participants, individually and collectively, improved their ability to achieve productive outcomes in multi-party settings. The outcome was achieved by the contribution of the common vocabulary and conceptual frameworks useful for negotiation, mediation and promoting cooperation introduced at the workshop. The Negotiation Glossary then has been published in the four riparian languages and distributed to MCs, which is considered very helpful for practitioners and learners.

At national level, several trainings in both riparian and English languages were organized by NMCs under the support from ICBP. For instance, the training on Effective Negotiation Skills, was organized by VNMC in Ha Long City, Viet Nam in 29-31 August 2012 for 27 participants from Viet Nam National Mekong Committee and relevant Line Agencies or the training workshop on Strategic negotiation organized by LNMC in Thalath, Lao PDR in May 29-31, 2012. The trainings at national level helped participants to increase awareness on the importance of negotiation; identify the relevant types and methods of negotiation; Share of negotiation experience in Mekong Context; and Practice techniques in negotiation skills.

Chapter3

Understanding and Working with the Four-Fold Approaches for Negotiations

3. 1 Understanding and Working with Four- Fold Approaches

There are no "blueprints" for negotiations related to water- related differences. There does seem to be, however, general patterns in approaches to water collaboration which have emerged over time. "Classic" disputes between, for example, developers and environmentalists, rural and urban users, or upstream and downstream riparians, suggest zero-sum confrontations where one party's loss is another's gain where confrontation seems inevitable. Yet such "intractable" differences are regularly and commonly addressed as creative thinking and human ingenuity allow solutions which draw on a more intricate understanding of both water and conflict to come to the fore.

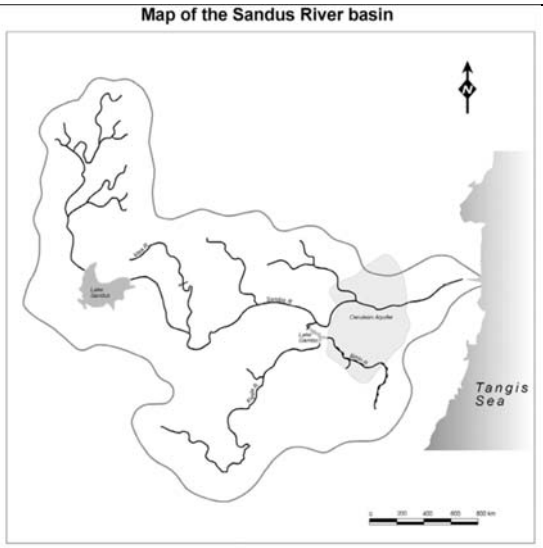
This module offers one path to the transformation of water related differences from zero-sum, intractable differences to positive-sum, creative solutions, and centers on a migration of thought generally through four stages: adversarial, reflexive, integrative, and action. Note that all stages exist simultaneously, and need not be approached in sequence, and furthermore, there is not necessarily a "right" stage that must be achieved for "success". In today's world, many disputes never move beyond the first or second stage, yet are tremendously resilient, while a few have achieved the fourth stage and are fraught with tension. Nevertheless, like any skill, it is useful to understand the structure of an "ideal" path, in order to perfect the tools required for any individual situation.

The generalized path described here, is structured around an understanding of each of the four stages through any of four perspectives, as described in Table 2.

In **Stage 1**, in its initial, *adversarial*, setting, regional geopolitics often overwhelms the capacity for efficient water resources management. Metaphorically, the political boundaries on a map at this stage are more prevalent than any other boundaries, either of interest, sector, or hydrology. Dialogue is often focused on the past, based on the *rights* to which a country feels it is entitled, and a period of expressing pent-up grievances can be necessary. As a consequence of these initial tensions, the collaborative learning emphasis is on *trust-building*, notably on active and transformative listening[2], wherein each party makes large claims of what is "rightfully theirs," inefficient and inequitable proposals are inevitable during this stage of negotiations

There are skills that can be developed at this level that can lead to greater understanding and more mutually satisfying outcomes. The collaborative learning emphasis is on self-awareness of how we communicate and perceive situations, and *trust-building*. These can open us up to the possibility that there is more to a situation than we originally thought, and help us be willing to listen to other perspectives without believing that we need to change them.

[2]It proposes listening as an active engagement process and requires making oneself, empathetic, available, and free from judgments and beliefs. It demands that one exist, for the period of the listening engagement, for the benefit of the speaker. A person who practices transformative listening needs to be available for whatever is communicated, no matter how potentially disagreeable, upsetting, incongruous or hurtful.

Negotiation Stage[3]	Common Water Claims[4]	Needs	Geographic Scope
Adversarial	Rights	Physical	 Nations
Reflexive	Needs	Emotional	 Watersheds

[3] These stages build primarily on the work of Jay Rothman, who initially described his stages as ARI – Adversarial, Reflexive, and Integrative (Rothman 1989). When ARI become ARIA, adding Action, Rothman's terminology (1997) also evolved to Antagonism, Resonance, Invention, and Action. We retain the former terms, feeling they are more descriptive for our purposes.

[4] These claims stem from an assessment of 145 treaty deliberations described in Wolf (1999). Rothman (1995) too uses the terms rights, interests, and needs, in that order, arguing that "needs" are motivation for "interests," rather than the other way round as we use it here. For our purposes, our order feels more intuitive, especially for natural resources.

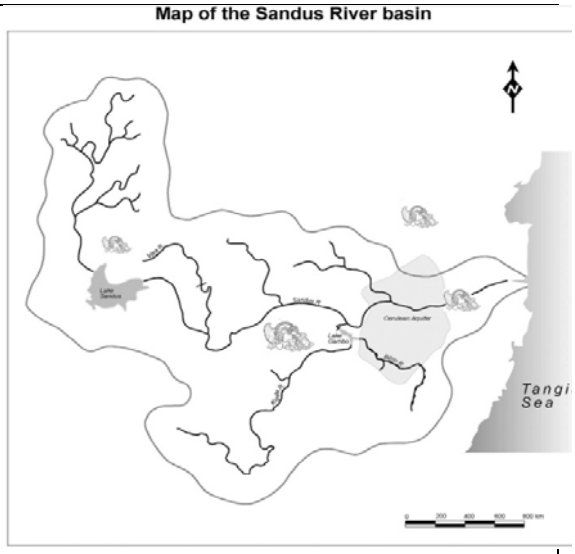
Integrative	Benefits	Intellectual	 "Benefit-sheds"
Action	Equity	Spiritual	 Region

Table 2. Four Stages of Water Collaboration

As the adversarial stage of negotiations plays out, occasionally some cracks can be seen in the strict, rights-based, country-based positions of each side (although in actual water negotiations, this process can last decades). Eventually, and sometimes painfully, a shift can start to take place where the parties begin to listen a bit more, and where the interests underlying the positions start to become a bit apparent. In this **Stage 2**, a *reflexive stage,* negotiations can shift from *rights* (what a country feels it is entitled to), to *needs* (what is actually required to fulfill its goals). Conceptually, it is as if we have removed the national boundaries from the map and can, as if for the first time, start to assess the needs of the watershed as a whole. This shift, from speaking to listening, from rights to needs, and from a basin with boundaries to one without, is a huge and crucial conceptual shift on the part of the participants, and can be both profoundly difficult to accomplish, and absolutely vital to achieve for any movement at all towards sustainable basin management. To help

accomplish this shift, the collaborative learning emphasis is on *skills-building*, and we approach the (boundary-less) basin by sector rather than by nation.

The tone is more open. Listening becomes pivotal to success. The process involves all parties with a stake in an issue – those who are affected by the outcome and those in a position to help implement or block implementation of an outcome (i.e. stakeholders). Attempts are made to shift the nature of negotiations to try to increase the amount of resources and to maximize mutual gain.

Once participants have moved in the first two stages from mostly speaking to mostly listening, and from thinking about rights to needs, the problem-solving capabilities which are inherent to most groups can begin to foster creative, cooperative solutions. In this **Stage 3**, an *integrative stage*, the needs expressed earlier begin to coalesce together to form group interests – the "why" underlying the desire for the resource. Conceptually, we start to add *benefits* to the still boundary-less map, and in fact to think about how to enhance benefits throughout the region, primarily by adding resources other than water, and geographic units other than the basin. The collaborative learning emphasis is now on the *consensus-building* of the group, and we begin to move in "benefit-shed" rather than being restricted by the basin boundaries.

Finally, while tremendous progress has been made over the first three stages, both in terms of group dynamics, and in developing cooperative benefits, **Stage 4**, the last, *action*, stage helps with tools to guide the sustainable implementation of the plans which have been developed, and to make sure that the benefits are distributed *equitably* amongst the parties. The scale at this stage is now *regional* where, conceptually, we need to put the political boundaries back on the map, reintroducing the political interest in seeing that the "baskets" which have been developed are to the benefit of all. The collaborative learning emphasis is on *capacity-development* primarily of institutions.

It is critical not to think of these "stages" as a linear process, where the further along the participants are the better. Most basins ebb and flow back and forth over time, finding the level that meets a particular set of hydro-political needs for a given place and time – there is no "right" set of answers. One might think of these all existing in parallel "universes" simultaneously, each with its own set of approaches or tools, any of which may be useful at any given time, or conceptually as a helix or set of spheres rather than strictly linear. We break them apart here only for the purposes of explanation.

3. 2 Meeting Design for Collaboration

The idea of a meeting or the parties is likely to emerge when some adversarial conflict forces the issue (e.g. a planned water development project that affects downstream neighbors). However, basin parties may also decide to come to the table without an initial, pressing conflict, but rather, with a vision that some form of collaboration may help address broad basin concerns (e.g. development, climate change). Regardless of what brings the parties to the room, designing a meeting for productive dialogue and collaboration requires forethought, planning, and preparedness. Whereas a freeform negotiation may foster conditions for competitive positioning and disputes, a competently facilitated meeting has the potential to bring the same parties together and foster creative dialogue and collaboration. This section briefly discusses tools and considerations for designing meetings to foster collaboration.

Even before the meeting starts, the planning stage involves many decisions critical to creating a meeting atmosphere that fosters collaboration. Below are some factors to consider during the planning stage:

1. **Number of facilitators**: Often, two is better than one, and a facilitation team may be even better. While one facilitator leads a session, another can identify gaps, address questions, help diffuse tension, and/or deal with a party who is not abiding by the ground rules. Additionally, a note taker to capture ideas on flip chart paper or a white board will allow the primary facilitator to focus on the speaker rather than on writing. Finally, if using break-out sessions, having multiple members of the facilitation team may allow one facilitator per group, or alternately, a couple people who rotate between groups to address concerns, pose useful follow-up questions, and make sure the conversation is on task.

2. **Meeting location:** Pick a meeting location that is neutral, comfortable, accessible to all parties, and that has features conducive to the meeting (e.g. lodging nearby, audio-visual equipment if needed, access to a field trip site, etc.). Ideally, parties should affirm their willingness to meet at a given location. If location is a tense issue, a neutral out-of-basin location may be a preferable first meeting location. Alternatively, riparians may wish to take turns hosting sequential meetings.

3. **Timing:** The timing of the meeting should be planned in a way that respects the needs and culture of all parties. Avoid religious holy days, and try to avoid selecting dates that will cause disproportionate attendance/nonattendance by any party.

4. **Food/drink:** Hungry participants are grouchy and tired participants. Schedule time for breaks, snacks, and coffee/tea throughout the meeting. Consider serving lunch or dinner or holding a reception as part of the meeting. This will give participants the opportunity to network and discuss issues “off the record”- leading to better relationships and perhaps proposals or offers not discussed during meeting sessions.

5. **Seating arrangement:** Consider how participants will sit in the room, and arrange the seating before they arrive. Make sure all parties can see and hear and have equal access to the conversation. Do not sit conflicting parties across from one another; rather, consider a circle or semi-circle arrangement. You may even consider sitting the most potentially conflictive parties directly next to one another. If these parties

face one another, they may adapt more aggressive postures with positioning and raised voices; however, if they sit side-by-side, that aggressive dynamic is less likely. Additionally, interspersed seating separates alliances and makes it less possible for some parties to gang up and face off against another.

6. **Seating and permissions, non-negotiating parties:** Consider where supporters and observers will sit. Do the negotiating parties' staff/colleagues need to sit nearby? Perhaps sit them in a group behind their representative. Also consider where observers should sit. It is important to lay ground rules for non-negotiating parties. Will they be allowed to speak during the sessions? When? What is the process negotiating parties should use if they wish to break to consult with their team? Creating clear, upfront ground rules and procedures for non-negotiating parties will diffuse tension and help you, the facilitator, create a sense of order and decorum for the process.

7. **Reporting out/media:** Arranging and agreeing upon the privacy or non-privacy of the meeting is important for setting the tone for negotiations. Will media be allowed in the room? Will meeting attendees be permitted to discuss details of the meeting with the media, and if so, under what conditions? Consider using Chatham House rules, in which all parties agree that any statements made about the meeting will not be linked with an individual party's name or affiliation. Generally, the more protected a meeting is from the public eye, the more freedom parties have to speak frankly and take collaborative risks. Make sure all parties understand and agree to the privacy/reporting-out conditions and that those conditions are suitable for the laws and customs of each state (e.g. some parties may be required to share meeting minutes in adherence with freedom of information requirements in their home states).

8. **Intake:** It is highly advisable that the facilitation team meets and performs intake interviews with each party prior to the first meeting. In these interviews, the facilitator can learn the names of the negotiating parties and their teams, plus to identify potential positions, interests, values, and issues that may be controversial that may emerge during the meeting.

The facilitator is involved right from the start from the planning phase. Careful planning and execution of the meeting opening sets the tone for the rest of the meeting. When the meeting starts, tension is likely to be high. Parties will likely be focused on past injustices and grievances and on achieving their positional bargaining goals. Thus, the very start of a meeting is perhaps the most potentially volatile. In this high pressure situation, the goal of the facilitator is to guide the release of this pressure and ease into discussing substantive issues. Note: Providing snacks and drinks at the start of a meeting may distract participants slightly and reduce initial tension.

At the start of the meeting, participants may be eager to jump in and begin negotiating. Diffuse this by focusing on process rather than substance. First, the facilitator should provide a general statement introducing the purpose and general schedule for the meeting. As a professional courtesy, announce when participants can expect breaks and food, and provide other useful information (wireless internet codes, restroom locations, etc.). After this, invite each participant to introduce him or herself. Consider asking the participants to each share something personal- perhaps the story behind his/her name or the significance

of some totem (symbolic artifact) that the participant wears or carries on his/her person. This activity gets participants talking and sharing, and it also reminds potential competitive parties of the shared humanity in the group.

Next, continue focusing on process by setting ground rules (rules of the road). You may ask the parties to generate ground rules by asking them what conditions they need for a productive meeting. You may also start with a list of ground rules you propose and then ask parties to add to or modify that list. Either way, ground rules should be recorded somewhere visible and left there for the duration of the meeting. (If working with a team, one facilitator may type and print copies of the ground rules for each participant.) At the end of the ground rule generating activity, all parties should agree on the list of rules generated. This is significant because it is the first cooperative, collaborative action by the group. As such, it serves as an important step towards building a cooperative atmosphere for the rest of the meeting.

The final activity in opening the meeting, agenda setting, serves as a bridge between process and substance. In some cases, you may pre-determine the full meeting schedule and agenda based on the intake interviews, but it may also be beneficial for the parties to agree (a second act of cooperation) on the meeting plan. You may wish to start agenda setting with an icebreaker activity: Ask participants to describe a worst case basin future and a best case basin future (20 years from now). Capture both in separate lists. Then, ask parties what needs to happen to achieve the best case basin future. Then, proceed to agenda setting, asking participants what they want to discuss during this meeting and what deliverables/outcomes they wish to produce by the end of the meeting. Capture these ideas and work towards consensus on the meeting agenda.

Paul Axtell[5] suggests covering the following during the opening portion of the meeting:

- Outcomes: Defining success, deciding what is expected of participants, and determining potential meeting outputs/deliverables.
- Background: Providing context and history, discussing information needs
- Acknowledgement: Recognizing participant concerns
- Process: Determining process steps, time allocation, decision-making procedure, and reporting (i.e. meeting notes)

Once the opening stage of the meeting has concluded, it is the facilitator's job to maintain conditions for collaboration as the meeting progresses. Guide participants through the agenda, ask questions to incite dialogue, monitor participation and power dynamics, reframe issues, and summarize progress. One of the facilitator's best tools is his or her use of questions. Here are several examples of questions to deal with common conversation topics:[6]

- Checking progress: Where do we stand on this issue? Concerns? Thoughts? Ideas? What are the next steps?
- Requesting input: Here's what I'm hearing from you. Did I capture what you are saying? Questions? Thoughts? Ideas? What else?

[5]the founder of Contextual Program Designs (http://paulaxtell.com)

[6] From: Axtell, P. 2001. Designing group conversations guide. Contextual Program Designs.

- Responding to a problem: What do we know? What questions do we need to answer? What are the options? What criteria should shape our response? What will we do?
- Starting on a project: What are we committing to? What are the specific outcomes? What resources and steps are needed to achieve those outcomes? What is the timeline? What milestones should we set? How should we get started?
- Making a decision: Summarize the decision the group needs to make. What are the decision criteria? What are the objectives? What are the alternatives? What are the benefits and risks of each alternative? What should we do? Is everyone okay with this?
- Reaching alignment: Suggest a course of action. What questions do you have? Does this make sense? Can you support this course of action? If not, discuss. Summarize the group's progress.

Finally, at the close of the meeting, strive for alignment and agreement on next steps. Ask parties what they want to happen next. If goals and objectives have been determined, make sure everyone is agreed on who will do what by when and how progress will be recorded and reported. End, as the meeting began, by focusing on process and creating small acts of cooperation. Ask parties if they are okay with where the meeting ended up and to share any final questions or concerns. Summarize the outcomes (focusing on acts of collaboration/agreement) of the meeting, and/or ask participants to share what they are taking away from the conversation. Set and agree upon a preliminary agenda for the next meeting. Finally, make sure to acknowledge and thank participants and to check with them to see if there is anyone not present who needs to be acknowledged. Recognition is important, even if those recognized are not in the room.

Designing a meeting to produce conditions for collaboration requires careful planning for each stage of the process. Attention to detail in the planning process creates an atmosphere where participants are valued and cooperation, rather than competition, is fostered. If you open the meeting by diffusing tension, focusing on procedure, and creating small initial acts of cooperation, these can set the stage for larger cooperative efforts. During the substantive part of a meeting, attention to ground rules and participation, aided by the careful use of open-ended questions, can help guide the group towards collaborative outcomes. Finally, closing the meeting by focusing on outcomes and concrete next-steps empowers the participants and validates their collaborative efforts.

FOR THE TRAINER

3.2 Rules of the Road

This section consists of an activity where participants plan how to open a meeting effectively, plus facilitate setting ground rules and setting the agenda- two opportunities for small negotiated agreements early in a transboundary water negotiation/collaboration setting.

LEARNING OBJECTIVES:

By the end of the session participants will:

1. have experimented with meeting design

2. have practiced opening a meeting

3. have learned a facilitation technique to carefully introduce content

MATERIALS:

Flip charts, Pandal Basin map and description

TIME: 60-90 minutes

PREPARATION:

Determine simulation roles (if you have not already done so). In this exercise, the instructor/facilitator guides participants in dialogue and negotiation regarding issues in the fictional Pandal Basin. Participants should be divided amongst the five states described. In each group, one lead negotiator (representing the head of state) should be identified. The remaining participants in each team may select various ministerial roles, such as (but not limited to) ministers of water, agriculture, energy, and environment. In a large group, the facilitator may wish to ask some participants to serve as non-governmental organizations (NGOs), international financing institutions (IFIs) such as the World Bank, and/or representatives from the indigenous populations identified in the basin description. All participants should be provided with a copy of the country descriptions, a basin map, and tabletop nameplates that identify their country and role in the negotiation. After each simulation exercise, the facilitator should lead a debrief (out-of-role) discussion among participants to discuss observations and take-away messages from each activity.

Rather than the instructor/facilitator, one or two participants should volunteer to practice serving as the facilitator for this exercise. These volunteer facilitators may work together or take turns facilitating different portions of the simulation.

STEPS:

1. The facilitator (participant volunteer) should set up the room for the negotiation. Arrange the chairs, nametags, lighting, temperature, etc. in the way which will best facilitate collaboration rather than competition.

2. Invite the simulation participants to sit down (in role), directing representatives, ministers, and observers to their seats.

3. Welcome the participants, provide logistical information (including instructions for when observers/ministers can speak, when breaks will be, etc.), and describe the context and purpose for the meeting.

4. Invite the participants to introduce themselves, perhaps sharing a fun-fact.

5. The facilitator should then develop ground rules (or rules of the road). He/she may provide some initial options (e.g. when to speak, how to address one another, how to be respectful of other participants) or he/she may ask the country representatives to produce and agree upon a list of ground rules. Write these ground rules on flip chart paper and hang them somewhere visible in the room.

6. Announce that the next step is to set an agenda for the meeting, but before you do that, you want to explore why you are meeting. Ask participants to describe a worst case basin future and a best case basin future (20 years from now). Capture both in separate lists on flip chart paper.

7. Then, ask parties which future they prefer, and note if there is consensus.

8. Follow up by asking what needs to happen to achieve the best case basin future and to avoid the worst case future. Capture these ideas in a separate list. Then, ask the riparian representatives what items from that list they want to discuss in today's meeting. Start to generate an agenda.

9. Ask if there are any other topics that should be added to the agenda. Ask the representatives what order they would like to discuss the topics and how much time they would like to devote to each. Finally, ask them to generate a list of outcomes/outputs from today's meeting. Record these all in a visible place so they can be used as benchmarks for the meeting.

10. End with some reflection questions to highlight some of the key lessons of this session:

- How did you feel when you first entered the room? How did the conditions in the room affect your stress/anger level?
- What did you like about the introduction activity? What ideas do you have for other ways to do it?
- What did you learn from the ground rule activity?
- What happened during the future visioning exercise? Did it change your perspective? How would you improve it?
- How did the agenda-setting exercise go? By the end of this activity, how (if at all) had your orientation to the meeting changed?
- If conflict/substantive issues arose during the simulation, how did the facilitator handle it?
- What else could the facilitator do to produce conditions for collaboration at the start of the meeting?

TRAINER'S NOTES

1. The instructions in this activity are for the trainee volunteer facilitator.

2. The instructor should be monitoring the volunteer facilitator and should offer assistance (or to pause the simulation and discuss options) if he/she becomes stuck or confused about how to handle a situation. However, the instructor may also sit back and let problems unfold, then bring them up and discuss solutions in the debrief.

3. For this exercise, the instructor may choose to use the Pandal Basin simulation, or he/she may demonstrate how to open a meeting, set rules of the road, and set the agenda by doing these exercises for the workshop/training in progress.

4. This is an example of Rules of the Road that was generated by the participants in a previous MRC training:

Rules of the Road

- Participate
- Three S's – Silence, Sleeping, Smile
- Keep time
- Silence Phones
- Relax
- Ask questions
- Share comments
- Laugh
- Share understandings
- Take care of yourself
- One person speaking at a time
- Look towards resolution

HANDOUT

Pandal Basin description and map packet (see Section 7.2)

3. 3Needs: Physical, Emotional, Intuitive, and Spiritual

As noted earlier, the four stages of negotiations correspond to four levels of need within each of us: physical needs, emotional needs, intellectual needs, and spiritual needs. Whether as individuals, groups, or nations, we react defensively or aggressively when our needs are threatened; anger and tension are shields protecting vulnerability. Many understand these needs through Abraham Maslow's (1954) hierarchy of needs, which categorizes and ranks basic human needs to their level of motivating behavior.

The most effective path to understanding the Four Worlds depends on how you learn best. If visual models help, take a look at the figure on the left. If you were to look down on the figure in a map view, each state would be within the other – each expands out from, and incorporates, the previous state. Yet from the side, they also rise – not because higher is better, but because higher is higher (in some traditions, each state is associated with different chakras, or centers of energy, each ascending from the one before. As we'll note later, each can be "felt" in a different part of the body in ascension).

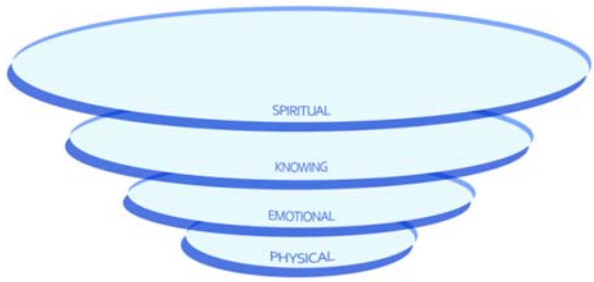


Figure 3. Four Worlds.

A key point to understand about the worlds is that they exist all the time, simultaneously. One intuitive example might be seen through a piece of bread, which exists most recognizably on a physical plane or, if one is hungry or the bread is particularly good, one perceives the bread emotionally. One can also intellectualize the bread and consider its components and interaction with our body to provide sustenance. Finally, one might say a blessing over the bread, removing its "profane" covering, and it now becomes a source of spiritual nourishment. While these four levels of perception can be thought of separately, and might occasionally be achieved in sequence, they should not be considered as distinct or linear. The bread, in this example, exists simultaneously in all four states – it is up to us to determine through which lenses it will be perceived. Nonetheless, understanding the four worlds in sequence is often useful, if not critical. Someone desperately hungry, for example, may have difficulty taking the time and effort to intellectualize anything when offered a piece of bread.

Another point is that one state is not "better" than any other; the object is *not* to get to the "higher" states; each state has its place and vital role. Even those who meditate deeply and regularly, experiencing near-transcendent clarity, need also to ensure the physical body is nourished.

FOR THE TRAINER

3.3 The Relationship between the 4 Needs (Physical, Emotional, Intuitive and Spiritual):

This section provides the trainer with an activity to help participants learn to identify how a contentious issue affects them physically, emotionally, intuitively, and spiritually. This activity is particularly useful for training participants to recognize how their own needs can get in the way of real listening and understanding of others.

LEARNING OBJECTIVES:

By the end of the session participants will:

1. have experienced each of the four needs within the individual self

2. have understood the relationship between these needs within and between individuals

MATERIALS:

None.

TIME: 30 minutes

PREPARATION:

If you learn best by experiencing, all the descriptions above will only have given a superficial taste of what these four states mean. This exercise is designed to offer a personal journey through the states, as a first pass at being able to work with them.

STEPS:

1. Ask participants to pair up, and for this exercise explain they should pair with someone they know or trusts. Inform the participants that this exercise will need for them to be able to talk about a topic passionately.

2. Provide them with the instruction. They should sit in a quiet location, close off distractions, and turn off their phones. Divide them into Speaker and Listener, although they will each have a turn at each role. Each Listener chooses a topic of current events – something that that they feel very strongly about (but NOT one that has even the slightest possibility of evoking personal trauma in their life). They should also choose a position on the issue that they identify with.

3. Now, ask the Speaker to argue as passionately as possible, taking the opposite position than the Listener did. The listener is not allowed to say a word for four full minutes. This is an important point o emphasize. The Listener should try to *really* listen, even though it will be hard. Even though the partner may not believe in the position they are taking, encourage them to argue it as forcefully and as clearly as possible.

4. Instruct the Listener that as they listen, try to also notice carefully what is going on inside them.

5. When the first round is done, ask them to switch roles. The new Listener chooses a new topic and position.

6. When the five minutes are up, take some time to just sit quietly.

7. Debrief: What is more than likely is that the first thing they notice as they listen to difficult ideas is physical discomfort. Their muscles may tense up, especially their legs; their breathing and pulse will quicken, and they might feel your pores open as they sweat slightly. Their jaw and fists might clench involuntarily.

Almost simultaneously, they will notice their feelings, probably strong and negative. They might feel anger, somewhere in the pit of their belly and chest. They will feel frustration, maybe in their shoulders and neck, at not being able to respond. They might, despite themselves, feel some admiration for their friend, for articulating so ardently concepts that they are pretty sure he or she does not believe.

Next might come something both surprising and interesting. If they are really listening – *really* listening – they might at some point actually feel a palpable shift in their perception. As they hear difficult ideas so clearly articulated, some part of them might relax the defenses of their physical and emotional shields enough to be intellectually curious about the other side, and the beginnings of a readiness to intuit connections between what you thought existed only as two mutually exclusive sides. They will "feel" this shift up around their head, but vaguely.

Most people's experience will stop somewhere in the first two or three levels. But if they are willing to lose themselves to the experience, and if they have practice focusing acutely – maybe they pray or run or fish or meditate – they might have a brief, ethereal sense of connection – not just with the ideas and your friend, but with the broader universe of all ideas and all friends. If they feel this at all, it might actually feel like it is happening outside of their physical body, perhaps just above and in front of them (although not quite).

8. End with some reflection questions to highlight some of the key lessons of this session:
- What happened as you were listening to someone speak against your views?
- What did you feel? Then what happened?
- What happened to the speaker? Was he/she able to continue talking for the full amount of time? If not, Speakers, why?

9. Key Learning Points

- Each of our four sets of needs – physical, emotional, intellectual, and spiritual – can be "felt" at different points in the body, generally moving upward.
- We can gently train ourselves not to respond immediately at the physical level, but can learn to set our responses aside and just listen – to be understood, seek first to understand.
- The physical discomfort that comes with hearing things we don't like passes relatively quickly, and when someone is truly listening to us, anger dissipates relatively quickly.

TRAINER'S NOTES

1. A trainer should be *very* careful with this exercise, making absolutely sure that the issue that people choose is not tied to a trauma in their lives – this is not the place to be dealing with such powerful energy. It should be something that resonates, but not something that traumatizes.

HANDOUT: None

Chapter 4

Stakeholders, Issues and Conditions for Negotiations for Transboundary Waters

4. 1 Analyzing Stakeholders and Issues

Understanding all aspects of the problems, processes and parties in transboundary water negotiations is crucial towards finding ways to collaborate and move into finding common ground around which collaboration can start. However, too often, the analysis is incompletely executed due to a number of reasons; for example time constraints, human resources constraints, geographical barriers and socio-political complexity. Usually the situation is more complex than one thinks, and quick solution and easy fixes will not address the core or root problems.

The more a transboundary water practitioner knows of the situation and of the elements that are in play, the more likely it is that they are able to work with relevant parties in order to facilitate negotiations and options for collaborative solutions. A properly conducted analysis lays the foundations on moving forward through negotiation and developing a future roadmap towards cooperation and collaboration.

Among other things, having better information and understanding of the conditions for negotiation will enable a water practitioner to:

- Identify the issues which require further collaboration and cooperation through negotiation;
- Clarify and prioritize the range of issues that need to be addressed;
- Identify the parties and stakeholders and the extent to which they should be engaged in the negotiation process;
- determine the stakeholders' motivations and incentives to find a collaborative solution through an understanding of their interests, needs and views;
- assess the nature of relationships among stakeholders, including their willingness and ability to negotiate with each other;
- evaluate the capacity of existing practitioners or institutions to assist stakeholders to find possible solutions together;
- identify the impacts of the situation on stakeholders, and their relationships;
- identify the root causes and contributing factors that caused the situation;
- determine appropriate responses and future entry points for cooperation and collaboration;
- identify additional information needs;
- increase understanding of the link between the broader social, political, economic context and resource use.

The analysis is not usually a linear process, and requires important communication, reporting and analytical skills. It also requires being able to handle and manage information confidentially, and being respectful of people's interests and relationships. Typically stages include a rapid assessment to identify whether negotiations stand a chance of being successful, and to identify next steps.

After there is an agreement on moving forward, and on the way to move forward, a water resources facilitator may need to ensure that he or she has the mandate of the parties and the convener. It requires regular feedback and reflection, and it is likely that even during the stage of the negotiations certain questions need to be revisited. Typically there are stages and information which are confidential, but as the actual negotiations draw nearer, common understanding is being created.

Collaboration involves dealing with different perceptions and the different meanings that people attribute to events, policies and institutions and the people working in these institutions. Hence, the analysis must be organized in a way that involves or includes all the stakeholders. Ideally, the analysis results in bringing together the main stakeholders in a joint multi-stakeholder event. In situations where tensions are high or direct communication among stakeholders is not possible, analysis can also be organized as separate meetings with individual stakeholder groups. However it is done, it is important that a conflict analysis is based on a wide range of views.

Another important observation is that through the analysis, capacities are being built to communicate positions and interests, and to better understand the situation and the options the situation brings. The parties will become more interested to participate in negotiations and options are being generated. The facilitator needs strong skills to interpret the information, communicate it back and identify solutions to take a situation forward.

There numerous tools can be used to do the stakeholder analysis to assess if these stakeholders are ready for negotiation. The analysis can take place at different stages (pre-negotiation and during the negotiation process where it may be facilitated by a third party, facilitator). The 2 tools discussed in this module are:

1. Situation Mapping

Daniels and Walker (2001) explain this as the process of graphically representing a situation to create a shared and systemic understanding of it. The graphic, or spatial, depiction of the situation allows a far more relational understanding than could be developed through other means. It is quite a flexible technique; perhaps the only “rules” are as follows:

(1) the lines signify an action that will convey the convey the dynamic relationships among stakeholders and this line is connected to elements(i.e. stakeholders, institutions , actors , parties etc.) in the system; and

(2) to start in the middle of the page.

There a few benefits of using this tool which are:

- It visually describes the situation— can illustrate withpictures and lines as well as words
- It helps identify relationships—among parties, places, impacts.
- It honors different learning styles, it is participatory and active.
- It helps to represent diverse views.
- It is useful as a starting point of addressing an issue and provide a basis for discussion.
- It helps structure and map out really complex situations so that it can be broken down into manageable sizes

2. Rapid Analysis Template

The rapid analysis template allows for a comprehensive collation of relevant information in a tabular form that allows for comparing and contrasting the different elements of the

contentious issues. This aids in making decisions on moving forward with different strategies to address a particular issue in a water basin or transboundary water situation. This would include setting a platform for negotiation. The information here is further used to assess whether the parties are ready for negotiation and whether the conditions for negotiations to take place exist.

FOR THE TRAINER

4.1a Situation Mapping of Stakeholders and Issues

This section introduces the trainer to a tool that can assist in mapping out the main stakeholders and issues in contentious water –related situation. It provides an activity will help participants develop their mapping and analyzing skills.

LEARNING OBJECTIVES:

By the end of the session participants will:

1. have described some of the reasons why it is important to analyze the conditions for negotiation;

2. have drawn a situational map to describe the different elements and complexity of a real case study

MATERIALS:

Flip charts, rapid analysis template, meta cards, colored markers, post-it notes, examples of situation maps

Video: "Upstream Downstream" produced by Asian Development Bank accessed at this link: (http://www. youtube. com/playlist?list=PLFFB081288A7EC0C3)

TIME: 1. 5 hours

PREPARATION:

Examples of situation maps for various issues

Video Case Study: "Upstream, Downstream"

STEPS:

1. Present the objectives of the session.

2. Ask participants to reflect on reasons for assessing / analyzing the situation in when facilitating transboundary water negotiations. Ask them to think specifically in reference to their own work experience and the situations they have faced.

3. After this ask them to share their ideas in the group, seeking clarifications and more information of the ideas if needed. Be sure to discuss some of the overlapping or different ideas that may be expressed.

4. Ask participants to list down their definitive ideas on a flip chart.

5. Have a short plenary discussion on some of the points raised by the groups. Introduce the session by explaining that there is a natural tendency to think about solutions immediately after becoming aware that a conflict exists.

Tensions and differences are hard to bear and most people want to get rid of them as quickly as possible. However, quick solutions are not likely to be sustainable because they often overlook important aspects of the problem. Thorough difference/conflict analysis is essential because the more difference/conflict management practitioners know and understand about the situation in which they are working; the less likely they are to make mistakes, and the more likely to assist stakeholders effectively. On the other hand, it is essential to differentiate between very important and less important issues – most difference/conflict analyses are constrained by limited time, resources, or expertise.

A conflict practitioner needs to understand enough about a conflict to:

a. decide what kind of conflict management procedure is the most appropriate to help parties to frame and communicate their interests and values their interests – informal or formal, with or without the assistance of a third party;
b. assess the possibility and viability of a negotiated settlement;
c. decide whether or not to pursue negotiations.

6. Next ask what questions participants believe warrants analysis, and how they can be analyzed. Reflect on the analysis process using the background information: reflect on how to manage information, communication, and on the iterative nature of the analysis. Reflect on the attitudes needed to guarantee a clear, inclusive and comprehensive analysis; and ask them about their challenges with analyzing situations.

7. Introduce the concept of situation mapping based on systems thinking. Provide examples of how it is used (See Handout).

8. Explain that the participants will be doing their own situation map based on a case study. Emphasize that as they watch the video they need to collect all the essential data on the situation. Suggest that they need to construct the map “from scratch” based on the knowledge of the situation. Suggest that they could start in the middle with a core element. Give them 30 minutes to do this.

9. Show the video case study: “Upstream, Downstream”.(See Trainer’s Notes)

10. When they are finished ask the groups to present their map.

11. End with some reflection questions to highlight some of the key lessons of this session:

- What does the map help you discover?
- What is the benefit of using such a tool?
- Can you use this in your own context? How would you use it?

TRAINER'S NOTES

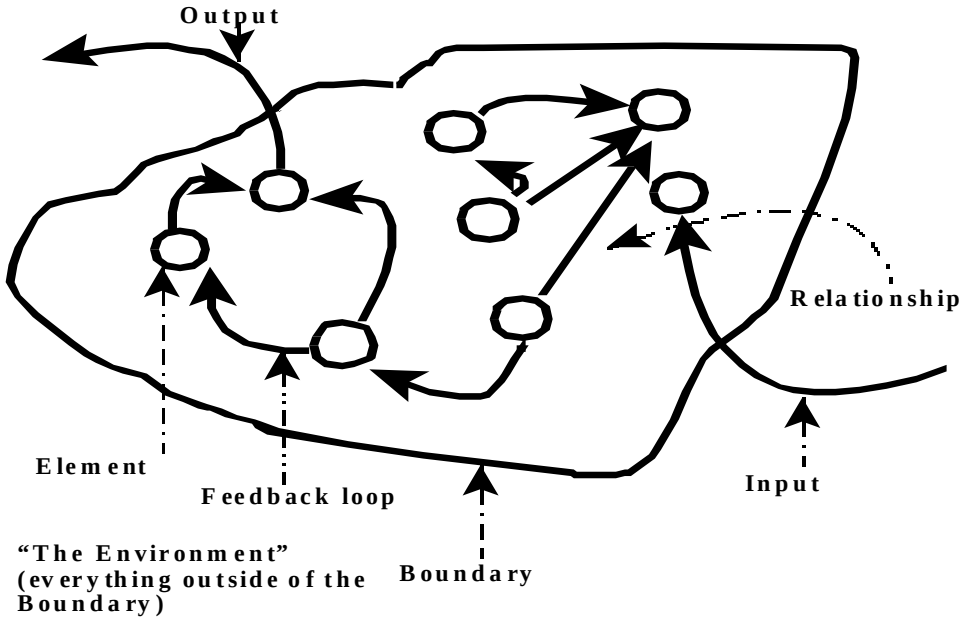
"Upstream Downstream" tells the story of how various stakeholders of the Thailand's Ping River resolved conflict over water use. It is part of ADB's Water Voices Documentary Series. The video can be shown in entirety (22 minutes) or in specific parts depending on the trainer's time allocation for this exercise or what the trainer wants to highlight. In the case of conducting a Rapid Conflict Analysis, it is suggested that the participants watch the whole clip The clip can be accessed in this link:

http://www. youtube. com/playlist?list=PLFFB081288A7EC0C3

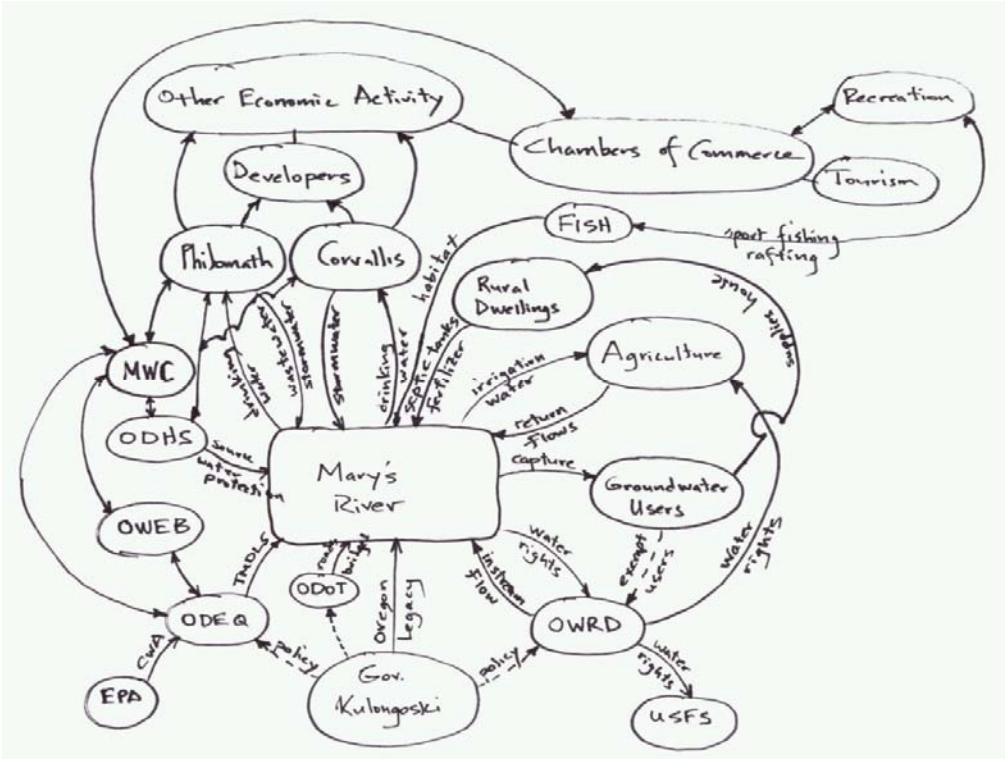
HANDOUT

Situation Map examples

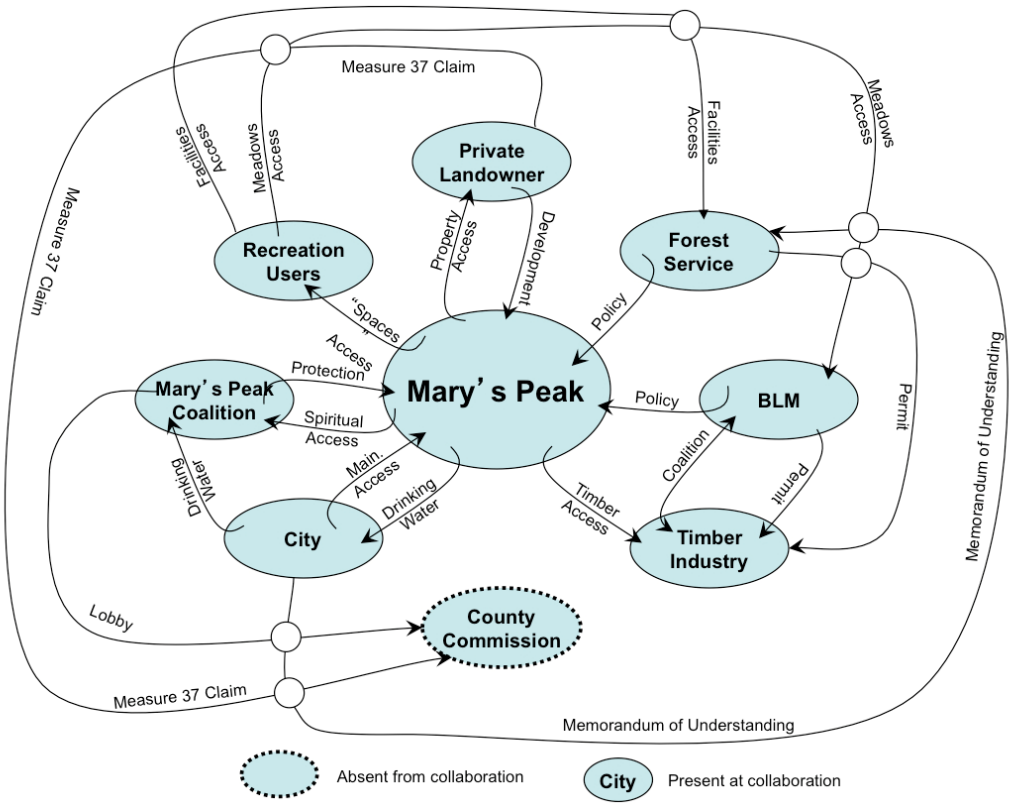
a. Generic Situation map showing different elements that make up the map



b. Situation Map of Mary's River, Oregon



c. A Situation Map used as a minutes of the meeting for a collaborative project Oregon



FOR THE TRAINER

4.1b Rapid Analysis of Stakeholders and Issues

This section introduces the trainer to a tool for assessing a transboundary water issue and identifying interests. It provides an activity for trainers to use to teach participants how to analyze a transboundary water situation.

LEARNING OBJECTIVES:

By the end of the session participants will:

2. have listed down key questions that relate to analyzing: Stakeholders, Issues, Positions, Interests, Power/Influence, and Willingness to Settle based on a case study

3. have an understanding on the build up and flow of the analysis process

MATERIALS:

Flip charts, rapid analysis template, meta cards, colored markers, post-it notes, examples of situation maps

Video: "Upstream Downstream" produced by Asian Development Bank accessed at this link: (http://www. youtube. com/playlist?list=PLFFB081288A7EC0C3)

TIME: 1. 5 hours

PREPARATION:

Handout for Template and Instructions for "Rapid Analysis of Stakeholders and Issues in a Water Basin Template"

Video Case Study: "Upstream, Downstream"

* Alternatively trainers can use the **Mekong Case studies (Annex 7.1) or** the **Pandal Basin Case Study (Annex 7.2)** and build up from the previous session

STEPS:

1. Start with a recap of the previous session. Draw some key points raised from the situation maps that were presented by participants.

2. Present the objectives of this session. Explain that we will extend the analysis further by

3. Introduce **the Rapid Analysis of Stakeholders and Issues In a Water Basin Template** and the steps in identifying the key elements of the analysis. (See Handout). Go through each step clearly, and ask if any clarification is needed.

4. Ask the participants to fill out the template individually. Recall them to the video they watched earlier and also their situation maps.

5. After this, ask participants to share in their group, and share the information they recorded in their groups. Ask them to fill out the template as a group on a flip chart. Allow for about half an hour to do this.

6. Once completed, bring the groups back together to look at each other's charts. Ask the groups to rotate to see each other's outputs and look for similarities and differences at each level and across the group. Each group is given an opportunity to ask 1 question, and also to provide a star card for one a point that they liked which they had not thought of. They are to write this on post-its/meta-cards. Follow this process until the rotating groups are back at their own flip chart. Allow 2 minutes for the groups to assess the points raised by other participants, and how they would answer the questions.

7. Facilitate the question- answer session amongst the group by going around to each of the flip chart, and giving the chance for the each group to respond to the questions.

8. End with some reflection questions to highlight some of the key lessons of this session:
   - How did they feel when they filled out the templates as a group?
   - Where there many similarities and differences in the filled out templates?
   - Did they find the template easy to use? Why?
   - Was it difficult to fill out the template as a group? What would be some of the challenges of doing such an assessment in their own context?
   - Did they find the process of viewing and critiquing the other groups helpful in terms of using the template and also of the components of the template?

9. Key learning points:

- There is a natural tendency to think about solutions immediately after becoming aware that a difficult transboundary water situation exists
- Doing a rapid assessment of the barriers to negotiation, may confirm and contribute to filling in the information gaps that hinder the negotiations.
- The analysis in a negotiation is a dynamic and iterative process, as issues, stakeholders, positions, interests can change with time, and this has implications to the management options that may have been decided earlier.
- Often a transboundary water difficult situation is complex, and so it is essential to differentiate between very important and less important issues.
- When doing a rapid analysis of the difficult transboundary water situation it is important to consider some of the challenges such as limited time, resources or socio-political influences

TRAINER'S NOTES

1. "Upstream Downstream" tells the story of how various stakeholders of the Thailand's Ping River resolved conflict over water use. It is part of ADB's Water Voices Documentary Series. The video can be shown in entirety (22 minutes) or in specific parts depending on the trainer's time allocation for this exercise or what the trainer wants to highlight. In the case of conducting a Rapid Conflict Analysis, it is suggested that the participants watch the whole clip The clip can be accessed in this link:
http://www. youtube. com/playlist?list=PLFFB081288A7EC0C3

HANDOUT

Rapid Analysis for Stakeholders and Issues in a Water Basin Worksheet (template and Instructions)

Look through the template below and the follow the steps fill it out.

Stakeholders	Issues	Order of Importance of Issues (Ranking)	Interests of the Stakeholders	Potential Outcomes	Power and Influence on the Issues	Willingness to Settle

Table 3. Template for Rapid Analysis for Stakeholders and Issues in a Water Basin

Instructions:

1. Indentify all the **stakeholders** in the case study.

2. Identify the **issues** in the case study. The issues are the areas of contention/conflicts or topics that the stakeholder who have been identified would like to explore and discuss to find a possible solution through a management approach. It is suggested that issues need to be phrased in ways that make people with different views willing to talk about them, for example, by stating general tasks, such as “clarify the relationship” or “clarify the authority”, or questions, such as “what needs to be done to address issue x?”. It is also important to be as inclusive as possible, by listing the issues of all, and not just of some, of the parties.

3. **Rank the issues** in terms of importance for the stakeholders. Explore which are issues that may be that may be to find a solution to, where agreement can be more rapidly achieved, and issues that are most important to the identified stakeholders.

4. Identify the **interests** of the stakeholders in this case study. Interests are the areas that the stakeholders identified want to have satisfied. Consider the history, what is important for the specific stakeholder and why it is important to them. By analyzing interests you can consider if there are any common interests amongst the stakeholders, i.e. interest that at least 2 parties want to be satisfied.

5. Discuss the **potential outcomes** of having interests of the stakeholders satisfied. In some cases, it is only possible for some interests, and not all interests are satisfied. Consider what these interests in the case study are.

6. Identify the **power** that each stakeholder would use in order to **influence the potential outcomes** based on their interests. In the case study, think about the stakeholders and assess if they have some power and means of influence. Consider the different power and influence levels that each stakeholder may have.

7. In this case study, assess each stakeholders’ willingness **to settle**. This means to consider what is the priority of the stakeholders in terms of finding a resolution to the issues. Ask the

question of why they may not want to find a resolution in this case.

4. 2Positions and Interests in Negotiation

In contentious water related situations, positions are what parties **say they want** in terms of the resource. Interests however are what these parties **really want, and what motivates their needs**. Positions tend to be inflexible, immediate and often deeply held, and results in intractable behavior and action. Interests conversely reflect the broader and longer term aspirations and hopes of the parties involved in any contentious water related situations. Moving forward towards negotiation and ultimately cooperation and collaboration, it is better to focus on reconciling the interests of contentious parties. This because for every interest there are several possible positions that can satisfy that interest and this provides more options for solutions. Most times, we tend to adopt the most obvious position and this may be difficult to be reconciled. If we were to analyze these positions of contentious parties, we will realize that there are often many shared and compatible interests amongst them.

(Also see Section 5.1 and 5.5 for more on Positions and Interests)

After having a better understand of positions and interests, we can now consider what would motivate parties in any contentious water issues would go beyond their positions and decides to move forward to negotiate their interests to find win-win solutions for each party. To do this we need to consider the barriers and enabling conditions to negotiation and how the barriers can be overcome and the enabling conditions be used to move forward.

FOR THE TRAINER

4.2a Moving from Positions to Interests: The Water Game

This section provides the trainer with additional material to present to participants about the stages of negotiation as parties move from positions to interests. It also provides an activity that demonstrates some of the real-world problems (e.g. negotiating parties not acting in good faith) associated with negotiations.

LEARNING OBJECTIVES:

By the end of the session participants will:

1. know the difference between positions and interests

2. learn tools to identify interests

3. understand the core motives behind decision making when negotiating

MATERIALS:

Flip chart, Water Message Game, post-it notes, pens

TIME: One hour

(15 minutes for structured dialogue; 30 minutes for game, 15 minutes for debriefing)

PREPARATION:

Water Game Instruction and Instruction sheet

STEPS:

1. Break the participants into two groups.

2. Prepare the group by providing this scenario:

The 2 groups share a water body such as a lake or an aquifer. Both groups desire to increase economic development through water – to win with the highest score. Messages will be sent between each group with the trainer serving as the "shuttle". Each group can only choose between three messages: a selfish message (draw as much water as you can); a neutral message, and a friendly one (we will draw some water, but we take into account your needs). Only if both groups send each other friendly messages will they both win. Any other combination of messages leads to one or both parties losing out, or at best gaining nothing.

2. Encourage each team to keep score on their game sheet. Tally up the scores at the end of the game and plot on graph paper or use a spreadsheet program with graphing capabilities.

3. Bring the groups together after the 7^{th} round of negotiation. Tally up the score and decide if any of the groups is a winner in this game.

4. In plenary, end with some reflection questions to highlight some of the key lessons of this session:

- Do you think "What and Why" are the only critical questions to ascertaining the differences between positions and interests?
- Does every party negotiate positions and interests in good faith?
- What could be some of be the reasons for the parties to negotiate?

5. Key Learning Points

- Don't be a victim. Negotiation takes preparation.
- Place yourself in the other party's shoes before sitting down and the table.

TRAINER'S NOTES

Do not exchange water messages until the other party provides their message to you as the shuttle.

HANDOUT

Water Game Instructions, Scoring Instructions and Scoresheet[7]

Two groups communicate with each other through messages written on paper, which are exchanged simultaneously through a neutral facilitator. In total messages are exchanged seven times. The game consists of seven rounds. There should be no other means of communication allowed among the two parties, except after round 3 and round 6. In these 2 rounds each group may decide to negotiate with the other party. They will nominate a negotiator who then will meet and discuss what they will each offer. This negotiation can only proceed if both groups agree and decide to negotiate.

Themessagesthatareexchangedconcerntheuseofasharedwaterbodysuchasariveroranaquifer.Eachmessageroundstartsafresh, and is independent of any message sent earlier.

In explaining the message game below, the two groups are called "Us" and "Them".
For each round of negotiation, we send a message: either XX or XY or YY.

Possible messages:

XX= We invest fully in water supply infrastructure (e.g. dams), as a result our water use may increase to the full; and therefore our economic growth will be high.

XY=We do not invest in water supply infrastructure (e.g. dams), as a result the increase of our water use is constrained, and therefore our economic development.

YY=We invest moderately in water supply infrastructure (e.g. dams), but we also invest in water demand management; our water use may increase moderately but securely; and therefore our economic development.

[7]From: Educating Water for Peace: the new water managers as first-line conflict preventers Pieter van der Zaag, Annette Bos, AndriesOdendaal and Hubert H.G. Savenije
Paper prepared for the UNESCO-Green Cross "From Potential Conflict to Cooperation Potential: Water for Peace" sessions; 3rd World Water Forum, 2003. Used by permission.

Our message (either XX or XY or YY) is combined with the message of the other party (them). These two messages form a combination. The combined result of our and their message is:

Message		S core		Explanation
Us	**Them**	**Us**	**Them**	
XX	XX	-20	-20	We both lost: we both invested heavily, our water demand increased, but there is not sufficient water**.**
XX	XY	+20	-20	We invested, got our water and achieved economic growth; they lost as we took all the water and they did not invest.
XX	YY	+40	-40	We invested and got even more water, because they also invested in demand management; they lost much because despite of their investments they had little water.
XY	XX	-20	+20	We lost as they took all the water and we did not invest; they invested, got their water and achieved economic growth.
XY	XY	0	0	We both gained nothing.
XY	YY	+20	-20	We won, because we did not invest yet we gained some extra water because they invested in water demand management; they lost: they invested while we took their water.
YY	XX	-40	+40	We lost much because despite our investments we had little water; they invested and got even more water, because we also invested in demand management.
YY	XY	-20	+20	We lost: we invested while they took our water; they won, because they did not invest yet they gained some extra water because we invested in water demand management
YY	YY	+20	+20	We both invested in supply schemes and demand management, we both achieved moderate but sustained economic growth; therefore we both won.

The Water Message Scoring Instruction

To determine points for each transaction, combine the two messages and refer to the table below.

Message		Score	
US	**THEM**	**US**	**THEM**
XX	XX	-20	-20
XX	XY	+20	-20
XX	YY	+40	-40
XY	XX	-20	+20
XY	XY	0	0
XY	YY	+20	-20
YY	XX	-40	+40
YY	XY	-20	+20
YY	YY	+20	+20

The Water Game Score Sheet

			OUR RESULTS		**THEIR RESULTS**	
Round	Our message	Their message	Our result this	Our cumulative score	Their result this round	Their cumulative score
No.1						
No.2						
No.3						
No.4			***×5***		***×5***	
No.5						
No.6						
No.7			***×10***		***×10***	

FOR THE TRAINER

4.2bStakeholders, Positions and Interests: A Transboundary Water Scenario

This section provides an activity that trainers can use to teach participants how to identify positions and interests in a transboundary water basin. The activity also demonstrates a technique for guiding the discussion from positions to interests.

LEARNING OBJECTIVES:

By the end of the session participants will:

1. have learned to identify positional negotiations vs. interest-based negotiation

2. have learned techniques for guiding negotiations from positions to needs and interests

MATERIALS:

This exercise uses the fictional **Pandal Basin Case Study** (Section 7.2)

Flip charts, copies of the Pandal country descriptions and basin maps for each participant, tabletop nameplates, post-it notes of different colors, pens/markers, a projector, a slide of the basin map without borders

TIME: 90 minutes

PREPARATION:

Participants should be divided amongst the five states described. In each group, one lead negotiator (representing the head of state) should be identified. The remaining participants in each team may select various ministerial roles, such as (but not limited to) ministers of water, agriculture, energy, and environment. In a large group, the facilitator may wish to ask some participants to serve as non-governmental organizations (NGOs), international financing institutions (IFIs) such as the World Bank, and/or representatives from the indigenous populations identified in the basin description.

All participants should be provided with a copy of the country descriptions, a basin map, and tabletop nameplates that identify their country and role in the negotiation. After each simulation exercise, the facilitator should lead a debrief (out-of-role) discussion among participants to discuss observations and take-away messages from each activity.

Several large format maps of the Pandal Basin map such as poster-sized copy versions (wall maps) should be distributed about the meeting room, but an overhead projection or PowerPoint will also work, as long as the projection is on a surface to which Post-its can be affixed. Plenty of Post-it notes in three colors and plenty of pens should be available

STEPS:

1. Divide the group into smaller groups, ideally six. Ideally, each of the groups would represent one of the following countries (Ordon, Gandor, Panam, Esund, and Dalik) and one group would represent regional/global third parties and the NGO community. Though each

group will do the exercise for only one country, the number of groups is restricted by the number of wall maps.

2. Suggest the following: “You (the participants) are each an expert group called together by the (fictional) Global Bank for Sustainable Development (or any other interested real or fictional third party), to help with the establishment of a cooperative framework for managing the Pandal Basin.”

“Your first task, as regional experts, is to help identify the parties (“stakeholders”) who should be invited to negotiate such a framework. Given your expertise, would you be kind enough to conduct the following exercise on Identifying Possible Parties, Decidable Issues, and Positions/Interests for the country to which you have been assigned (one group should think specifically about regional/global third parties and the NGO community.”

3. Set up the Small Group Tasks based on these steps:

a) Using the Yellow Post-its, identify Parties that may become involved in the discussion-negotiations over the Pandal Basin. These Parties or “stakeholders” may be individuals, organizations, or agencies in any of the five countries within the basin, or from anywhere else.

b) Post your results at the appropriate places on the walls. You should aim for at least 20 such parties or “stakeholders”.

c) Using the Blue Post-Its, identify “Decidable Issues” that are likely to be addressed within and/or among these parties now and in the near future.

d) Post your results at the appropriate places on the walls. You should aim for at least 10 such issues.

e) Choose at least three key Parties and Issues for each country, and identify at least five key Positions/ Interests for each Party as it considers those issues. Write those Position/Interests on the Green Post-Its and post them at the appropriate places on the walls.

f) It may help to fill out the following type of form for each country, expanded out for however many parties are identified. To get started, look for “key” words in the country descriptions

Example: Ordon

People	Relationship	Issues	Positions	Interests
Agriculture		Water for food	Water is for food and drinking water	Subsistence farming does not permit expensive water diversions
Suwa		Spiritual Use of River	Water and timber are important for identity	Profits need to be shared with all
Timber Industry		Transport Logs by river	Water needed to permit profitable logging	Profits

g) The trainer should circulate between the tables to make certain the participants understand what a “stakeholder” is, what a “positions” are, and what constitutes “interests”, and the important differences between “positions” and “interests”.

h) Each country should develop two priority projects.

i) Each country should elect a water minister to represent them during multi-lateral negotiations.

4. Allow approximately 90 minutes for the groups to complete the exercise.

5. Bring the group back to plenary and end with some reflection questions to highlight some of the key lessons of this session:
   - How did you feel about this exercise?
   - Which task was easy to do? Why? Which task was not? Why?
   - What changed when you started talking about interests rather than positions?
   - What was it like working with the borderless map? How did that affect your discussion after the borders were placed back on the map?

TRAINER’S NOTES

As the representatives of each country set out to negotiate, they will need to remember their mutual relationship with all of the parties, issues, and interests which make up their constituency.

HANDOUTS

Pandal Basin Case Study Pack

4. 3 Conditions for Negotiation and Collaborative Management Strategies

Negotiation is a bargaining relationship among the opposing parties. Negotiations are voluntary and require that all parties to be willing to consider the others' interests and needs. If negotiations are hard to start or have reached an impasse, the conflict parties may need assistance from a third party (FAO, 2005).

Negotiations are a voluntary process that considers the **needs and interests** of opposing/conflicting/disagreeing parties/stakeholders to discuss and reach a **mutually acceptable agreement** together.

In summary, negotiations focus on needs and interests, with the intention of finding a mutually acceptable agreement. It is a voluntary action, in which negotiating parties structure the content of their meetings, determine the outcome of their agreements and stipulate the methods for assuring the implementation of their final decisions.

Achieving collaboration can be one of the objectives for parties to agree to negotiations. During the process of negotiating parties should become clearer on their own needs and interests. A clear understanding on what they want and why they want this outcome will allow parties to identify the position they should take, guide their engagement in the process, and assist in finding ways to reach consensus.

Negotiation, contrary to arbitration and more coercive management approaches is highly dependent on mutual investment of the parties in the process. This investment includes goodwill to make the negotiation work through clear and constructive communication, and an openness to come to mutual understandings and an understanding of the other parties' interest. As the success of the negotiations is dependent on the negotiating parties, a stronger sense of ownership can be reached through negotiations than through alternative management options.

The four principles below provides the cornerstone for when parties are ready for negotiation that if successful can will ultimately lead to collaboration and cooperation among the parties based on interests and not positions. The four principles of negotiation include (FAO, 2005 adapted from Fisher and Ury, 1991):

- **Separating the people from the problem:** In every social conflict there is a factual level and a relational level. Constructive conflict management is only possible if the relational level is taken seriously and it is possible to express feelings, fears, desires, etc. However, this must not be confused with the handling of factual issues. It is easier to work successfully on factual issues when the people issues are treated separately from them. Ideally, people work side by side to attack the problems rather than each other.
- **Concentrating on interests and not on positions**: Participants in negotiations have different perceptions, viewpoints, emotions, likes and dislikes. Taking positions makes things worse because people tend to identify themselves with their positions. The object of negotiations is to satisfy needs and interests.
- **Developing options that benefit both sides:** Negotiation partners should take time to search for a wide range of options before trying to come to an agreement.
- **Insisting on using some objective criteria** for evaluating the options: The agreement should reflect fair standards that are shared by the parties.

(See section 5.5 for more on Four principles of Negotiation suggested by Fisher and Ury, 1991)

A crucial point to consider is assessing the parties' willingness to negotiate. Parties are willing to negotiate if they:

- Are **ready** to negotiate
- Are **Willing** to settle/compromise
- Are convinced that a **Solution** can be reached
- Are convinced that they their **Interests** will be considered in the negotiations

Applying the principles listed above, some very concrete suggestions can be given to move "past no" and "towards yes". These include:

- **Standards and criteria**: by defining new standards and criteria that all parties can agree on
- **The status quo**: by building on what is working already
- **Agreement in principle :** by accepting what can be agreed upon for now with an understanding that specific details will be worked out in time
- **Building block approach**: by breaking down the overall problem into smaller manageable and solvable problems/challenges that can ultimately help achieve a solutions that is agreeable to all parties
- **Links and trades**: by providing potential benefits from the resources through linking the private sector and the community (e.g. job opportunities, providing access to markets to increase livelihoods, providing capacity and skills to be able to access these markets etc.) **Procedural solutions for substantive problems**: by setting up processes that can help parties come to an agreed solution (e.g. is there is a problem of logging in the area and this causes the decline in water quality. Initial solution was not agreed upon. Deciding on processes can be set up for parties to reach a solution on the water quality) **Vision building**: by thinking about where the parties want to be in five years and thinking through the step backwards towards achieving this vision.
- **Existing agreements:** Using workable existing models of agreements reached as a basis for solving a current problem
    - **Single text document:** Agreements are developed by starting out with a draft that parties can continue refining until they reach **Assessing barriers and enabling conditions** for negotiations is one way to have a better grasp of these fundamentals of negotiation that has been discussed.

FOR THE TRAINER

4.3 Identifying Barriers, Enabling Conditions and Strategies to Move Forward

This section provides the trainer with an activity using Mekong case studies to teach participants how to identify barriers and how to create conditions for successful collaboration.

LEARNING OBJECTIVES:

By the end of the session participants will:

1. have identified possible barriers and enabling conditions to negotiation
2. have related the barriers and enabling conditions to their own context
3. have identified collaborative management strategies to move forward for negotiation for specific cases in the Mekong

MATERIALS:

Flip charts, meta-card, post-its, case studies

TIME: 1.5 hours

PREPARATION:

The trainer needs to be familiar with the specific case studies for this activity. It is important to make the connection with the elements of the Rapid Analysis of Stakeholders and Issues (see template and instructions) done in the previous session. The 3 Mekong case studies include:

1. **Conflict Resolution over Illegal Fishing Gear through Conflict Assessment, Creation of Funding and Livelihood Diversification**, ***Daklak Province, Central Highlands, Viet Nam***
Main issues: Fisheries stocks & management

2. **Restrictions on Freedom of Navigation,** *Mekong Basin*
Main issues: Navigation & legal frameworks

3. **Pak Moon Dam***, Ubon Ratchthani province, Thailand*
Main issues: Dam benefits vs. social and environmental impacts

* Alternatively trainers can use the **Ping River Video Case Study (Section 4.1)** or the **Pandal Basin Case Study (Section7.2)**

STEPS:

1. Present the objectives of the session. Ask participants to define the meaning of "Negotiation". Mention that agreements can be built using collaboration or compromise.

2. Explain that in order to find specific options for negotiation and collaboration, it is important to assess the situation and identify not only the key barriers but also the enabling conditions on which to build towards collaborative solutions to a contentious issue related to transboundary water.

3. Present key principles of negotiation as listed in the text, and illustrate with examples from the participants:

- Focus on the problem, not on the person
- Focus on the interest, not on the position
- Generate options and
- Identify objective criteria

4. Individually ask participants to share an example of a situation where they identified the situation to be "stuck": parties were not able to overcome **barriers/constraints**. What could we do about this? Applying the principles listed above, some very concrete suggestions can be given to move "past no" and "towards yes". (Also refer to the substantive text above for more information)

- **Standards and criteria**
- **The status quo**
- **Agreement in principle**
- **Building block approach**
- **Links and trades**
- **Procedural solutions for substantive problems**?
- **Vision building**
- **Using existing agreements as models for future solutions**

5. **Tell participants that they will now look at barriers and enabling factors** for 3 case studies of contentious transboundary water issues in the Mekong basin. Provide 3 Mekong case studies for the 3 groups. (Providing alternative case studies depending on the context of who the participants are and where the participants come from is also an option that the trainer can explore)

6. Explain the following terms and provide examples so that participants understand what is expected from them :

- **Barriers**: conditions that do not allow for negotiations to take place and do not allow for parties to move forward in collaboration (e.g. history, situation, policy, stakeholders, physical barrier etc.)
- **Enabling conditions:** conditions that allow for opportunities for negotiations to begin and to move forward in collaboration and cooperation (.g. history, situation, policy, stakeholders, physical barrier etc.)

7. Give the participants the task:

a. Identify the barriers and enabling conditions for negotiations for the Ping River case study

b. How did they overcome the barriers and used the enabling conditions to bring the parties to negotiation table and start finding ways for collaboration and cooperation to address the contentious water issues?

8. Ask the participants to fill out the template (See Handout) as a group. Inform them that they will be doing a group presentation to the other groups in the training, and so they will have to provide a 2 minute introduction to the case assigned to them (if the trainer is not using the Ping River video case study) so that the participants will have a reference and know the context of the cases. Give groups at least 30 minutes to discuss and prepare for this activity.

9. Facilitate the question- answer session amongst the groups by during the group presentation and give opportunity for each group to clarify any questions other groups may have.

10. End with some reflection questions to highlight some of the key lessons of this session:

- How did they identify the barriers and enabling conditions for negotiations for each case? What aspects did they look at?
- By understanding the barriers and enabling conditions for each of the case, was it easier to identify possible strategies to overcome the contentious issues? Why?
- Have they ever done such an assessment for their own examples of difficult/contentious issues they have encountered in their work?
- What are some of their own restrictions in identifying barriers and enabling conditions for their own examples of difficult/contentious issues?

11. Key learning points:

- Negotiation is a process that brings stakeholders to discuss and reach where they can agree together.
- All 3 cases (alternatively the Ping River Video Case study) demonstrate that there were a number of interests, needs, policies, and roles for different stakeholders.
- Parties are willing to come to the table for negotiation if they are
    - **Ready** to negotiate,
    - **Willing to settle**,
    - Convinced that a **solution can be reached**,
    - Convinced they can **gain more from the negotiation** than from alternative solutions.

TRAINER'S NOTES

1. These are some of the reasons that were generated by participants on why analyzing stakeholders and issues is important:

Why Analyze?

- Able to understand the real situation better
- To get more information
- To be able to find out key issues of conflict
- To solve existing short term probles that will help with the long-term problems
- To find an acceptable solution or resolution for parties
- To understand problem and why it happened
- To understand the situation and the needs of all to resolve the problem
- To deeply understand about the situation to prepare positions
- To know the situation and conditions) situational analysis)
- To be able to get more information and prpvide the information to parties to level the playing field.
- To acquire accurate evidence of conflict
- To understand the issues and the stakeholders
- To support/re-negotiate decisions made by decision makers , to find solutions or resolve contentious issues
- To adhere to regional agreements that may provide solutions
- To be able to use sound scientific data for effective decision making

2. It is important to reiterate the four principles of negotiation to the participants. One of the key points to note is that if we are looking for opportunities for collaboration, it is important to look beyond positions and concentrate on interests and values and particularly finding areas where there are mutual interests among the parties involved. The trainer should also inform the participants that following sessions in the training will cover the topic of positions, interests and values further and these will be discussed in-depth.

HANDOUT

Template for Barrier and Enabling Conditions for Negotiation

Barriers to Negotiation
e.g. Crucial information on water resources is not shared with stakeholders and those impacted
Enabling Conditions for Negotiation
e.g. Framework or Policy that provides equitable and balanced rights to the water resource for upstream and downstream users
Ways to Overcome Barriers and Used Enabling Conditions for Way forward
e.g. Setting up a committee to identify the equitable sharing mechanism for the water resource

Chapter5

Effective Negotiation Skills for Transboundary Waters

5. 1 Listening: The Heart of Difference Management

The most difficult leap in negotiations (or in most discussions), is to get past ***positions*** **(**what someone is saying) to understanding their ***interests*** (why they are saying it). fundamentally this is tied to people's values and values systems.***(Also see Section 4.2 and 5.4 for more on Positions and Interests and understanding values in how people decide on their positions and interests)***

Yet understanding interests is critical to effective dialogue. The single most effective way to accomplish this leap is to listen – truly listen – to the speaker. Listening at depth is not an easy skill, especially in many western cultures where power seems to be associated with how much is said (and sometimes with how loudly).

When people do actively attempt to listen, they practice what they have learned to be the best kind of listening: active listening. Active listening comes with a unique set of instructions:

Techniques of Active Listening (from Kaufman, 2002; p. 220)

Paying Attention

- Face the person who is talking.
- Notice the speaker's body language; does it match what he/she is saying?
- Listen in a place that is free of distractions, so that you can give undivided attention.
- Don't do anything else while you are listening.

Eliciting

- Make use of "encourages" such as "Can you say more about that?" or "Really?"
- Use a tone of voice that conveys interest.
- Ask open questions to elicit more information.
- Avoid overwhelming the speaker with too many questions.
- Give the speaker a chance to say what needs to be said.
- Avoid giving advice, or describing when something similar happened to you.

Reflecting

- Occasionally paraphrase the speaker's main ideas, if appropriate.
- Occasionally reflect the speaker's feelings, if appropriate.
- Check to make sure your understanding is accurate by saying "It sounds like what you mean is. . . Is that so?" or "Are you saying that you're feeling. . . "

However, when real emotion is present, classic problem-solving, active listening approaches to dialogue are generally not practical. Water, as we have seen, can be tied in to all levels of existence, from basic survival to spiritual transformation. Often, water negotiations are tied

inextricably to regional conflicts, including in some of the most contentious regions in the world, and negotiators carry the weight of those disputes with them into the dialogue setting.

When a participant is clearly distraught, and "objective" problem-solving seems not to be viable, it may be worth stepping back for a few moments, giving the participant the space and time to work through their issue. In such a setting, a listener should take over (often the mediator or facilitator), in a process of "transformative listening". Here, in contrast to "active listening", the listener is not trying to facilitate a healthy dialogue, but rather making him- or herself absolutely present for the speaker to get deeply into their issues.

Techniques of Transformational Listening (from Kaufman, 2002; p. 220)

Practice being a compassionate presence *only* for the speaker. Try not to show curiosity, advice, or judgment. Just be present.

- Offer space and silence. Allow the speaker to figure out the direction themselves.
- Don't ask questions; prompt with statements if necessary.
- Offer without insisting
- Check for completeness
- Most will listen once listened to
- Transformation dissipates anger, allows for empathy
- Helps understand interests behind positions (anger masks pain or vulnerability)

FOR THE TRAINER

5.1 Active and Transformative Listening

This section provides the trainer with an activity to help participants learn to listen actively and transformatively in a way that allows the participant to identify the needs and interests of the person speaking.

LEARNING OBJECTIVES:

By the end of the session participants will:

1. have learned two skill-sets for listening and facilitating healthy dialogue

2. have learned the difference between active and transformative listening and when each is appropriate

3. have practiced *active listening*, which is a set of ground rules for polite, constructive discourse

4. have practiced *transformative listening*, which allows for deeper work, useful especially when powerful emotion is present

MATERIALS: None

TIME: 60 minutes

PREPARATION:

STEPS:

1. Opening Notes:

Q: What is commonly considered the opposite of speaking?

A: Waiting to speak.

2. Part 1: When the group convenes, ask them for help in crafting a list of ground rules for negotiations. If typical, the group will come up with a set similar to:

- One speaker at a time, signaled by, e. g. upturned name-plates, a speakers list, etc. ;
- Every speaker gets to finish uninterrupted;
- No direct accusations; “generic” examples can be used instead;
- All should try to participate fully;
- Others?

3. The next step is to focus on active listening skills, including (more skills are listed in the handout):

- ***Repeat main points.*** Repeat the main points of the speaker (this lets the speaker know that they have really been heard, a powerful psychological message, as well as

helping to focus the dialogue);

- ***Ask.*** Ask (non-threatening) questions. Useful both to better understand the speaker, and also to reassure them that you are really listening;

- ***"I" not "you" statements.*** When speaking, speak in the first person – "I" not "you" – setting a tone which is more reflective and less confrontational;

- ***Future, not history.*** Speak in the future or present tense, not the past. This further reduces the possibility of accusations, and allows for greater cooperation to build for a common future. [In many settings, a period of venting of past grievances does need to be set aside – that, after all is a main reason why some negotiators initially participate. It should be done in as productive a way as possible, and then put aside for the duration.]

4. For practice, pairs can pick any topic at all (avoiding very sensitive or emotional ones). The speaker should be able to speak entirely without interruption, while the listener should do their best to truly listen to what's being said, practicing "active listening" in the process. In this case, the listener may interject *only* to enquire (ask for more information), summarize, paraphrase, or acknowledge, *not* advise or argue.

5. Part 2: Again, pairs should be divided between speaker and listener. Together, they should draw up a list of sensitive topics about which they feel strongly.

6. In this exercise, the designated speaker goes first, picking a topic which is important to them, and asking the listener to practice *transformational listening*. The speaker should speak until they feel they have gotten to the heart of the matter, maybe 5 or 10 minutes.

7. Have the participants switch roles, and repeat the exercise for 5-10 minutes

8. End with some reflection questions to highlight some of the key lessons of this session:
   - "What did you observe regarding the emotions and non-verbal communications of the speaker and the listener during the exercise?"

TRAINER'S NOTES

1. In advance of any formal or informal negotiations, it is worth talking in a group about ground rules. These should be suggested by the participants (although an instructor/facilitator can help with suggestions), adopted by consensus, and posted in a visible place as a "touch-stone" document. The group which is reconvening is about to enter into negotiations.

2. You will want to evaluate carefully whether or not to do Part 2 with your group. Since it can touch on raw emotions and/or political sensitivities, you will want to be confident with the group's attitude and with your own comfort level before you proceed.

3. In Part 2, typically, the listener will go from anger and dismissal, to intellectual curiosity, to some level of empathy for the other position. The speaker, in turn, will likewise typically move from absolute conviction to some recognition of the legitimacy of the opposite side, or even to a bit of empathy for the opposite position the longer he or she is allowed to speak (this is the "transformation" in transformative listening).

HANDOUT

Techniques of Active& Transformative Listening

Techniques of Active Listening

Paying Attention

- Face the person who is talking.
- Notice the speaker's body language; does it match what he/she is saying?
- Listen in a place that is free of distractions, so that you can give undivided attention.
- Don't do anything else while you are listening.

Eliciting

- Make use of "encourages" such as "Can you say more about that?" or "Really?"
- Use a tone of voice that conveys interest.
- Ask open questions to elicit more information.
- Avoid overwhelming the speaker with too many questions.
- Give the speaker a chance to say what needs to be said.
- Avoid giving advice, or describing when something similar happened to you.

Reflecting

- Occasionally paraphrase the speaker's main ideas, if appropriate.
- Occasionally reflect the speaker's feelings, if appropriate.
- Check to make sure your understanding is accurate by saying "It sounds like what you mean is. . . Is that so?" or "Are you saying that you're feeling. . . "

Techniques of Transformational Listening

Practice being a compassionate presence *only* for the speaker. Try not to show curiosity, advice, or judgment. Just be present.

- Offer space and silence. Allow the speaker to figure out the direction themselves.
- Don't ask questions; prompt with statements if necessary.
- Offer without insisting
- Check for completeness
- Most will listen once listened to
- Transformation dissipates anger, allows for empathy
- Helps understand interests behind positions (anger masks pain or vulnerability)

Source: Kaufman (2002), p. 220

Figure 5. Techniques of Active & Transformative Listening.

5. 2 Culture and Negotiation Style[8]

Shared basins are often defined by crossing political boundaries, but even more profoundly, they cross cultures – those of societies and ethnic groups, of religions and professions, of language and of class. The concept of a problem-solving workshop such as this has been described over time in western academic literature (and, possibly overly, much of the terminology and assumptions in this manual draw from this world), but the ideas have deep roots in cultural traditions throughout the world. A facilitator/mediator, however, needs to be acutely aware of, and sensitive to, how cross-cultural dynamics can impact the flow of communication and ideas, as well as their own inherent assumptions. [9]

The whole concept of analytic problem-solving, for example, is fraught with cultural assumptions. Abu-Nimer (1996) describes the premises of North American mediators from a Middle Eastern and Muslim perspective, and Lederach (1995) describes his experiences acting as a mediator in Central America:

"Why is it. . . that in the middle of listening to someone give their side of a problem, I have a natural inclination to make a list, to break their story down into parts such as issues and concerns? But when I ask them about issues, they seem to have a natural inclination to tell me yet another story. The difference... lies in the distinction between analytical and holistic thinking. Our North American conflict resolution approaches are driven by analysis; that is the breaking of things down into their component parts. Storytelling... keeps the parts together. It understands problems and events as a whole. "[10]

Avruch sums up: "Even while acknowledging that the capacity to reason is a human universal, we face the other fact that the representations of the worlds about which humans bring their reason to bear can differ profoundly from one another. (p. 94). . . To try to suppress this variance, even in the powerful setting of a conflict resolution problem-solving workshop, seems to be an invitation to failure" (p. 94).

He cites Cohen (in Faure and Rubin 1993) for a good model of culturally aware mediators, who are neither specialists nor globalists: "First, these individuals are aware of the gamut of cultural differences and do not naively assume that "underneath we are all pretty much the same." Second, they perceive the potency of religious and other cultural resonances. Third, [they] grasp that Western 'rationality' is based on culture-bound values and assumptions. Finally, they do not take for granted that an expedient (such as face-to-face negotiation) that works for one culture necessarily works for another" (p. 104).

Nevertheless, Zartman (in Faure and Rubin) suggests that "culture" is too often used as an excuse for failure, while Lowi and Rothman (in Faure and Rubin) use the water negotiations over the Jordan basin to show how cultural differences can actually be harnessed to induce more effective dialogue. Agrees Lederach (1995), "Culture is rooted in social knowledge and represents a vast resource, a rich seedbed for producing a multitude of approaches and models in dealing with conflict" (p. 120).

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[8] LeBaron, Michelle (2003) is a comprehensive introduction to culture and negotiations in general, and Faure & Rubin eds. (1993) focuses on culture and its role in water negotiations.

[9] The western, academic development of the problem-solving workshop, and culture's impact, can be found in Avruch 1998, pp. 84-100.

[10] Lederach, Preparing for Peace, p. 81.

Another common set of distinctions, characterized by Hall (1977)[11] is that between "high context" and "low context" cultures. In very general terms, lower context cultures would fall towards the left of the axes above (e. g. US, Western Europe), while higher context cultures would tend towards the right side (e. g. much of Asia and the Middle East).

[11] Hall, Edward T. *Beyond Culture.* New York: Doubleday, 1977.

FOR THE TRAINER

5.2. Your Personal Negotiation Style

This section provides the trainer with information and a facilitated activity to help participants better understand how culture affects negotiation and collaboration.

LEARNING OBJECTIVES:

By the end of the session participants will:

1. understand differences in terms of one's own personal style

2. understand the generalized style of one's culture, and/or the style of other cultures

MATERIALS:

Overhead "Characteristics of Cultural Differences" (Ov-I. 1)

TIME: 30 minutes

PREPARATION:

STEPS:

1. Opening Notes: There are many ways to characterize cultural differences. Brooks Peterson (2004),[12] for example, has pulled together a number of models to describe differences along five axes based on the relative importance of particular characteristics.

2. Display overhead OV-I. 1, which shows various spectra of orientations/dispositions in communication style, and in a large group discuss these characteristics in terms of one's own personal style, the generalized style of one's culture, and/or the style of other cultures within which participants may have worked or traveled.

- Are the participants (or the participants' individual cultures) more oriented to hierarchical (top-down) decision-making, or do they prefer when everyone has an equal say?
- Do the participants (or the participants' individual cultures) tend to say straightforwardly exactly what they are thinking, or would they rather hint at their thoughts and feelings through more passive or vague statements?
- Do the participants (or the participants' individual cultures) tend to focus more on individual or group actions and achievements?
- Are the participants (or the participants' individual cultures) more focused on completing the task in front of them, or are they primarily oriented towards the group relationship aspects of a project?
- Do the participants (or the participants' individual cultures) generally use caution, or do they tend to take risks?

[12] Peterson, Brooks. *Cultural Intelligence: A Guide to Working with People from Other Cultures*. Yarmouth, Maine: 2004.

For each of these questions, remind participants that each question represents a spectrum and not an either-or, black and white characteristic. Individuals may fall in the middle, or they may realize that they fall on different parts of the spectrum depending on context. For instance, a participant may be very focused on individual achievement over company success at her workplace, but more interested in team outcomes rather than her individual performance on her local softball league. Someone who takes risks in one aspect of his life, say in his investments, may not also wish to go bungee jumping or white water rafting.

Additionally, remind participants that, while a certain culture may tend to fall on one end of the spectrum, it does not mean that everyone in that culture falls on that end of the spectrum.

3. Other similarities or differences might be brought into the discussions, for example, how people view: eye contact; personal space & touch; time; gender issues; the distinction between one's secular and spiritual life; meeting & greeting (e. g. appropriateness of a handshake); gift-giving; the basis of the relationship (e. g. business versus personal); the importance of information in negotiations, and, general negotiation styles. Notice especially the potential for someone taking or giving offense where none is intended.

4. End with some reflection questions to highlight some of the key lessons of this session:

- Did you realize anything new about your communication style and your culture?
- How might multiple communication styles intensify conflict or thwart conflict resolution strategies?
- What are some strategies for overcoming communication differences?

5. An excellent exercise for an international group is to seat participants with others of their nationality, and ask them to discuss two questions: 1) How do you define your own culture, and, 2) What difference do you think your culture matters to your negotiation style. Have them discuss and present their findings to the group. Note that most people define other cultures broadly, while people define their own culture with great nuance, including geographic and ethnic differences within their own nation.

TRAINER'S NOTES

1. Be careful of overgeneralizations, and note especially how broad differences are between individuals within what is considered by outsiders to be one "culture. "

2. Note that when we think of the cultures of others, we are very broad, but when we think of our own culture, we are much more nuanced.

HANDOUT

Characteristics of Cultural Differences

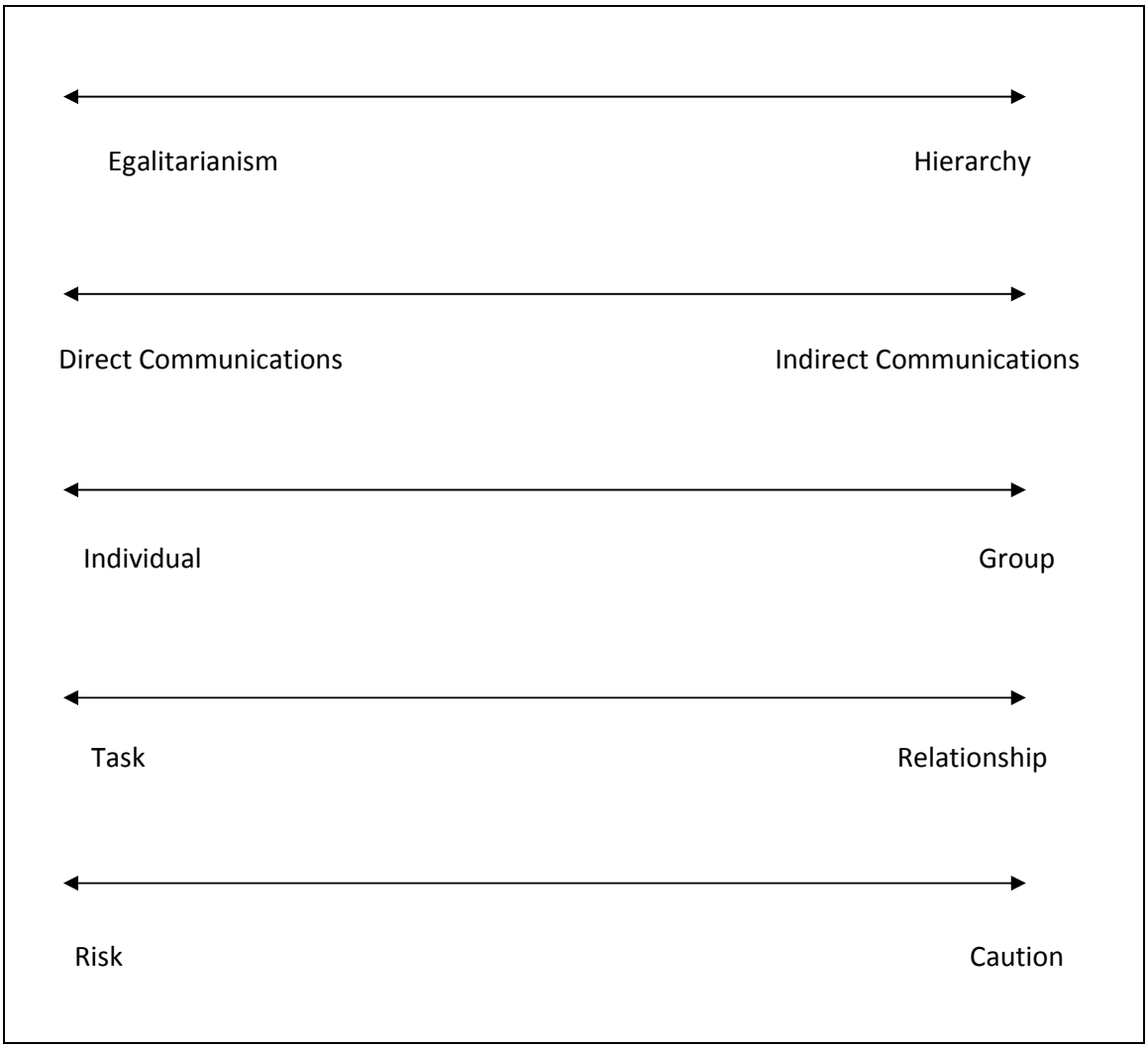

Figure 6: Characteristics of Cultural Differences (Overhead (Ov-I. 1)).

5. 3 Reframing

General Setting – Enhancing Benefits: Beyond the Basin, Beyond Water

Once participants have moved in the first two stages from mostly speaking to mostly listening, and from thinking about rights to needs, the problem-solving capabilities which are inherent to most groups can begin to foster creative, cooperative solutions. In this third, *integrative stage*, the needs expressed earlier begin to coalesce together to form group interests – the "why" underlying the desire for the resource. Conceptually, they start to think about how to enhance benefits throughout the region, primarily by adding resources other than water, geographic units other than the basin, and social and economic networks that connect with and contribute to the health of the basin. The collaborative learning emphasis is now on the *consensus-building* of the group, and it begins to think about a "benefit-shed" rather than being restricted by the basin boundaries.

There are different ways to pursue this integrative stage. The appropriate process will be situation-dependent and will have its own organic unfolding. Nevertheless, these processes take unusual facilitation and/or leadership, and this should be assessed as one considers undertaking an integrative process.

Through many of these processes, parties have had an experience of transformation from what they may have known. If parties are still tending to think of the integrative process as being about the river, management, and negotiation; if they are thinking about themselves or their interest as separate from other parties/interests; and how they think about cooperating and distributing benefits among parts -- rather than thinking as a whole system, consider the following integrative process.

It is framed around creating a shared cooperative agenda. The extent to which this can occur will be determined by each party's perception of the benefits it can secure from cooperation. Convergence towards a cooperative agenda will be facilitated by several important and practical steps. First, the perception of the range and extent of potential benefits needs to be expanded to the extent possible, from the obvious to the less apparent. Second, the distribution of benefits, and benefit-sharing opportunities to redistribute the costs and benefits of cooperation, need to be explored to enable the definition of a cooperative agenda that will be perceived as fair by all parties. Third, alternative modes of cooperation need to be recognized and appropriate types of cooperation identified to secure the greatest net benefits. Each of these steps is examined below.

A first step in motivating cooperation is to recognize the widest possible range of potential benefits that cooperation could bring. There will be no cooperation if benefits are perceived to be insufficient relative to the costs of cooperation. Benefits are broadly defined here to extend beyond any direct relationship to the river to the "problemshed" and to include economic, social, environmental and political gains.

A useful framework for broadening the range of recognized benefits of cooperation proposes the identification of four types of cooperative benefits. [13]The first type of benefit derives from cooperation that enables better management of ecosystems, providing *benefits to the problemshed*, and underpinning all other benefits that can be derived. The

[13]See Claudia W. Sadoff and David Grey. 2002. Beyond the river: The benefits of cooperation on international rivers. *Water Policy* 4 (5):389-403.

second type of benefit derives from the efficient, cooperative management, development, and protection strategies, yielding *benefits from the problemshed*. The third type of benefit derives from the lessening of tensions because of cooperation and shifting the focus from the river itself to a *problemshed*, resulting in the reduction of costs *because of the problemshed*. Finally, there are benefits derived from greater cooperation *beyond the problemshed*.[14]

Beyond Negotiation: Relating as a System

For many "intractable" water problems, these processes will need to be taken up a notch. There are several examples around the world of problems that have come to a standstill because of limits to our laws, institutions, and capacity to tackle these. Also the way we frame the problem and solutions need to change.

These situations call for a certain quality of leadership, ripeness of the issues, and sincerity and fluency in the process.

Generative Dialogue and Relationships

Generative dialogue allows us to challenge taken-for-granted assumptions that are broadly held; reorder people's existing knowledge – allowing people to see what they already know in a new light; and to reframe the problem. It "requires that we take responsibility for thinking, not merely reacting, lifting use into a more conscious state."[15]This type of dialogue creates entirely new possibilities and creates new levels of interaction.

At this level it is not uncommon for participant to conclude that we do not know as much as we would like to about the natural system and probably can't know as much as we would like to know. Humbly, participants concede that the system is chaotic; that instead of thinking about *managing* natural systems, we should shift our thinking to how we govern our own behavior in relation to the resource. Dialogue then reflects on dynamic interconnections that extend beyond hydrologic units alone and moves to thinking comprehensively about economic, ecologic, and social needs, interests, and benefits as a whole. Ultimately, participants will engage with each other in an entirely new way exploring the dynamic natural and social systems within which relationships are embedded.

Framing

In the middle of complex conflicts and crisis, participants often recognize that the framing of the problem won't lead to a solution. Even with this awareness, many leaders will stay with familiar framing because taking on more and engaging a suite of highly complex, dynamic challenges may be daunting and politically risky.

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[14] For a quick, fun way to think about reframing, see the video at: http://www.youtube.com/watch?v=k-STkFCCrus Using this video, you can elicit some ideas and encourage some discussion on how by reframing that one can think outside the box to find a solution going beyond the historical prejudices, perceptions and views to find solutions to intractable problems. Another video that can be used is : http://www.youtube.com/watch?v=Wgi0t2ap-us This video can be used to generate discussion on how reframing words can affect people at an emotional level and this can be a powerful tool for changing pre-concieve notions , and moving parties towards seeing beyond entrenched and jaded views.

[15] Ibid, p. 45-46.

Leaders who are motivated by policy rather than politics, and function rather than form, will look at these crises and systemic pattern of conflicts, and examine their framing of the problem. In order to hold the full dynamic that is usually at play, they will look at the source of the problem and probe how well and holistically it is understood and in light of present-day circumstances. They will then reframe the problem to capture the kernel of what is needed for the present as well as the future.

Reframing is not an easy skill because of the number of embedded assumptions we collectively carry. However, the most promising opportunities for reframing come from:

- Seeing clearly what is the root of a problem and what are the symptoms. Reframe the problem around the root of the problem.

- Recognizing that health, quality, and restoration of systems (e. g. economic, ecologic, and community/social) -- not just quantity. This opens up a surprising number of opportunities, particularly when one becomes aware of and challenges ones assumptions about these.

- Exploring these dimensions simultaneously. Treat everything as whole and interconnected. Solutions framed this way tend to be apolitical, and don't send participants into polarized camps. This comes from holding out a vision that all parties can see themselves as a part of.

- Orienting attention to short-term responses as well as mid- to long-term strategies for change. Words that encompass such a time horizon may be expressed in the words like "sustainable."

5. 4 Facilitation

The field of conflict management and alternative dispute resolution (ADR) has brought new insights to negotiation and bargaining, adding much to the theory and practice of assisted negotiations, facilitation, and mediation. It has added practical tools to diagnose the causes of conflict and relate diagnosis to ADR techniques (see Delli Priscoli and Moore, 1988; Moore, 2003; Shamir, 2003) The ADR field has codified a new language of interest-based bargaining. Many of these insights have arisen from environmental and natural resources cases.

We can look at cooperation and conflict on a continuum from avoidance to escalation (see Figure 7). Appropriate facilitated interventions will vary depending on the current status of the situation. For instance, in a conflict that has already manifested and escalated, the facilitator will explore paths to resolution, including a range of informal to formal options (e. g. mediation, arbitration, etc.). If a conflict is present but not highly escalated, the facilitator will focus on conflict management by fostering cooperative problem solving and co-management. Ideally, intervention will occur proactively, before a conflict manifests, so as to prevent future conflicts and to achieve preferred outcomes. In the case of early-intervention, public participation, collaborative learning, shared data/monitoring, and collaborative management decisions can all serve to build cooperation, and thus, resilience to avoid future conflicts.

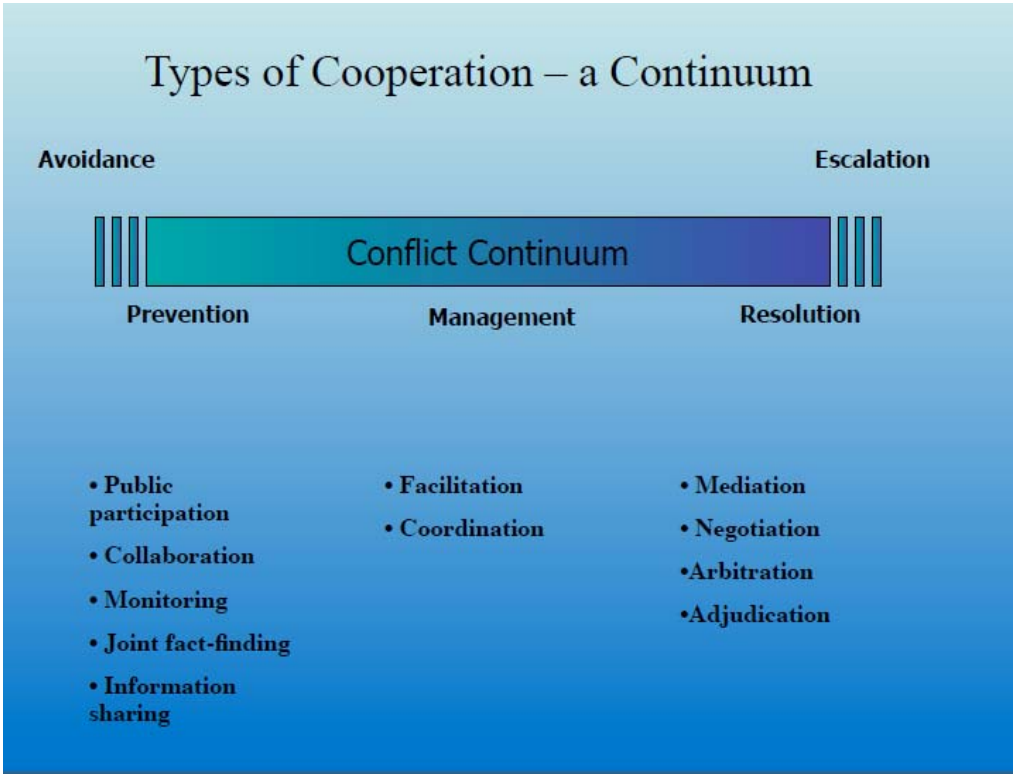


Figure 7. Cooperation Continuum.

Much of the ADR literature is divided between works written by mediators or negotiators themselves about their own work, case studies by outside observers, and a growing body of theoretical work (see, for example, Fisher and Ury, 1981, Fisher and Ury, 1991; Kaufmann, 2002; Lewicki et al., 1994; Mnookin et al., 2000; and Susskind and Cruikshank, 1987, as representative works that combine the three approaches). One distinction important in ADR

is that between distributive (also known as zero-sum or win-lose) bargaining—negotiating over one set amount, where one party's gain is the other's loss—and integrative (positive-sum or win-win) bargaining, where the solution is to everyone's gain. Reaching a collaborative arrangement is the goal of integrative bargaining. It depends on identifying values and interests that underlie positions; using these interests as building blocks for durable agreements; diagnosing the causes of conflict and designing processes appropriate to these causes; and focusing on procedural and psychological, as well as substantive satisfaction of parties. Interest-based bargaining or negotiations is the preferred way to accomplish this.

In traditional positional, or distributive, bargaining, parties open with high positions while keeping a low position in mind and they negotiate to some space in between. Sometimes this is all that can be done. In contrast, interest-based, or integrative bargaining involves parties in a collaborative effort to jointly meet each other's needs and satisfy mutual interests. Rather than moving from positions to counter positions toward a compromise settlement, negotiators pursuing an interest-based bargaining approach attempt to identify the interests or needs of other parties *prior* to developing specific solutions. Often, outside help is needed to facilitate dialogue, rather than to dictate solutions. It essentially is a process of social learning. Parties actually educate each other in their interests, and thus become reeducated in their own interests in the process.

After the interests are identified, the negotiators jointly search for a variety of settlement options that might satisfy all interests, rather than argue for any single position. This encourages creativity from the parties, especially in technical water management negotiations. Engineers may use their technical knowledge to liberate creativity rather than simply applying it to defending solutions. The process can actually generate solutions that no one person may have thought of before negotiations. The parties select a solution from these jointly generated options. This approach to negotiation is frequently called integrative bargaining because of its emphasis on cooperation, meeting mutual needs, expanding the bargaining options so that a wiser decision, with more benefits to all, can be achieved.

Susskind and Cruikshank (1987) divide negotiations into three phases—pre-negotiation, negotiation, and implementation—and offer concrete suggestions, such as “joint fact-finding” and “inventing options for mutual gain” in order to build consensus in an unassisted process. In assisted negotiations (facilitation, mediation, and arbitration), they observe that whether the outcome is distributive or integrative depends primarily on the personal style of the negotiator. They also offer the interesting note that, "negotiation researchers have established that cooperative negotiators are not necessarily more successful than competitive negotiators in reaching satisfactory agreement."

Lewicki and Litterer (1985) identify five styles of conflict management in a 'dual-concern model' along a ratio of the degree of concern for one's own outcome, compared with the degree of concern of the other's outcome. The five styles possible are avoidance, compromise, and collaboration, as equal concern for both parties; and competition and accommodation as completely selfish and selfless, respectively. In their classic, *Getting to Yes*, Fisher and Ury (1981) offer guidelines to reach this ideal, positive-sum solution. In language that is now common to much of the ADR literature, including Lewicki and Litterer (1985), whose terminology for similar concepts is presented in parentheses), Fisher and Ury suggest the following principles:

1. Separate the people from the problem (identify the problem).

2. Focus on interests, not positions (generate alternative solutions).

3. Invent options for mutual gain (generate viable solutions).

4. Insist on objective criteria (evaluate and select alternatives).

(Also see section 4.3 for more on the Four Principles of Negotiation proposed by Fisher and Ury, 1991)

While a collaborative arrangement is frequently seen as superior to any other, Lewicki and Litter (1985) offer a series of common pitfalls that preclude such an agreement. These factors that make integrative bargaining difficult include the failure to perceive a situation as having integrative potential, the history of the relationship between the parties, and polarized thinking. Ury (1991) offers specific advice to getting past historically difficult and value-based conflicts—"getting past NO. " And Donahue and Johnston (1998), Faure and Rubin (1993), and Blatter and Ingraham (2001) describe cultural differences in approaches to water disputes.

Amy (1987) provides an altogether different approach to ADR, one of harsh criticism. He suggests that, since most studies of mediation are carried out by mediators, there is relatively little criticism of the fundamental claims made by the field. He begins by reviewing the advantages claimed by mediation over legislature, bureaucracy, and the courts to resolve environmental conflicts. He concludes that mediation only tends to be justified when: (1) there is a relative balance of power between the disputants, and (2) an impasse has been reached in the conflict such that neither side can move unilaterally in what they perceive as their best interest.

Restricting himself to intra-national disputes, he also contests the common assertions that environmental mediation is cheaper, faster, and more satisfying than other approaches, particularly litigation. Amy (1987) approaches his critique from the perspective of power politics, and his most important observations are of power distributions throughout the process of mediation, and of some resulting drawbacks. He argues that the same power relationships existing in the real world are brought into the negotiating process. In the classic environmental dispute of developer versus conservationist, for example, the former will usually have the power advantage. As such, the developer will only enter into negotiations if he or she somehow has that power blocked through, for example, a restraining order. The mediator, then, usually approaches a conflict looking for a compromise. The assumption is that the compromise will be found between the two initial positions. The problem may be rooted in fundamental differences in values or principles, though—for example, whether development should even take place—which may represent alternatives that are not even on the table.

Further, if one party believes strongly one way or the other, any compromise may seem like capitulation. In other words, positions or interests can be compromised, but not principles. A mediator is usually not entrusted with finding the right solution, only the best compromise—and a mediator who becomes an advocate, either against disproportionate power or in favor of any specific world-view, will not likely find ready employment.

Facilitation techniques are designed to help people listen to one another. UNICEF and often others use the term "animators," or people who help people explore their situation and build critical awareness of problems and possibilities (Racelis, 1992). By fostering conditions and processes where people learn from each other, facilitation can result in creation of new integrative options. Participation can isolate extremes and create incentives for building new grounds for agreement. Extreme positions will always be present on all sides of water issues, for important ethical and moral reasons. But extreme positions should not be allowed the claim of broadly based constituent support without transparent accountability. Participation can build that transparency. Frequently, the lack of meaningful participation often encourages the very situation most seek to avoid—extreme posturing, little dialogue, and no transparent accountability to constituencies. The level of participation could be viewed as a simple scale: knowledge about a decision to being heard before the decision to having an influence on the decision to agreeing to the decision. A wealth of practical and theoretical material exists on how to achieve participation at each of these levels (Delli Priscoli, 1983).

Multi-party facilitation and environmental mediation have substantially been products of public participation experience. In the end, participation builds on open access to information and empowerment of people (see Table 5). Participation in water resources seeks to build a sense of shared ownership in alternatives, thus increasing the probability that they will be implemented. Therefore, it must be part of the early design of policy and projects. Kirmani (1990) describes what can happen on the international level when participation and the sense of ownership among riparians are not present, even with external resources. He states that the Mekong Commission is a classic example of external effort, management, and planning, with little involvement of beneficiaries. After much engineering study and technical and financial assistance, dreams and hopes have not been realized.

A number of historic negotiations are available to see how negotiations have often moved from positions to interests to values. The table below shows: 1. Historic negotiations over allocations between Israelis and Palestinians during Oslo Negotiations in the late 1990's; and 2. Two sets of agreements in the Caucuses between Azerbaijan and Georgia, and between Armenia and Georgia to model water quality problems on the Kura-Araks.

(Also see Section 4.2 and 5.1 for more on Positions and Interests in Negotiations)

Basin:	**The Jordan River Basin**	**Kura-Araks**
Issue:	Water Allocations	Shared Data
Positions:	Israel – water allocations, Palestinians – water rights	All need basin model, Azerbaijan & Armenia will not collaborate
Interests:	Israel wants to problem-solve, Palestine wants history recognized	Two countries have territorial dispute; both have relations with Georgia
Values:	Respect, sovereignty	Sovereignty, healthy environment
Solution:	"Rightful Allocations"	Crafted policy of "parallel unilateralism" to map and manage quality hotspots through 3rd party

Table Q. Comparison of the Jordan and Kura-Araks basins.

Chapter6

Effective Negotiation for Transboundary Waters

6. 1 Best Practice for Water-Related Negotiations in the Region

In general, a pattern has emerged relating to development and international waters as follows: riparians of an international basin implement water development projects unilaterally first on water within their territory, in attempts to avoid the political intricacies of the shared resource. At some point, as impacts and change within the basin start to drift across the border, one of the riparians, generally the regional power, will implement a project which impacts at least one of its neighbors. This might be to continue to meet existing uses in the face of decreasing relative water availability, as for example Egypt's early plans for a high dam on the Nile, or Indian diversions of the Ganges to protect the port of Calcutta, or to meet new needs reflecting new agricultural policy, such as Turkey's GAP project on the Euphrates.

This project which impacts one's neighbors can, in the absence of relations or institutions conducive to conflict resolution, become a flashpoint, heightening tensions and regional instability.

Getting Ahead of the Curve: Preventive Diplomacy and Institutional Capacity Building

Despite their complexity, water disputes do get resolved, and the resulting institutions can be very resilient, even among bitter enemies who are fighting over other issues. The resultant treaties and management bodies have often survived subsequent hostilities. The challenge for riparians and the international community is to get ahead of the “crisis curve,” to facilitate institutional capacity and cooperation in advance of costly, time-consuming crises which, in turn, exacerbate poverty, threaten lives, regional stability and ecosystems. One successful approach has been to help riparians shift focus away from allocating fixed quantities of water, to the overall gains of allocating the benefits of cooperative water resources management.

Benefits, Costs, and Risks of Hydropower

The benefits of cooperation may seem intuitive in an international basin and, if one assesses the potential benefits of cooperative development across international boundaries purely from a quantitative economic perspective, greater scale generally leads to larger potential benefits. For example, infrastructure managed collaboratively or in a coordinated manner can benefit downstream agriculture and ecosystem management. Linking broad-scale assessments of power, agriculture, and transportation networks allow each to be optimized to the benefit of the other. As discussed earlier, Sadoff and Grey (2003) suggested four categories of benefits of international water cooperation: benefits to the river, from the river, because of the river and, importantly, beyond the river. This last point is especially important for the question of scale, as the “baskets of benefits” can be enhanced and grown as sectors beyond but related to water are added to the mix.

So, if greater cooperation enhances benefits and makes so much sense, it begs the question, why is there not more of it? Feitelson and Haddad (1998) pointed out that, while greater integration of scope and authority may bring greater efficiency, but it also brings greater potential for disagreements, greater infringement on sovereignty, and greater transaction costs. Furthermore, Zeitoun and Mirumachi (2008) suggest that focusing on cooperation can encourage, cement, and reinforce power imbalances and injustice between riparians, which may lead less powerful riparian states to a dilemma between an imbalanced cooperative agreement with some accompanying benefits or no agreement, no accompanying benefits,

but the flexibility to pursue more-just power dynamics. Zeitoun and Mirumachi (2008) also explain that transboundary cooperation overlooks the needs and values of those groups and stakeholders (e. g. states, ethnic minorities, etc.) that not represented in decision-making.

One hundred and sixty-six (166) of the world's 276 international basins have no treaty provisions coverage whatsoever (TFDD, 2011). Moreover, only one-third of multilateral basins are entirely covered by treaty provisions, and most of those are bilateral (TFDD, 2011) rather than multilateral- precluding the integrated basin management advocated by water policy experts.

It is clear from this global experience, and also for the Mekong countries, that the economic benefits of potential cooperation to be gained by countries as a whole are evaluated by decision-makers against the very real political risks of entering into cooperative agreements. This understanding recognizes that countries are not monolithic entities that make foreign policy decisions based solely on economic rationality, but rather are composed of a very diverse population of individuals who reflect a cornucopia of needs and values. Moreover, policy makers make these decisions at very specific points in time based on a host of external and internal considerations, most of which have nothing at all to do with the issue at hand.

To weigh the economic costs and benefits against the policy risks and opportunities of potential cooperation, Subramanian et al. (2012) developed a framework, in which the former sets of considerations (economic) are represented along the X-axis and the latter (policy) along the Y-axis (Figure 8).

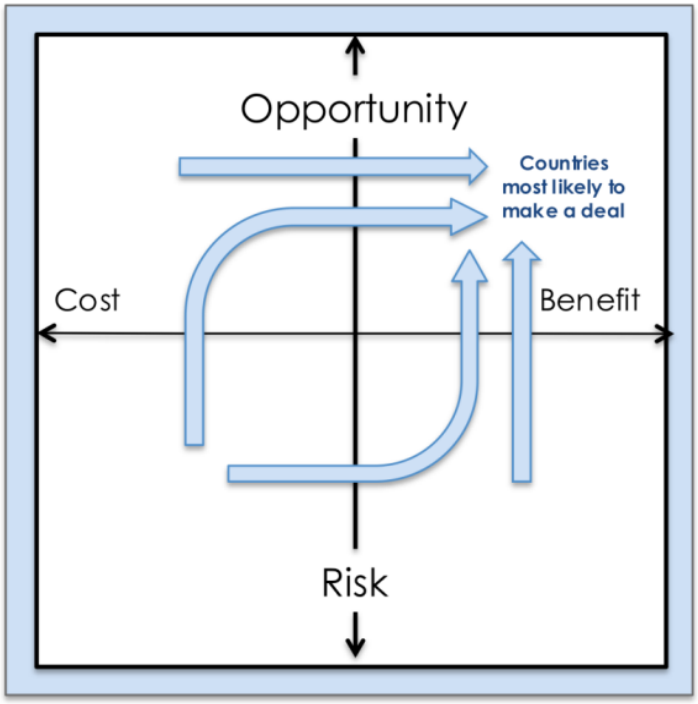


Figure 8. Framework for examining Costs and Benefits, Risks and Opportunities to Cooperation.

Subramanian et al. (2012) describe the presence and importance of perceived economic benefits and costs, as well as five categories of risks, that influence cooperation over shared water. The higher the benefits and opportunities relative to costs and risks, the greater the likelihood of sustained cooperation. Figure 8 illustrates how perceptions of risks and opportunities (y-axis) might influence country decisions over cooperation, and how risk reduction and opportunity enhancement (black arrows) might change those perceptions over time. The top-right quadrant depicts the balance of costs/benefits and risks/ opportunities most conducive to cooperation. The study posits that when risks are perceived as too high, appropriate risk reduction or opportunity enhancing actions may move countries to a point where they decide to cooperate. Action by countries or third parties moves countries upward on the (y) axis of the analytical framework. Risk reduction factors into cooperation decisions over water in that country or third party actions reduce the level of perceived risk, which increases the attractiveness of the cooperative offer at hand.

What is a "Good" Outcome?

The 1992 United Nations Conference on Environment and Development identified three components of sustainability: environmental, social, and economic (UNCED 1993). Despite recognition that dam impacts are felt across these three areas, few studies have comprehensively evaluated the distribution of costs and benefits across these three areas (Whitelaw and MacMullan 2002). We understand the economic facet, through a benefit-cost analysis; the social impacts, through social impact analysis, and the environmental, through environmental impact analysis. But there is no single gage to evaluate them collectively, such that a dam may well do little environmental damage, but have huge social and economic impacts. More commonly, dams are shown to benefit the economy, while causing harm socially and environmentally.

To assess dams fully, either individually or to prioritize against each other, it is necessary to assess all three components and consider them collectively.

Today, parts of the Mekong basin are in flux, while three separate facets of the nexus – agriculture, power, and environmental needs – are all increasing dramatically, pushing large scale development. Eventually, a collaborative agreement that manages all three facets for joint efficiency may be possible. The question is: how do we get there?

In essence, countries in a basin can develop unilaterally, with each country pursuing its own needs; in a coordinated fashion, with each country agreeing what will cross each border in terms of quantity, quality, and timing; or in a collaborative fashion, with projects being assessed for overall efficiency and where power, agriculture and the environment are considered collectively. As Feitelson (1998) and Sadoff and Grey (2003) have noted, as one moves through those options, efficiencies increase, but so do transaction costs, political risk, and threats to sovereignty.

6. 2 Water: Rights, Needs, Benefits, Equity

As described above, many of the negotiations surveyed begin with parties basing their initial positions in terms of rights -- the sense that a riparian is entitled to a certain allocation based on hydrography or chronology of use. Up-stream riparians often invoke some variation of Absolute Sovereignty, claiming that water rights originate where the water falls. India claimed absolute sovereignty in the early phases of negotiations over the Indus Waters Treaty, as did France in the Lac Lanoux case, and Palestine over the West Bank aquifer. Down-stream riparians often claim absolute river integrity, claiming rights to an undisturbed system or, if on an exotic stream, historic rights based on their history of use. Spain insisted on absolute sovereignty regarding the Lac Lanoux project, while Egypt claimed historic rights against first Sudan, and later Ethiopia, on the Nile.

In almost all of the disputes which have been resolved, however, particularly on arid or exotic streams, the paradigms used for negotiations have not been 'rights-based' at all -- neither on relative hydrography nor specifically on chronology of use, but rather 'needs-based. ''Needs' are defined by irrigable land, population, or the requirements of a specific project. In agreements between Egypt and Sudan signed in 1929 and in 1959, for example, allocations were arrived at on the basis of local needs, primarily of agriculture. Egypt argued for a greater share of the Nile because of its larger population and extensive irrigation works. In 1959, Sudan and Egypt then divided future water from development equally between the two. Current allocations of 55. 5 BCM/yr for Egypt and 18.5 BCM/yr for Sudan reflect these relative needs (Waterbury 1979).

Needs are the most-prevalent criteria for allocations along arid or exotic streams outside of the Middle East as well. Allocations of the Rio Grande/Rio Bravo and the Colorado between Mexico and the USA are based on Mexican irrigation requirements; Bangladeshi requirements determined the allocations of the Ganges, and Indus negotiations deferred to Pakistani projects (although estimates of needs are still disputed and changing, particularly in these latter two examples).

The third stage that countries often achieve is to go beyond water itself to think of the benefits that the water brings. The boundary waters agreement between the USA and Canada, for example, allocates water according to equal benefits, usually defined by hydropower generation. In the 1964 treaty on the Columbia, an arrangement was worked out where the USA paid Canada for the benefits of flood control and Canada was granted rights to divert water between the Columbia and Kootenai for hydropower.

Likewise, the 1975 Mekong Accord defines "equality of right" not as equal shares of water, but as equal rights to use water on the basis of each riparian's economic and social needs. The relative nature of "beneficial" uses is exhibited in a 1950 agreement on the Niagara, which provides a greater flow over the famous falls during "show times" of summer daylight hours, when tourist dollars are worth more per cubic meter than the alternate use in hydropower generation.

Sharing benefits and costs. A "fair" distribution of benefits and costs is central to achieving sustained cooperation. If significant benefits accrue in one country, while significant costs are borne by another, it is possible that a project providing net benefits on a basin-wide scale could actually generate net losses in any one country. If benefits are simply secured where they are generated under an optimal cooperative scenario (e. g. , at the most

productive hydropower or irrigation sites), the distribution of benefits this creates may well be perceived as unfair by some riparians. Where this initial distribution of benefits from a cooperative management and development scenario is seen as unfair, benefit-sharing mechanisms can play a pivotal role in motivating and sustaining cooperation. Benefit sharing can be defined as any action designed to affect the allocation of costs and benefits. Benefit sharing provides riparians with the flexibility to separate the physical distribution of river development (where activities are undertaken), from the economic distribution of benefits (who receives the benefits of those activities). This allows riparians to focus firstly on generating basin-wide benefits, and secondly on sharing those benefits in a manner that is agreed as fair.

Tools for Sharing Benefits and Costs. Opportunities and mechanisms for benefit sharing should be considered from the earliest stages of project identification and design. The form it takes will be highly situation specific, but could involve monetary transfers, granting of rights to use water, financing and ownership of investments, or the provision of non-related goods and services. The range of benefits under discussion is also a critical issue. The broader the range of benefits under discussion, the more likely riparians will be able to find a configuration of benefits that is mutually acceptable. While some benefits are difficult to share or compensate, in general the optimization of benefits should be more robust and more flexible than the optimization of physical water resources, because benefits tend to be more easily monetized and compensated.

Guidelines for Equitable Distribution of Benefits. Putting the borders back on the map reminds us of the critical national interests at stake in negotiations. It is not enough, politically speaking, to sustainably develop a region for its own sake – constituents will want to know, justifiably, “what’s in it for us?”Chances are, when the plans for regional development were crafted in the last stage, the benefits were distributed unequally across space. Now with the borders back on the map, it is clear that this inequity translates to nations – some countries and regions will gain greater benefits, and some fewer.

In many agreements, principles of international law are called upon to help guide equity. Recall, however, that law offers general guidelines rather than specific formulae for allocating either water or benefits (see McCaffrey material for more information). In the few water treaties which define and allocate benefits rather than water (see Wolf 1999 for examples), benefits are usually defined economically, and mechanisms such as side payments are developed for their equitable distribution.

To summarize the problem:

- Regional planning can identify “optimal” (productivity maximizing) development;
- If benefits are captured at the natural, physical location of benefit generation, the distribution of benefits among riparians may be perceived as unfair;
- Principles and mechanisms are needed to create “fair” distributions
- based on international ‘standards’ and law
- subjective & situation specific
- Political decisions not just legal or economic

FOR THE TRAINER

6.2 Transboundary Water Negotiations Role Play: The Pandal Basin Case Study

This section introduces the trainer to the idea of equity in sharing basin costs and benefits and prepares the trainer to introduce the concept to trainees. It provides an activity in which participants learn that parties at the table do not necessarily represent the full range of basin costs and benefits, plus learn techniques for including marginalized interests/peoples.

LEARNING OBJECTIVES:

By the end of the session participants will:

1. have expanded their skills in facilitating interest-based negotiation

2. have learned a discussion technique to expand the discussion beyond parties represented in the room

3. have generated some practical approaches for expanding the basket of basin benefits to include frequently overlooked or marginalized groups and interests

MATERIALS:

Flip charts, **Pandal Basin Case Study** (See Section 7.2)

TIME: 75 minutes

PREPARATION:

If this is your first time using the simulation, see the introductory Pandal Basin simulation instructions (See Section 4.2b) . Also, read and print copies of the Pandal Basin simulation packets (in section 7.2).

The following exercise expands the discussion of interests beyond parties in the room to consider a broader range of basin constituents, the needs and interests not currently at the table, and paths to involve frequently overlooked or marginalized groups in the decision-making and management processes.

The facilitator in this exercise can be a participant (after being briefed and prepared by the trainer) if you want to also get participants to practice their facilitation skills . The facilitator can also be the trainer.

STEPS:

1. A facilitator rearranges the seating for the multi-lateral negotiations with just the water ministers. The seating arrangement is important so that none of the countries are facing each other, but rather are seated next to each other. A “V” pattern with the tables usually works well with the ministers facing one map or projection. Each minister introduces themselves and reads prepared statements from each country

2. Option – Facilitator could invite each water minister to post their desired projects to begin the process of considering the notion of “benefit sharing

3. The facilitator then asks each water minister to describe the landscape that underscores successful negotiation. An example flipchart:

a) Forest
b) Fresh Air
c) Clean Water
d) Wealthy, Healthy
e) Agriculture
f) Water Supply for People

4. The facilitator then asks what the headlines might read for the Pandal Basin in 20 years if the negotiations were unsuccessful.

5. Next, the facilitator asks about the shared vision and proposed projects by country. These projects are then posted on the basin map with country boundaries. This should take about 5 minutes.

6. The facilitator then asks the water ministers if the proposed projects are "sustainable" for the basin.

7. Then the facilitator asks about the shared vision and proposed projects by basin. A new map is projected on the wall, this time with no country boundaries. The water ministers are then asked to meet with the other ministers within their country (energy, environment, agriculture, spiritual, etc.) to define two projects and post on the "borderless" map. This should take about 5 to 10 minutes.

8. Put the borders back on the map. Now it is time to think about "sharing benefits".

9. Bring the participants back to plenary session and ask these reflection questions as part of the de-brief of the activity:

- What were some of the biases and reservations your simulation characters had to talking about or including these groups?
- How can we better overcome those limitations?
- What tools were used?

e.g.

a) Seating arrangement to seat "enemies" next to each other
b) Setting the Rules of the Road
c) Analysis of "good" versus "bad" based on projects.
d) Started with a "shared vision" exercise
e) Facilitation
f) Reframing
g) Active listening

TRAINER'S NOTES

1. Not all of this information (e. g. special knowledge held by ethnic minorities in the basin) is given in detail in the simulation materials. Participants should use their imaginations and extrapolate from real-world examples to generate benefits and barriers to including each group mentioned.

2. In extrapolating or inventing information about these groups, participants may expose some real-life biases, prejudices, and false assumptions about minorities and/or non-

dominant groups. This may be a good time to discuss those biases, how they affect the way we orient ourselves to “others”, and how those types of biases and assumptions might play out in real-life negotiations.

3. This a crucial step and must be conducted by the trainer and time should be set aside in the training schedule for at least 20 – 30 minutes. This session brings together all the knowledge and skills that have been discussed in the previous chapters of this module in a cohesive way. This must be highlighted to the participants by the trainer. Set up a flip chart of all the skills that have been practiced throughout the training (from Day 1 and build up the list as the training progresses). This flip-chart can be discussed with the participants at the closing of the training.

HANDOUT

Pandal Basin Case Study Pack

Public participation spectrum

Inform	Consult	Involve	Collaborate	Empower
Goal of participation				
To provide the public with balanced and objective information to assist them in understanding the problems, alternatives, and solutions	To obtain public feedback on analysis alternatives and/or solutions	To work directly with the public throughout the process to ensure that public issues and concerns are consistently understood and considered	To partner with the public in each aspect of the decision including the development of alternatives and the identification of preferred solutions	To place final decision making in the hands of the public
Promise to public participants				
We will keep you informed.	We will keep you informed, listen to and acknowledge your concerns, and provide feedback on how public input influenced the decision.	We will work with you to ensure that your issues and concerns are directly reflected in the alternatives developed and provide feedback on how public input influenced the decisions.	We will look to you for direct advice and innovation in formulating solutions and incorporate your advice and recommendations into the decision to the maximum extent possible.	We will implement what you decide.
Examples of participation tools				
Fact sheets, websites, open houses	Public comment, focus groups, surveys, public hearings	Workshops, deliberative polling, MSPs and associated tools, such as scenario building and exploration	Citizen advisory committees, MSPs including consensus-building processes	Citizen juries, ballots, delegated decisions, Multi-Stakeholder Processes (MSPs), etc.

Table 5. Public Participation Spectrum from Dore, J., Robinson, J. and Smith, M. (Eds.) (2010). *Negotiate – Reaching agreements over water.* Gland, Switzerland: IUCN.

6. 3 Synthesis of multi-discipline, collaborative and governance water negotiation frameworks

The field of negotiated and participatory approaches for managing water disputes has been an active area of scholarship and practice for nearly 40 years. The number of scholarly articles and the gray literature must surely numbers in the thousands, but a comprehensive bibliography of these frameworks simply does not exist.

What are the best approaches to negotiations over water? The answer to this question is elusive – the best approach depends on whom you ask and when you ask it. Rather than pursuing a particular script associated with a particular negotiation framework, it is probably more important to improvise using bits and pieces from the general water negotiation frameworks. And negotiation scholars now recommend that there is value in negotiating less important issues before moving towards more significant areas of disagreement.

Entire workshops and textbooks are dedicated to these individual frameworks, so the following is a generalized description, followed by perhaps the most important facet of the frameworks – the key questions that are introduced as part of using each framework. Negotiators can then "mix and match" different lines of inquiry so one can improvise during negotiations rather than relying on a single framework that may not fit the negotiation strategies of other negotiating parties.

Acknowledging the wide acceptance of Integrated Water Resources Management (IWRM) the training will not delve much into the nuances given that trainings unique to this topic have been provided, except to share that IWRM does not work well for aquifers because it transforms, all at once, a predominantly informal groundwater economy into a formal one (see Shah, 2009 for more information).

While the key principles under the International Water Law Framework are important some scholars argue that the principles of reasonable and equitable use and sovereignty or prior use have proved to be an inadequate basis for sharing international waters and will not be discussed in this training. However, Paisley (2008) provides an excellent summary of the framework and the interested participant is directed to that source for more information.

In a nutshell, the principal water negotiation frameworks include in no particular order, the Four Worlds/4i Framework that focuses on *Identity*; the Water Diplomacy Framework that focuses on *Interests*, and the Water Security Framework which focuses on *Risks*.

The Water Diplomacy Framework

This framework focuses on non-zero sum, or interest-based approaches to water negotiations. Fundamental elements to the Water Diplomacy Framework include (1) water crosses domain (natural, societal and political) and boundaries at different scales (space, time, jurisdictional, institutional); (2) embedded water, blue and green water, virtual water, technology sharing and negotiated problem-solving to arrange for re-use can "create flexibility" in water for competing demands; (3) water networks are made up of societal and natural elements that are open and cross boundaries, and change constantly in unpredictable ways within a political system; (4) all stakeholders need to be involved at every decision-making step including problem framing and formulation, investments in

experimentation and monitoring are key to adaptive management, and the process of collaborative problem solving needs to be professionally facilitated (5) stakeholder assessment, joint fact finding, scenario planning and mediated problem-solving; and (6) the Mutual Gains Approach (MGA) to value creation; multiparty negotiation keyed to coalitional behavior; and mediation as informal problem-solving.

Key questions that are addressed when implementing the Water Diplomacy Framework include the following:

- Have all the right parties been included adequately?
- Was Joint Fact Finding or other fact-finding undertaken?
- Have there been occasions for profession-neutral facilitation of joint problem solving during which "inventing without committing" has been encouraged?
- Has there been a search for non-zero sum options or packages that link issues creatively or build upon possible technology innovation?
- What consideration has been given to collaborative adaptive management? And, what efforts have the parties made to review and adjust the solution or decision over time in light of changing conditions?
- What effort has been made to encourage institutional capacity building or organizational learning?
- Did the decision(s) or solution(s) presented in this case have political credibility and why?
- How was the decision/solution implemented?
- What metrics were used to measure the effectiveness of solutions and/or decisions?

The Water Security Framework

This framework is an important part of the negotiator's toolbox as many water negotiations hinge upon this paradigm. Yet, there is no consistent definition of water security. Nor is there a way to measure water security, even if it could be defined with a reasonable degree of certainty.

Zeitoun (2011) promotes the "web" approach to water security emphasizing the connections of social and biophysical processes related to water, and an understanding of how are mediated by the socioeconomic and political context within which they occur. Rather than attempting to summarize the paradigm as viewed by Zeitoun (2011), consider the following quote: "The "web" of water security identifies the "security areas" related to national water security. These include the intimately associated natural "security resources" (water resources, energy, climate, food), as well as the security of the social groups concerned (individual, community, nation). The "web" recognizes the interaction occurring at all spatial scales, from the individual through to river basin and global levels. In this sense, an individual's water security may coexist with national water insecurity."

A related definition was developed by Wouters (2013) who indicated that water security is "The capacity of a population to safeguard sustainable access to adequate quantities of acceptable quality water for sustaining livelihoods, human well-being, and socio-economic development, for ensuring protection against water-borne pollution and water-related disasters, and for preserving ecosystems in a climate of peace and political stability."

Conversely, Tindall and Campbell (2012) define water security as "…the protection of adequate water supplies for food, fiber, industrial, and residential needs for expanding populations, which requires maximizing water-use efficiency, developing new supplies, and protecting water reserves in the event of scarcity due to natural, man-made, or technological hazards. Eco-system function, environmental, social, and economic parameters are composite water-security components…water security and other security measures should be thought of as sustainability, not merely physical elements- there can be no security without sustainability."

Tacitly implied in all definitions are the notion of risk - risks associated with floods, droughts, and pollution and terrorism. The questions that are addressed in the Water Security Framework focus not only on the fundamental questions associated with hydropolitics (who gets what, when, where and why), but also the following:

- Water security for whom?
- Who gets left out?
- "What" is not only about quantity, but also the quality of water
- What are the roles of local, state, Tribal, and Federal governments in water resources development and management?
- Who should pay and how much?
- What agencies should be involved?
- Should existing projects be revamped or re-operated?
- What agency should be in oversight control for security from a sustainability perspective?

The 4Rs Framework

This water negotiations framework was developed by Dore and others (2010 based on the World Commission on Dams concepts of "rights and risks "and they added "responsibilities and rewards" in their negotiations analysis. The key questions in this part of the framework include the following:

- What are the possible rewards for the different options?
- Who are the winners and losers from the rewards?
- How are rewards shared?
- What is fair, effective and sustainable?

Risks are commonplace in water use, management and development and extend beyond the financial sector, but also focus on voluntary and involuntary risks. Dore and others (2010) argue that risk in their framework should focus on involuntary risks. The key questions to address in this part of the framework Include the following:

- Who are the voluntary risk takers?
- Who are the involuntary risk bearers?
- How might risks be shared, and especially, how might involuntary risks be reduced?

The traditional notion of rights through the lens of legal standing is supplemented by including the position of the human right to water or a water-related service in this part of the framework. Key questions in this part of the framework include:

- What are the rights of all parties in the negotiation?
- Are there overlapping rights?
- What are the different views on prioritization of rights?

Dore and others (2009) argue that all stakeholders in water have responsibilities. Access to water from a river or captured from an aquifer entails responsibility to use the extracted water efficiently. Key focus questions include:

- What are the responsibilities of all parties in the engagement or negotiation?
- Who is accountable to whom and for what?
- Are these responsibilities contested?

4iFramework

A modification of Four Worlds Framework presented elsewhere in this manual was developed by Jarvis and Wolf (2010) to include the core motives influencing decision making, or 4i framework as proposed by social psychologist van Vugt (2009).

Key questions to ask in the sequential stages of using this framework include:

- What was or what is the issue?
- What could be?
- What is the underlying the desire for the resource?
- How can benefits be distributed equitably or perceived as fair?
- How can sustainable and resilient institutions be crafted?
- How are the existing institutions and organizations to be taken care of or compensated for any change?

Negotiation Stage	Common Water Claims	Collaborative Skills	Geographic Scope	Core Motive Influencing Decision Making
Adversarial	Rights	Trust-building	Nations	Institutions
Reflexive	Needs	Skills & Competency-building	Watersheds	Information
Integrative	Benefits	Consensus-building	Benefit-sheds	Incentives
Action	Equity	Capacity-building	Region	Identity

Table 6. Four Worlds/4i Negotiation Framework from Contested Hidden Waters (forthcoming).

The hybrid Hydro-Trifecta Framework

A new framework that weaves all of the strands of the water negotiation frameworks together forms a "trifecta" – a situation when three elements come together at the same time, sometimes represented by a simplified "triquetra" symbol or three-sided knot representing a triangle or the intersection of three domains. The Hydro-Trifecta framework is designed around the trifecta "knot" that serves as the "sighting mechanism" of a "compass" to think of resolving water conflicts not only as a journey, but also as a path to collect data to make decisions as to which fork in a path to follow.

The Hydro-Trifecta Framework operates somewhat like a compass with targeted skills serving as the case and base plate of the compass to take measurements and "level" the playing field in negotiations. The trifecta knot serves like the needle and sighting device, orienting and guiding the direction of the negotiations using the three frameworks of water security, water diplomacy, and water conflict transformation. And the graduated circle provides the transdisciplinary directions for questions that must be addressed in water negotiations from "what exists", incorporating fields of study such as geology and economics, to "what we are capable of doing", that focus on the fields of engineering and commerce, "what we want to do" through planning, law and policy and "what we must do" based on values, ethics and philosophy (Max-Neef, 2005).

The Hydro-Trifecta Framework. From Contested Hidden Waters (forthcoming)

Professional competence comes in many forms and changes as water professionals climb the professional slope from junior level professionals, managers, and ministers. Program targeted skills help level the playing field and build competencies through collaborative learning. Collaborative Learning approaches are well suited for natural resource, environmental and community decision making situations because it uses (1) systems

thinking promotes a holistic understanding that is both accessible and clearly illustrates complex situations that cannot be fully managed/controlled.

The Hydro-Trifecta Framework relies on the philosophy of trans-disciplinarity as a means to get a bearing on water situations because it is a more systemic and holistic way of seeing the world. The Hydro-Trifecta Framework provides the opportunity to set a bearing on a single path, or to test multiple paths that have been previously discussed elsewhere in this training manual:

- The Four Worlds of Water Conflict Transformation focuses on identity, differentiating between rights, needs, benefits, and equity and when integrated with the 4i approach the goal is to create a new super ordinate identity;
- Water Diplomacy focuses on interests on the flexible uses of water and joint fact finding to create value rather than zero-sum thinking through loops of societal, political and natural networks; and
- Water Security focuses on investment and risk utilizes a web of climate, energy, food, water, and community to define what might be tolerable for water use and reuse without getting into “trouble”.

FOR THE TRAINER

6. 3a Understanding Water Negotiation Frameworks

This section introduces the trainer to transboundary water frameworks, prepares the trainer to introduce the concept (via presentation) to trainees, and provides a guide for leading a facilitated discussion.

LEARNING OBJECTIVES:

By the end of the session participants will:

1. have been introduced to a few of the water negotiation frameworks and related focus questions

MATERIALS:

Flip charts

TIME:75 minutes

(15 minutes presentation; 1 hour structured dialogue)

This section might serve as a good place for the end of a day or meal break for outside discussion and learning.

PREPARATION:

1. Flip charts with 3 principal water negotiation frameworks and key questions

2. Place flip charts on walls – but do not show to participants until the session starts

STEPS:

1. Present the objective of the session.

2. Present the key aspects of the 5 different frameworks in a power point presentation for (**the Water Diplomacy Framework; the Water Security Framework; the 4R Framework, the 4i Framework and the Hydro trifecta Framework**)

2. Lead a structured discussion about the material. There are a number of different methods that can be used for this: One way is to use one of the case studies from 7.1 (let a participant choose) to practice applying the framework and asking relevant questions. Capture ideas and analysis on flip-chart paper.

3. Discuss as a group what they learned about the case study from this analysis.

4. End with some reflection questions to highlight some of the key lessons of this session:

Does a negotiator need to follow one negotiation framework sequentially, or can one "pick and choose" bits and pieces from the various negotiation frameworks?

5. Key Learning Points

- Scripted negotiation tactics are rarely successful. Improvise.

TRAINER'S NOTES

1. Integrated Water Resources Management and associated competencies works well in most hydrologic settings, except for groundwater and aquifers.

2. Negotiation frameworks for natural resources are manifold but the three principal frameworks for water negotiations focus on identity, interests, and risks.

3.Integrating water negotiations with international water law is important but is beyond the scope of this training; however, guidance is provided to the interested participant to learn more.

4. The challenge with this part of the training is that it is populated with many concepts. The participants may desire examples of each negotiation framework. The trainer is encouraged to review the principal sources to learn more of examples. Or, the trainer may link any of the case studies to a particular framework for group discussion.

HANDOUT: None

FOR THE TRAINER

6. 3bMaking It Relevant to You

This section introduces the trainer to an approach that allows for the trainer to bring all the concepts, knowledge and skills practiced in the previous sessions together for the participants. It allows for participants to make the concepts knowledge and skills relevant to their own contexts, and thus making it applicable in their tasks.

LEARNING OBJECTIVES:

By the end of the session participants will:

1. have a better understanding of the existing negotiation frameworks

2. have reflected on what would be the key building blocks of a water negotiation framework that is relevant for their own contexts (regional, national, water basin, river etc.)

3. used the knowledge and skills from in the previous sessions in the training develop this framework

MATERIALS:

Flip charts

TIME: 90 minutes

(I hour discussion, 30 minutes presentation a)

This section requires a good grasp of conceptual knowledge of the water negotiation frameworks and high-level thinking and analysis skills. The trainer will need to assess the capacity of his participants and simplify the task.

A simpler task for the participant would be for them to assess the various frameworks and decide on which the most relevant to their own context is/are and why

PREPARATION:

1. Flip charts, pens post –its

STEPS:

1.Introduce the session by explaining that this session will bring together all the different concepts and skills they have practiced so far.

2. Recall the 5 different frameworks that were discussed in the previous session. Inform the participants they will now brainstorm what would be the most relevant framework based on their own context.

3. Ask the groups to consider some of the building blocks of what would be the best framework for their context (national region, water basin, river etc.). As them to also

consider what are some of the political, environmental , social and cultural considerations when thinking about this framework.

4. Allow for at least 1 hour brainstorming and discussion for the groups

5. Once completed, bring the groups back together to look at each other's charts. Ask the groups to rotate to see each other's outputs and look for similarities and differences at each level and across the group. Each group is given an opportunity to ask 1 question, and also to provide a star card for one a point that they liked which they had not thought of. They are to write this on post-its/meta-cards. Follow this process until the rotating groups are back at their own flip chart. Allow 2 minutes for the groups to assess the points raised by other participants, and how they would answer the questions.

6.Facilitate the question- answer session amongst the group by going around to each of the flip chart, and giving the chance for the each group to respond to the questions.

7. End with some reflection questions to highlight some of the key lessons of this session:

- What were some of the main considerations they thought about when deciding on the building blocks of their framework? Why did they decide on this?
- Did they find this exercise useful? Why?
- Was it easy to do? Why?
- Did they find the template easy to use? Why?
- What do they are some of the key challenges of transboundary water practitioners and professionals to move forward on negotiations towards collaboration and cooperation? Did they consider this when they when developing their framework?

5. Key Learning Points

- Negotiation approaches for any contentious transboundary water issues is highly dependent on some of these points: the geographical scope, the needs, socio – political and cultural references, economic and development needs of the parties involved. There no one-size fits.

TRAINER'S NOTES

1. It will be important that the participants in a group have some commonalities (come from the same basin, same country, same region etc.)

2. Negotiation frameworks for natural resources are manifold but the three principal frameworks for water negotiations focus on identity, interests, and risks.

3. Integrating water negotiations with international water law is important but is beyond the scope of this training; however, guidance is provided to the interested participant to learn more.

4. It is important to reiterate that the best approach depends on a number of criteria including time, place, cultures, people etc. Negotiators can then "mix and match" different lines of inquiry so one can improvise during negotiations rather than relying on a single framework that may not fit the negotiation strategies of other negotiating parties

HANDOUT: None

Annex

Annex

Annex 1 Mekong-Specific Case Studies

This section presents eleven case studies from the Mekong context for reference and for use in the training. The case studies are designed to demonstrate the backgrounds and dynamics of transboundary conflicts and various conflict management strategies and procedures. The case studies are selected to facilitate learning and support session plans and training design. They can be used for analysis, discussion, and role-plays that expose participants to real Mekong transboundary water issues.

They can be used to explore situations, including the identification of information needs and assessment of political risks and opportunities for negotiation and collaboration, and as background for "convening" activities. They can also be used as role-play to help participants learn to identify issues, generate options, and design procedures and ground rules for convening.

Chiang Rai/Bokeo Case Study

Chiang Rai Province (Thailand) and Bokeo Province (Lao PDR) to the Mekong River Main issues: Ecological health, non-point pollution, fisheries

This case study location covers Chiang Rai Province in Thailand and Bokeo province in Lao PDR. [16] The focus is on the stretch of the Mekong River between the Thai/Myanmar border to 10 km downstream of Chiang Khong. Important human and economic activities in the region include agriculture (primarily rice production), tourism in the Golden Triangle area, river transportation between Chiang Saen port and China, and industry (primarily upstream in China). The Thai side of the region is notably more developed than the Lao side.

Stakeholders:

- Local communities of Chiang Rai and Bokeo provinces.
- Provincial Governments of Chiang Rai and Bokeo
- Governments of Lao PDR and Cambodia
- Thai National Mekong Committee (TNMC) and Lao National Mekong Committee (LNMC)
- Mekong River Commission Secretariat (MRCS)
- Private Industry (riverboat operators, fishing, agricultural industry, etc.)

The central perceived threats in the region are related to pollution. Sewage and storm water discharged from Chiang Rai to the Kok River, and from the Chiang Saen, Chiang Khong and HouayXai to the Mekong River have unexplored downstream consequences. Pesticides, herbicides, nutrients, suspended sediments, and organic matter from agricultural runoff may also have adverse effects. Additional threats stemming from development are potential spills of chemicals and oil from ships, industrial pollution from China, and ecosystem/habitat damage from upstream reservoirs that alter the course and flows of the river. Finally, overfishing is a rising concern.

Perceived impacts and hazards from these threats include the potential for navigation accidents due to low water levels and rapid changes in water levels, habitat loss or degradation, bank erosion, fisheries losses (especially for Mekong giant catfish), and degradation of the aquatic ecology of the river. Additionally, stakeholders in the region raised concern about potential human health issues due to consumption of unsafe food and water and loss of tourist income due to boat groundings.

Initially, a list of 7 high priority environmental values for the region was developed, consisting of:

- Maintenance of the Giant catfish (and other fish) populations
- Maintenance of the general ecological health of the rivers in the region
- Maintenance of the ecological health of the important wetlands in the region
- Maintenance of human health as affected by drinking water
- Maintenance of human health as affected by contaminated food)
- Maintenance of the quality of water for recreational use
- Maintenance of water quality for fish cage aquaculture

[16]Case studies, unless otherwise noted, are adapted from documents by DrVitoon Viriyasakultorn

In this case, the MRC intervened by undertaking a research and modeling exercise. The study team undertook a qualitative risk analysis and decided that the three environmental values listed below would be studied in detail, with one value per sub-team:

- Improve the numbers of Giant Catfish and other fish in the Mekong River in the study region,
- Protect human health in the study region by maintaining adequate quality water for drinking and cooking,
- Protect human health in the study region by preventing contamination of food (particularly fish and other aquatic foods

Team 1 studied risks to giant catfish fish populations in the Mekong River. They found that the key threats within the region include the deterioration of habitat and spawning grounds, increased fishing pressure, and degraded water quality (from domestic sewage and agricultural runoff). Requirements to address the issues include: better definitions of and protections for critical habitats, river bank protection measures, regulation of illegal fishing, better control of pesticide use, enhanced collection and treatment of domestic wastewater, and improved certification of cargo ships and crew. Finally, the team concluded that there is a lack of knowledge relating to: the distribution of giant catfish with age structure, the critical habitat requirement for giant catfish, the effect of dam construction, the potential contribution of captive breeding programs to wild populations, and the effectiveness of conservation measures.

Team 2 studied risks to human health from domestic water, and found that the key threats to human populations include the lack of adequate treatment of domestic sewage and the lack of sufficient domestic water treatment plants. To address these issues, the team recommended introducing enhanced sewage collection and improved sanitation and drinking water facilities, and they recommended establishing appropriate health monitoring programs and promoting more effective health education programs. However, the team cautioned that the model suffers from a lack of data and knowledge relating to the level of bio-pathogens, viruses, and toxic chemicals present in the Mekong River, and the exact level of improvement in human health that can be expected if both sewage treatment and drinking water treatment were enhanced is unknown.

Team 3 studied risks to human health from contaminated aquatic food in the region. They discovered that the most important sources of pollution resulting in contaminated aquatic food are heavy metal and pesticide pollution from industrial and agricultural runoff, as well as organic pollution from water transportation. The team recommended some remedial actions, including: introducing a program to monitor the levels of toxicants in aquatic foods, putting in place a program to notify the community when contaminant levels are elevated in aquatic foods, providing a new system to adequately collect and treat sewage and industrial waste water, improving management of agricultural lands to reduce both pesticide use and runoff, and improving certification of cargo ships and crew of oil spills.

Recommendations were suggested for further actions to address the potential impacts on giant catfish and human health with regard to water quality issues and contaminated aquatic food. The MRC Environment and Navigation Programs agreed to cooperate to address these issues through a joint project. The intervention in this region was to improve knowledge and understanding of the interactions between development and negative potential consequences. Enhancing shared knowledge builds capacity among riparians to

better manage water resources and mitigate negative health and environmental impacts. As such, risk assessment is a valuable tool to address the issues and concerns that are crucial for conflict prevention.

Restrictions on Freedom of Navigation

Mekong Basin

Main issues: Navigation & legal frameworks

Within the Mekong River System, transportation and navigation are important and often transboundary issues. Mekong water transportation consists of two main types— (1) inland waterway transportation (IWT) and (2) Maritime transportation. The major border crossing navigations are the segments of the Mekong between Phnom Penh and the Sea and between Lao PDR and Thailand.

Since 1926, a number of important treaties have been signed in the region concerning management of the Mekong. This demonstrates the constant willingness of the riparian states to cooperate and shows that, for more than 80 years, the Mekong has been considered an international river. Moreover, Article 9 of the 1995 Mekong Agreement gives the Mekong River Commission a powerful mandate to promote and coordinate cross-border waterborne Mekong traffic.

Cambodia and Vietnam have recently signed an Agreement on Waterway Transportation which aims to facilitate waterway transportation of goods and passengers between and through the contracting party's territories. The agreement also hopes to reduce border-crossing delays. The purpose of the agreement is to establish new regulations on maritime and inland waterway navigation along the Mekong River and confirming the principles of navigation, which are recognized by the contracting parties in Article 9 of the 1995 Agreement.

The governments of the People's Republic of China, Lao PDR, Myanmar and Thailand have made an agreement on Commercial Navigation on Lancang-Mekong River. According to this agreement, vessels of any of the contracting parties are entitled to sail freely between Simao in the People's Republic of China and LuangPrabang in Lao PDR in conformity with the provisions of the agreement.

Although the trade opportunities are there, and although some improvement for waterborne transport and maritime shipping access have been carried out, many physical and non-physical obstacles still remain, including operational and administrative shortcomings, channel obstructions, poor port facilities, lack of transport promotion capacity, *et cetera*.

Notwithstanding the benefits and many practical results of the Mekong spirit in other fields, the legal and administrative condition for cross-border navigation on the Mekong do not come up to generally accepted standards of international river law and free trade and competition. The potential of the Mekong as an artery for cross-border navigation is unused. This is partly due to non-physical obstacles originating from following issues:

1. Deficient legal frameworks
2. Prohibition of night navigation
3. Absence of PECs (Pilotage Exemption certificates)
4. Prohibition to use the Bassac branch

5. Inefficient management of the fairway
6. Restrictions on trade of certain goods
7. Formalities, delays, and detentions (frequency and duration of formalities; irregularity and unpredictability of formalities and detentions; customs formalities; dues and taxes; waterway and port dues levied in the absence of any service being rendered to waterway users; arbitrariness of commercial reductions; tea money)
8. Absence or control over trade via unofficial ports

“Navigation without frontiers” is a mechanism for regional and international trade. The cross-border aspect of navigation is very visible and, currently, not regulated. The lack of clarity in several treaty provisions has proven to hamper the further development of navigation activities and policies within the region.

In the 1995 Mekong Agreement, Article 9 (Freedom of Navigation) is not comprehensive enough and does assign any operational or financial responsibilities to the riparian courtiers. The Agreement contains navigation language that is much too concise and unclear, and the clause does not coordinate with pre-existing navigation agreements. However, Article 38 of the 1995 Agreement (Scope of Agreement) may provide a basis for rectifying this situation. Article 38 states that the contracting parties may enter into bilateral or multilateral special agreements for implementing or managing any program or projects undertaken within the framework of the MRC Agreement. The 1998 Hanoi Bilateral Agreement between the Royal Government of Cambodia and the Government of the Socialist Republic of Viet Nam on Waterway Transportation both require more efforts to make them successful and workable legal frameworks.

Proposed interventions include a comprehensive legal study of navigation aspects of Mekong regime, developing Article 9 (MRC Agreement of 1995) into a clearer foundation for detailed operation, a legal study identifying potential opportunities and challenges, a draft framework agreement for maritime and inland navigation, and facilitated negotiation between member states to produce a maritime framework between Cambodia and Vietnam. Furthermore, facilitating the negotiation process and providing technical assistance and training support were proposed. These interventions were based on the best practices of benefit sharing, information sharing, role facilitation, and proactive intervention.

March 12-13, 2007, in the Lower Mekong Basin, a Bilateral meeting (Cambodia-Viet Nam) discussed the revised draft protocol for implementation of the Agreement between the Royal Government of Cambodia and the Government of the Socialist Republic of Viet Nam on Waterway Transportation. The parties agreed on many outstanding issues. Road map and work plan was adopted to complete the process. It is expected to greatly enhance the international trade through Mekong River which will subsequently contribute to the economic growth of the two countries in particular and of those in the region as well.

Conflict Resolution over Illegal Fishing Gear through Conflict Assessment, Creation of Funding and Livelihood Diversification

Daklak Province, Central Highlands, Viet Nam
Main issues: Fisheries stocks & management

In the 1980s, there was a surge in government-led and spontaneous (domestic) immigration into Central Highlands of Viet Nam. As a result, the population of Daklak Province has increased almost six-fold over the last 30 years. Fish is the cheapest source of animal protein for this rapidly-growing population. Though most fish consumed is sea fish, increases in its supply are limited and, as a consequence, the pressure on the province's fresh fish resources (which come mainly from reservoirs) has become unsustainable. Overall fish catches and catches per fisher are declining, resulting in conflict.

Through the early 1990s, electro-fishing became more popular into Daklak, leading to a period of open access fishing with no gear restrictions. This ended in the mid-1990s, when 'fisheries management' in reservoirs (through enclosure, sub-contracting, privatization, and professionalization of fishers) became more prevalent. In 1998, the prime minister issued a decree (No. 1/1998/CT-TTG) prohibiting destructive fishing methods, such as electro-fishing, and fishing with explosives and poisons; however, the widespread use of illegal fishing gear and the resulting conflicts continued through 2002.

The need for improved fisheries management is widely acknowledged by users and government authorities alike. However, continued illegal fishing practices threaten attempts to establish sustainable resource utilization and management. Central among these practices is destructive fishing with electricity, which is still used by many poorer fishers. Electro-fishing is particularly destructive as it kills every aquatic organism within range, and the practice is especially harmful on wild species during breeding and nursing seasons.

As the continued use of electro-fishing weakens efforts toward sustainable fisheries and frustrates community members and local government representatives, a solution to the problem was crucial for inland fisheries development and sustainability in Daklak.

The primary conflicts in the Daklak Province were among users and between users and government agencies. Lack of coordination between agencies exacerbated these conflicts. However, the common interests shared between riparian countries provided opportunities for regional learning and development (technical, organizational, institutional) and for better application of principles of governance (e. g. public participation in management decision-making, rights, gender equity, and others).

Stakeholders:

- Fishers of Kinh and ethnic minority origin
- Fisher organizations embarking on co-management (Fisher Unions; Fisher Groups)
- Members of government authorities at commune, district and provincial levels
- Members of MRC/FP's Vietnam Sub-Component (Central Highlands)

The primary issue in Daklak was the destruction of fish fauna and the decline in fish harvest (due to strong increase in human population and fishing efforts). Privatization (enclosure) of fisheries contributed to illegal resource use, and this practice was linked to conflicts between fisher groups ('professional' and 'un-professional' fishers, the latter using illegal gear). At the institutional level, there was management failure/ineffectiveness (particularly

inconsistency in enforcement of regulations) and insufficient rapport between local government and fishers. Finally, issues in the population included lack of knowledge (environmental awareness, ramifications stemming from fishing technology), food and income insecurity, and the need for livelihood development.

Interventions to address conflicts in the Central Highlands started with the documentation of electro-fishing by MRC/FP (1996-2000). Awareness and capacity-building campaigns (1998-2006) were supported by research on the origin, history of use, user types, degree of destructiveness, and existing approaches to dealing with electro-fishing(and presentation of research results at 3rd Technical Symposium on Mekong Fisheriesin Phnom Penh, 2000). Other strategies included the establishment/strengthening of co-management as a means to improve management effectiveness through user organization, conflict resolution and livelihood development (1999-2006), the establishment of credit and savings groups (2002), and the substitution of electro-fishing gear (2002-2003).

These interventions applied several best practices. They created a mechanism for user-authority interaction to increase management effectiveness, resolve conflicts, and improve fisheries and other sources of income (co-management). They created conditions for reduction of unsustainable practices (via environmental awareness, trust between members, and accumulation of funds allowing for substitution of destructive practices). Finally, they reduced pressure on the resources while compensating for resource reduction through mitigation (enhancing stock and habitats).

The results of these interventions identified the extent of the electro-fishing problem and developed ideas to tackle it. Users responded positively to idea of setting-up of credit and savings groups in order to create conditions for substitution of unsustainable practices, among other things. Additionally, the management success of user organizations (including degree of reduction of illegal practices) improves their standing with government authorities. Impacts included increased buy-in of fishers into sustainable fishing, improved financial conditions of user organizations through fisher contributions, reduced destructive fishing (by an estimated 80-90%), and increased catch and income (by an estimated 20-50%). Finally, these interventions built management skills, capacity, trust, and understanding among all users and stakeholders.

Experiences in the Daklak Province generated several lessons learned. First, government agencies are frequently inconsistent in enforcing law, due to an insufficient understanding and valuation of the situation and of marginalized resource users. Improving fishing regulation compliance requires close collaboration between users and local authorities; no one party is able to do it alone. User non-compliance and inconsistent enforcement by concerned authorities gives rise to a vicious circle, leading to the collapse of user support for the management and the system as a whole. Any resource use regulation must address the needs of the community and the welfare of its members.

Additionally, resource dependency is a strong motivator of users and should be exploited as an entry-point for sustainable resource use and management (people understand that if they do not manage the fishery, their income will decrease). An open-minded approach to illegal gear and methods is needed (what is the real destructiveness of it; what advantages such gear can help people in fishing communities, *et cetera*). Access to funding is possibly the single most important prerequisite for individual fishers, and well-developed fisher

organizations can help communities comply with regulations and laws and actively participate in fisheries management.

Prevention of Conflicts between Multiple Water Users through IWRM

SocTrang Province, Mekong Delta, Viet Nam

Main issues: Regional development, shrimp, rice cultivation

Like much of the Mekong Delta, south-western SocTrang province, Viet Nam is a traditional rice-growing area. Over the past decade, farmers in areas subject to saline intrusion discovered the benefits of dry season shrimp culture. Rice brings low returns, and increasing populations means decreased farming areas available to families. Because shrimp is a lucrative crop, farmers increasingly convert from rotational rice-shrimp culture to more intensive shrimp pond systems.

In 1994, there was a shift from rice culture to a rotation system of rice and shrimp culture. Over the next decade, this sparked a trend of intensification of rotational culture to shrimp-mono culture. During this time, there were also frequent disease outbreaks. In 2001, Farmers' Clubs were established to organize individual farmers for water management purposes. As of 2003, however, Farmers' Clubs and other organizations failed to see much success due to lack of support from government agencies

There are different risks associated with different agricultural systems. In the case of crop failure, severe economic losses and heavy debt loads are the consequence. Without a rotational system, pollution from shrimp culture accumulates, rather than being absorbed as fertilizer. An added danger is product marketing, which often depends on the international situation and need.

Coordination of water use also poses challenges. Different farmers may begin seasonal shrimp culture at different times. If brackish water enters an area too soon, the remaining rice crop suffers. Draining a pond in the case of disease outbreak can lead to outbreaks in neighbouring fields. Mud pumped from ponds pollutes the water supply for other farmers, leading to loss. Farmers' organization have hoped to address these issues, but their effectiveness has varied.

As the trend of converting to more intensive shrimp pond systems intensifies, a number of problems have to be addressed to avoid extended conflicts. Primarily, difficulties stem from conflicts between resource uses and a lack of coordination between agencies. There is opportunity for rice and shrimp farmers, commune, district, and provincial authorities, the Department of Fisheries, and the Research Institute for Aquaculture (RIA 02) to better coordinate and share river benefits. Furthermore, there is need to explore regional/global principles of governance (such as public participation in management decision-making, rights, gender equity, and others).

Key issues:

- Unsustainable intensification of resource use
- Unsustainable dependence on high-risk activity; livelihood loss
- Pollution from shrimp culture residue accumulation
- Non-harmonized production practices (timing of shrimp culture by individuals increases risk of disease outbreaks affecting large number of farmers)
- Lack of guidance and support from technical and other government agencies

Proposed interventions included the initiation of an exploratory two-year Phase I, focusing on two farmers' groups in HoaTu 1 Commune, My Xuyen District, and to a lesser extent on

the commune at large (December 2003). Another intervention was the implementation of an ambitious work plan focusing on resolution of problems in shrimp culture and water management through training events. Capacity-building also included holding regular meetings and the monitoring of outcomes, fisheries regulations, livelihoods development, organizational skills, and financial management.

Phase 1 concluded in 2005, and it was determined that the geographic scope of the project was too limited to have much effect, and that activities focusing almost exclusively on farmers were limiting. There was a need for additional focus on agencies on commune and district levels, enabling joint decision-making and mobilizing technical and institutional support. Thus, Phase 2 (March 2006 – December 2008) expanded on Phase 1 by adding greater involvement of provincial Department of Fisheries, District, and Commune-level staff and by expanding to a total of eleven farmers' groups in now six communes in one district.

These interventions applied several best practices, such as strengthening existing user organizations, improving communication, building technical capacity, facilitating user-led monitoring, and involving farmers and other crucial stakeholders in decision-making. Furthermore, these interventions internalized external factors (integrating water management), coordinated resource use between rice and shrimp farmers, and diversified livelihoods to reduce dependency on a single, high-risk occupation.

Through the program, technical and organizational capacity in the communities (for both farmers and local government officials) was strengthened (monthly organizational meetings; annual organization congresses). A task group of different stakeholders was established and supported (reviewing, planning, and implementing project activities through monthly meetings; monitoring of progress and impacts against baseline figures). Opportunities for livelihood diversification identified. As a result of these actions, local officials became more responsive to farmers' needs, pollution problems decreased (practically all of the farmers stopped pumping mud into canals), shrimp yields increased for most (almost all farmers reported successful shrimp harvests in 2006), and there was a decrease in resource use intensification (in 70% of ponds, rice is being cultivated in the rainy season instead of a second shrimp crop).

Sustainable water resources development needs more than just integration of related water and land based activities. An essential factor of IWRM is stakeholder participation at and between all levels. IWRM is frequently proposed for development planning and implementation of major river basins, but it applies at all levels. Without being rooted in villages, communes and districts, it stays an empty concept without positive impact on people's livelihoods.

Communication and agreements between farmers and government units and capacity-building in better sharing and use of water for multiple purposes have made localized, bottom-up and livelihoods-oriented IWRM in SocTrang a reality. Users' participation in resource co-management commonly involves sacrifices that may not always be affordable to the users. Therefore, promotion of such initiatives often needs to be accompanied by support for livelihood alternatives.

Trans-boundary Wetland Management:

Stung Treng (Cambodia) and Siphandon (Lao PDR) area

Main issues: Transboundary wetlands

Wetlands in the Stung Treng (Cambodia) and Siphandon (Lao PDR) area demonstrate the need for coordination and transboundary cooperation in wetland management. The major feature of the Stung Treng-Siphandon (ST-SD) is the presence of a unique type of open and flooded forest growing on the sandy islands within the Mekong River channel, which contains a unique habitat and provides deep pools for (freshwater) animals and fish at critical life stages. This is an ecologically and economically important area, characterized by strong turbulent flow with numerous channels between rocky and sandy islands that are completely inundated during high water and with high alluvial islands that remain dry. Furthermore, the Stung Treng is a Ramsar site (a wetland of international importance, designated under the Ramsar Convention), and the Siphandon is proposed as a Ramsar site.

There are several incentives for transboundary cooperation in the management of ST-SD wetland resources. Ineffective management could potentially have lasting negative impacts on biodiversity (if the harvesting of fish, birds, plants, and wildlife is not controlled), critical habitats (unchecked agriculture, urbanization, road development, engineering, isolating barriers, pollution, and sedimentation), and river flow (from irrigation and hydropower schemes).

Since the ST-SD potentially has several important trans-boundary issues, the MRC intervened early to identify regional concerns and their causes. The area was a pilot site of "A Wetland Approach" project of ICLARM (2002-03) and MWBP (2004-06). Early intervention was taken to give the affected population the opportunity to explain their situation, priorities, and worries. Additionally, this project would respond to the need for accurate, relevant and reliable information to take decisions: whether to intervene, how to respond in relation to an evolving trends and data, what resources would be needed, and how to plan for operation in relation to organizational mandates. Finally, collecting data from multiple sources- especially the community members- would allow for the cross-checking of information (rather than relying on one single informant or set of information).

To achieve these goals, the program conducted a set of provincial consultations, a set of national consultations, review outputs from "Legal and Institutional Framework and Economic Valuation of Resources and Environment in the Mekong River Region – A wetland Approach", (ICLARM), and a field supplement assessment (LNMC).

These studies identified several transboundary issues in the region. First, they identified a prevalence of illegal and destructive harvesting activities, including over fishing, fishing in spawning season, fishing with explosives, electricity, or gillnets, and collecting and hunting water birds, turtles, snakes, monitor lizards, and crocodiles. Second, the consultations revealed increased pressure on wetlands due to increasing human population. Beyond clearing of forest land for settlements, the expanding population was putting pressure on the ecosystem via cutting commercial and luxury trees and poaching wildlife for subsistence and income. Additionally, it was concluded that threats to local dolphin populations included: unclear dolphin pool boundaries (provincial authority has no authority to do this task), disturbance from tourist speedboats, and accidental drowning in nylon gillnets set near the pool. Additionally, it was suspected that the dolphins' food supply may be decreasing due to overfishing and other pressures on the ecosystem. Finally, the

consultation identified possible alterations in flow and hydrological patterns from upstream due to engineering work and dams.

Following the diagnostic study, national consultations discussed, confirmed, and prioritized issues identified for furthering dialogue with partners. Additionally, in order to develop concrete recommendations for further management action, a bilateral meeting (Cambodia-Lao) agreed on common transboundary problems, made recommendations to local authorities, and set up common management objectives. The minutes from this meeting represented an agreement (forwarded to the MRC's partners and potential donors) between the two countries to work collaboratively to manage fisheries, tourism, the dolphin pool, and development. On the other hand, issues not included within the transboundary discussion included: human (women & children) trafficking, drug trafficking, the golden mining (and resulting negative impacts) in the upper Sekong River, and the physical boundary demarcation of both countries.

This case represents proactive cooperation over transboundary wetland resources. Countries identified natural resource issues and potential resource conflicts by gathering information from multiple sources (including local populations) and diagnosing the root sources of threats and concerns. Then, they prioritized concerns, identified mitigating actions, and developed coordinated management objectives to address the high priority concerns.

Transboundary Tributaries in the Lower Basin: The Sesan Dispute

Sesan River, Srepok River, and Sekong River (collectively 3S),Central Highlands of Vietnam, Ratanakiri and Stung Treng Provinces

Main issues: Dams & downstream impacts

The Sesan River, along with the Srepok and Sekong Rivers (hereafter referred to collectively as 3S), form one of the most significant sub-basins of the Mekong. From the Central Highlands of Vietnam, the Sesan journeys southwest into Cambodia through Ratanakiri and Stung Treng Provinces. The 3S system is one of the Mekong's most significant tributary watercourses, contributing approximately 20% of water in the Mekong mainstream as measured at Kratie.

Controversy surrounding the "3S" rivers centers on planned hydropower developments and associated downstream impacts. The Vietnamese government has completed one dam, the Yali Falls dam, and has plans to construct four more. Of these four, construction began on the Sesan 3 dam located 30km downstream of Yali Falls in 2003. The Sesan 3 project was made possible with funding from the Vietnamese and Russian governments following the withdrawal of the Asian Development Bank. This withdrawal arose as a result of ADB's requirements to carry out additional environmental impact studies, which in turn was a response to civil society concerns and pressure regarding negative environmental, social and economic impacts. In addition to Vietnamese plans, the Cambodian government also has plans to build at least two dams on the Sesan and Srepok.

Of the hydropower projects, the Yali Falls dam is the largest in the Lower Mekong Basin and has been the most controversial. The dam is located on a tributary of the Sesan in the central highlands of Vietnam. Construction of the dam began in 1993 and was completed in 2001. With a generating potential of 720 MW, the dam cost an estimated US$ 1 billion. The dam built by Vietnam's state-owned electricity utility Electricity of Vietnam (EVN) working with the Swiss consultancy Electrowatt Engineering Services Let. It was financed with loans from the Russian and Ukraine governments and financial assistance from the Swedish aid agency SIDA. Yali Falls had long been part of the Mekong Secretariat's indicative planning under the old Mekong Committee.

In 1996, three years after the start of dam construction, people living in Ratanakiri Province in Cambodia (70km downstream of Yali Falls dam) began to experience unusual and/or extreme flooding events as a result of dam-related water releases. The impact of this flooding was severe in both social and environmental terms: many aquatic and riverine species were threatened by habitat disturbance due to abnormally high water levels and the loss of livestock, crops and personal possessions threatened the livelihoods and food security of many Ratanakiri households. A study carried out by economist Bruce McKenney, with longstanding experience of working in Cambodia, estimated that between 1996 and 1999, tangible losses (for example loss of livestock or fishing gear) came to approximately US$800,000 or US$237 per household. These figures are disputed by the Vietnam National Mekong Committee.

Since 1999, flooding has continued to impact on areas downstream of the dam. In 2000, large scale flooding and loss of property was reported to be the result of large uncontrolled releases of water associated with commissioning tests of the dam's spillway. In the period since unusual flooding events were first experienced, 39 deaths have been attributed to the unpredictable changes in river flow and height.

It took some time before problems in Ratanakiri Province became known to public officials. Although an environmental impact assessment was undertaken in 1993 by the dam builders, downstream areas in Cambodia were not included in the study area. Adding to this, neither the Cambodian government nor the MRC Secretariat took an active role in determining effects of the dam for communities over the Cambodian border.

Then in 2000 a coalition of NGOs established the Sesan Working Group. This group later became the Sesan Protection Network consisting of a core of Cambodian and international NGOs including the Non-Timber Forest Products Project (NTFP), Cambodian Environmental Protection Association (CEPA), NGO Forum Cambodia, Partners for Development in Cambodia (PFD), Fisheries Action Coalition Team (FACT), and Centre d' Etude et de DévelopementAgricoleCambodgien (CEDAC). The groups is resourced and supported by Oxfam America (operating from the regional Phnom Penh office). The Sesan Protection Network gained the support of government officials at the provincial and district levels.

The group (first as the Sesan Working Group then as the Sesan Protection Network) commissioned two studies to investigate impacts: one in Ratanakiri Province in 2000 and one in Stung Treng Province in 2002. The studies found that flooding had worsened and become unpredictable, dry season flows had increased, water quality had declined[10] and fish catches had declined.

This research culminated in a workshop in 2002 at which various Cambodian government officials were in attendance. At the workshop the Sesan Protection Network requested *inter alia* that construction on planned additional dams be halted, that the natural flow of the river be restored and that the Cambodian Government negotiate with the government of Vietnam to find a solution. The Cambodian NMC and the MRC Secretariat were invited to participate but both declined, with the Secretariat citing its reason as not wanting to appear partisan.

Responding to concerns raised by civil society groups, the MRC has, however, been involved in undertaking "fact-finding" research in the affected areas and in coordinating dialogue between the Vietnamese and Cambodian governments. In 2000, the MRC participated in a four day research mission to Ratanakiri Province and facilitated a meeting between the Cambodian and Vietnamese Governments. In the same year, the MRC also facilitated the establishment of the Cambodia-Vietnam Joint Committee for the Management of the Sesan River. As per the 1995 Mekong Agreement, since MRC-led dialogue failed to resolve the matter, continued negotiation is now taking place between the Cambodian and Vietnamese Governments through this Joint Committee. The Committee met three times before it was wound up in early 2004. The main achievement was to establish a system for advance warning of unusual water releases, but communication difficulties within Ratanakiri Province mean that the more isolated communities still fail to receive advance notice of such releases. The Committee did not deal with compensation issues or respond to community demands for a moratorium on further dam construction on the river before issues arising from Yali had been dealt with.

National Interests

The national interests at play in this case are primarily the interests of economic development. In the Vietnamese context, with a rapidly growing economy and intense agricultural and industrial development, dam building is considered a fundamental component of national plans to boost energy production and increase wealth. Along these

lines, local sacrifices (in this case the relocation of communities in inundated areas and the alteration of the natural ecology of the rivers in questions) are presented by the government as an acceptable trade-off for the greater public good assumed to result from development.

Transboundary impacts in this case are also dwarfed by the greater good assumed to result from dam construction. Dam construction is viewed by Vietnam as a unilateral issue, an attitude enshrined in the Mekong Agreement with its emphasis on national sovereignty. Despite the transboundary nature of the Sesan system, as dam construction is wholly within Vietnamese borders the issue is widely interpreted to be a Vietnamese concern alone. The fact that this is a tributary and not a mainstream transboundary impact further reinforces this interpretation. There is a historical irony here, in that Vietnam as a downstream country had earlier been a riparian member keen to see territorial integrity concerns reflected in the Mekong cooperation framework.

On the Cambodian side, the national interests at play are confounded by the politics of scale, where the concerns of the local are not seen to constitute interests of national importance.

This is further compounded by the indigenous (non-Khmer) ethnic make-up of the affected areas in Ratanakiri. It was only after civil society groups (with the financial resources and support of international NGOs) undertook research and put pressure on governments to take notice that the Cambodian authorities responded. Even then, the Cambodian Government has been unable to effectively negotiate successfully for the mitigation of negative effects, prevention of further dam construction and compensation for affected communities. This may be in part due to the closeness of the current Cambodian regime to Vietnam and hence the reluctance of the government to offend its stronger neighbor. In addition, Cambodian negotiators have been ill equipped with the technical knowledge and skills to argue their case, while Vietnamese negotiators bring piles of technical studies and documents to the meetings. This would appear to be a clear case where technical mediation is called for.

Implications for Transboundary Governance and the MRC

The MRC has played a role in coordinating government-to-government negotiations aimed at resolving the dispute over transboundary impacts. As such, the organization has demonstrated its relevance as a mediator.

However the case also highlights the inadequacy of the institution – the MRC “had to” wait until the Cambodian Government requested its involvement and even then engaged only at the national level rather than dealing directly with, or responding directly to, affected people. It seems that member states created the MRC but have given it no autonomy to engage directly in matters of regional dispute or respond to stakeholders at any scale below the national governmental level. In a pattern which continually legitimates national interests as represented by senior political figures but gives no weight to the needs or plight of local level actors, the MRC is “hamstrung by its own mandate “and unable to respond to concerns without direct orders from national governments.

Furthermore, in this case, MRC member countries have indicated that they prefer to act unilaterally or bilaterally rather than through the MRC. This is particularly true where the rivers in questions are tributary watercourses. Decision making regarding tributaries watercourses is conducted according

to the principle of national sovereignty (the Harmon Doctrine). Although referred to in the Mekong Agreement, tributaries are only subject to rules of notification for dry season diversions. In effect, they are not managed as part of the wider Mekong Basin by MRC member states.

The unequal political and economic power of neighboring nations makes effective intergovernmental negotiation difficult, as does unequal technical capacity. The Cambodian Government, with a less established political system and weaker economy, is not in a position to negotiate with Vietnam on an equal footing and to make demands for affected communities.

The successes in making the experience of affected communities known when compared with the incapacity of the MRC to take action indicate that in the Mekong, formal channels are not always the most appropriate or effective means by which to seek to effect change. Civil society can assist in coordinating and resourcing local actors, enabling local actors to collectively seek to be heard at the official level.

Access to and control of information is crucial to effecting change and influencing decision making. The first studies of affected areas were undertaken by civil society actors and the information collected proved crucial to their campaign. Yet there is a flip side – information collected by civil society has not been recognized by many at the political level as legitimate. Because it was put together based on surveys of affected communities, the information was seen as “anecdotal” and “unscientific”, particularly by the VNMC.

And “legitimate” research conducted through MRC channels has been tightly controlled. Although the Cambodian Government requested that the MRC undertake fact-finding in affected areas, the terms of the assessment were defined by the Cambodian and Vietnamese governments together on a consensus basis. Information was not allowed to be freely obtained and distributed.

Thai Water Grid

Thailand, the Stung Nam River in Cambodia and the Xe Bang Fai, Xe Bang Hiang and Nam Ngum rivers in Laos
Main issues: Water infrastructure and development

The Thai water grid project (officially named the "sustainably holistic water management project") is a 400 billion baht scheme to construct a network of pipes across the country. The overall aim of the project is to transfer water from "wet" areas to parts of Thailand more prone to dry season drought. Relying on a system of natural waterways, dams, canals, and pipes, the scheme intends to increase the area of irrigated land by more than four times and to ensure that all in Thailand have access to potable water.

Although many of the planned transfers will occur wholly within Thailand, the scheme also includes significant transboundary components. The project's pre-feasibility document identified 18 potential sites from which water could be transferred, including the Stung Nam River in Cambodia and the Xe Bang Fai, Xe Bang Hiang and Nam Ngum rivers in Laos.

The document gives a list of priorities and favors those which require only bilateral discussions. Although other options would make more sense both economically and from an engineering perspective, such as diversion of water from the Mekong River itself, this option is considered too complicated as it would require that Thailand negotiate with all the Lower Mekong Basin countries. The project pre-feasibility document states:

> "The feasibility of the diversions from neighboring countries gives more weight to considerations relating to agreements with the relevant countries than other considerations such as the investment costs. This is because a number of the rivers that are the sources of water for these diversions are international rivers" [that is the Salween (and its tributary the Muoi) and Mekong River].

In 2004 the planned transfers from Laos were given preliminary approval when a memorandum of understanding was signed between the Thai and Lao governments authorizing the diversion of Lao waters into neighboring Thailand. This part of the water grid scheme has been dubbed the "Thai-Lao Water Friendship". The plan is a kind of water trade, whereby Thailand purchases water from Laos and pipes it under the Mekong mainstream into reservoirs in Northeast Thailand.

Although the water grid scheme involves the whole of Thailand, it is sold as a project which will provide water to dry areas, most significantly Isan (the Northeast). The focus on Isan positions the water grid scheme as the latest of several grandiose projects aimed at enabling dry season irrigation in the poorer, dryer northeastern parts of the country – in other words, "watering Isan". Previous plans include the "IsanKhiew [Green northeast]" scheme in the 1980s which involved the participation of the military in development projects, and the Khong-Chi-Mun water diversion scheme which aimed to irrigate nearly 5 million rai of farmland by diverting Mekong water into the headwaters of the Chi and Mun rivers and constructing 16 main beadworks and an extensive network of irrigation channels.

Due to its large scale, expense and complexity, the project has met significant opposition. Many of the experimental pay-for-piped-water projects have failed, with farmers refusing to pay for the cost of electricity and associated operation and maintenance fees required to

pump water onto their land. Irrigation officials have recommended that farmers shift from rice-cultivation to more profitable cash crops and pay fees for water use to cover the costs of maintaining pipelines. This has been an unpopular proposal in a context where water fees and pay-per-use models do not mesh well with the past expectation that government financed irrigation schemes provide water for free. Moreover, in the absence of metering the proposed payment is not based on volumetric consumption, so the charge is seen as more of a tax than a user-pays facility or incentive to economize on water use. The expense associated with the project has also been criticized by government officials, who admit the scheme needs to be reduced in size and extent to make it economically and technically achievable.

Yet project planning continues, and the government has given no indication that the grid scheme will be abandoned in favor of smaller scale, less ecologically intrusive irrigation systems. A Master Plan (following on from the pre-feasibility study) was completed in late 2005. Although this document is not yet publicly available it is said to describe 13 grids, four of which connect Thailand with neighboring countries including Laos, Cambodia and Burma. Of these, priority has been given to the Nam Ngum water diversion project involving the tunneling of water from the Nam Ngum River, a tributary of the Mekong located within Laos, to Northeast Thailand.

National Interests

Thai national interests have been at the forefront of discussions surrounding the water grid. The grid has been promoted by its architects as a scheme with significant national benefits, in particular poverty alleviation in Thailand's poorest areas in that the scheme will enable dry season cropping. It was promoted particularly strongly around the time of the 2005 election as a populist measure of devolving public investment to the countryside.

The conservation card has also been played by proponents, in that the piping technology to be used is, in principle, more efficient than open channels. There is also a sense that making Isan green in the dry season is a kind of ecological "improvement" in Thailand's northeast. This is an interesting construction of ecological interests where the opposite can in fact be argued: disturbance to the natural flood-pulse through large scale wet season storage and dry season release is a threat to the ecological balance of the Mekong Basin. Yet this is largely ignored and "drought relief" arguments have been put forward without reference to the natural wet and dry cycles associated with the Mekong's natural hydrology.

There is also a sense in Thailand that this scheme will enable Thailand to take its "fair share" of the river and resources. The Mun and Chi river system contributes only 6 per cent of the flow of the Mekong from 15 percent of the basin area. For some time in the political arena, and within the Department of Water Resources and National Mekong Committee, there has been a sense that Thailand has a right and an interest in capturing benefits which reflect the large land area in the Basin and compensate for the relative lack of water.

The transboundary component of the project brings Lao national interests into the debate with economic benefits from the sale of supposedly excess water seen as a positive for the national economy. However, to date there has been very little public discussion or awareness of this proposal from within Laos. Sale of tributary waters is bound to have impacts in terms of lost opportunities for irrigation and other water uses within the country.

In Thailand there are sharply conflicting interests in such infrastructure-driven water resource development. They are regularly challenged locally and on the national stage. In Laos, a clear distinction between local and national interests in water has not been articulated in the same way. National interests and full complexity of national interests are not represented in the official discourse – indeed, such schemes often do not reach the level of a national discourse at all, in contrast to Thailand.

Implications for Transboundary Governance and the MRC

Although major construction on the water grid has not yet begun, the machinations leading up to development of the Master Plan illustrate some key issues relating to transboundary water governance in the Mekong. For example, Thailand has indicated its preference for unilateral or bilateral river management over multilateral negotiations. This is very clearly spelled out in the pre-feasibility document.

Furthermore, the Mekong River Commission (MRC) has displayed an unwillingness to be proactive with regards to national development plans that affect the Basin. Although elements of the water gird were included in the Basin Development Project as priority projects, [20] the MRC has not taken an active interest in the scheme as a whole (or on the level of political negotiation) and there is a sense that they will only do so if a request from a member government is forthcoming.

Similarly, the member countries have displayed a lack of interest in and engagement with the MRC. In this case the MRC is seen as a forum to avoid for fear of regulation rather than an agency with which to engage with a view to achieving better outcomes. This, too, is clearly stated in the pre-feasibility document.

Lao PDR and Nam Theun 2

Theun River in the Nakai District in central Lao PDR

Main issues: Hydropower

The construction of a large hydropower dam on one of the major tributaries to the Mekong – the Theun River in the Nakai District in central Lao PDR – has been envisaged since the early 1970s, and it has been the subject of regional and international debate for over 15 years. The debate has engaged national governments, donors, and international NGOs. Nam Theun 2 was revived in earnest-in the mid 1980s when the project was conceived as part of Lao plans for economic development through public investment assisted by a World Bank loan. The scheme was predicted to boost the Lao economy by enabling electricity exports to Thailand and facilitating poverty alleviation. In 1989/90, the World Bank and UNDP funded a feasibility study for the project.

Until recently, the project was subject to extensive reviews and delays due to concerns over predicted environmental and social impacts arising from the construction of the dam. When the project financing model shifted from public to private BOOT arrangements, the question of project backers became the lynchpin. Financiers were unwilling to commit to the project without a World Bank sovereign risk guarantee, and in turn the World Bank was not able to commit to such a controversial project without extensive studies. The Lao Government was unable to construct the dam without external assistance. Despite continuing opposition to the dam by many international NGOs, the studies produced plans designed to offset the local environmental and social impacts ("externalities") and the dam achieved the support it needed to get the project go-ahead in 2005.

The World Bank has been particularly significant in renegotiating and supporting the project. In March 2005 the Word Bank Board officially approved the scheme, committing $270 million and $120 million in loans and risk guarantees respectively. A few days after World Bank approval, the Asian Development Bank (ADB) also endorsed the project and committed funds to its implementation. The project is led by Electricité de France and also includes a 25 percent shareholding by the Lao government and smaller shares held by Thai companies.

The revised project, as with the original, centers on the construction of a 48 meter high dam on the Theun River with a predicted reservoir of 450km_2. In an intra-basin transfer, it diverts the main flow of the Theun River off the plateau down a 350 meter escarpment and into the Xe Bang Fai river system. The dam is intended to generate 1070 MW of power, with 995 MW of this for export to Thailand. These revenues are expected to account for 3-5% of total revenues for Laos from 2010 to 2020.

The World Bank is presenting the scheme as the "new model" of environmentally sensitive and socially equitable hydropower development which accounts and adjusts for environmental and social externalities. Social impact mitigation plans have been developed with a focus on detailed resettlement schemes for communities in areas to be inundated. For the environment, the World Bank has pledged funds for conservation programs including wildlife management in the area south of the Nam Theun 2 watershed and in the catchment area to the north and east of the reservoir. Citing these plans, the Bank is presenting the project as win-win for the national economy, local communities and the environment.

A number of international civil society groups continue to oppose the dam, citing inadequacies in environmental and social impact assessments and claiming that the project violates the World Bank's own environmental standards. The project is expected to displace 6,200 indigenous people and impact more than 100,000 villagers who depend on the Xe Bang Fai River for fish, agriculture and other aspects of their livelihood. These anticipated impacts have been widely documented within the project's own studies and in critical work including that of IRN and of Tyson Roberts.

National Interests

Lao national interests have been cited by the government, the corporate leaders investing in the project, the World Bank and many other project proponents during the long and furious debate. Proponents in the early years presented the impacts on local communities and the environment as acceptable trade-offs for the economic boost the dam would give to the national economy through sales of electricity to Thailand. More recently, the project has been presented as a win-win for the national economy and for local communities: according to the World Bank, so long as the appropriate plans are in place, what is good for one is good for both. It has been promoted as a critical lynchpin for further development of the Lao economy.

In contrast to the main public discourse on dams in Thailand, the interests of communities in the Nam Theun watershed have been assumed in the heavily government controlled national media to be in line with those of the Lao Government. There has been little attempt by World Bank, MRC or other international players to question these assumptions.

Furthermore, the interests of downstream nations and of the wider Basin have not featured in the dialogue leading up to approval of Nam Theun 2. Although the impacts of such a major storage dam will be felt downstream on the Nam Theun and further into the Mekong mainstream, the project was largely managed unilaterally with reference only to international funding bodies necessary to turn the plans into reality.

Implications for Transboundary Governance and the MRC

As with the other cases, the Lao Government acted unilaterally in the planning of the dam. As with the Sesan, the case concerns a significant tributary of the Mekong and, as such, has implications for the health of the river and overall basin, the project has been conceived as a Lao project only as the construction is wholly within Lao borders. Unlike the Sesan case, however, the tributary itself is not a transboundary river. However, as the fourth largest tributary of the Mekong system, any change in seasonal hydrological regime will have some mainstream impacts.

The absence of the MRC from top-level debate and discussion illustrates that countries are unwilling to request MRC involvement and/or that the MRC is unwilling or unable to take initiative as a regional governance institution in high profile and sensitive projects. Although the MRC could have played a role in undertaking environmental and social impact studies, in mediating the different positions and in considering the effects of the development on the wider basin, the organization was largely absent from the planning and negotiation process.

In contrast to wealthier neighboring nations of China and Vietnam, the Lao Government was dependent on external funding to go ahead with dam construction. The necessary involvement of international donors would seem to create space for the MRC to involve itself in negotiations and impact studies (indeed they would seem best placed to do the latter). This did not happen, implying that within the landscape of big international players in this case, the MRC profile is not big enough to gain attention (either as a conduit for engagement with political levels or as a significant source of information).

International civil society actors have mounted significant opposition to the dam. For many years, and in an international climate attuned to the seriousness of sustainability and environmental protection, civil society was instrumental in preventing the project from going ahead. More recently, it is in part due to civil society concerns that extensive social and environmental mitigation planning has occurred. If the dam had been approved based on the very rough EIA carried out in 1989/90, most of the safeguards and resettlement planning would simply not have occurred and the project revenues now committed to mitigation would not have been set aside. As with the Sesan case, this illustrates that civil society can play a serious role in transboundary governance, particularly where the political regime does not allow for local voices of opposition.

The case also illustrates the role of the private sector in Mekong water governance. With a move from public investment to BOOT and other public-private partnership arrangements, the question of regulatory regimes becomes vital. In this case, a surrogate regulatory regime was in place because of the spotlight put on World Bank investment in dams, but there is a real danger of a regulatory vacuum in other projects. MRC has hardly touched this crucial issue to date.

Chinese Navigation and Hydropower Development on the Lancang

Lancang-Jiang (upper Mekong), China

Main issues: Navigation and hydropower projects

This case relates to Chinese developments on the Lancang-Jiang (upper Mekong) in the form of navigation and hydropower projects: the Upper Mekong Navigation Improvement Project (UMNP) and the planned cascade of eight dams in Yunnan.

Navigation work on the river was conceived in the early 1990s and gained legal status in 2000 with the signing of an *Agreement on Commercial Navigation on Lancang-Mekong River* by China, Burma, Thailand and Lao PDR. The Agreement set out plans to improve the navigability of a 360km stretch of the river from Simao in Southern China to LuangPrabang in northern Laos.

The navigation project aimed to improve the ability of commercial vessels to navigate the Mekong and Lancang Rivers from Yunnan Province into downstream countries. Chinese interests in the navigation project are in part driven by its desire to develop Yunnan and other western provinces that have lagged behind the boom of Eastern coastal provinces, a neglect that has been seen as a cause of unrest in inland. For the other three signatory states, a key motivating factor was the improvement of trade relations with the large neighboring economic power.

Plans for the navigation project detailed three stages of project implementation involving the blasting of rapids, [28] reefs and shoals, dredging of the river channel and the establishment of canals. The first stage aimed to enable passage of vessels up to 150 tons while the second and third phases aimed to allow navigation by boats of 300 and 500 tons, respectively. Interestingly, the project was declared finished after implementation of only the first two stages, following protests in Thailand by communities opposed to further rapids blasting– particularly of KaengPhii Long.

Although development in China is legally outside the jurisdiction of the MRC, controversy over the quality of the EIA for the navigation project resulted in a request from member nations for MRC assistance. The MRC commissioned an independent assessment of the report in 2001, which found that the EIA was “substantively inadequate and in many places fundamentally flawed”. Thai civil society groups centered on Chiang Khong District in Chiangrai Province have been vocal in their opposition to the rapids blasting, and they have received high profile support within Thailand, for example from the Senate Foreign Relations Committee.

Chinese hydropower projects involve the construction of up to 8 large dams. This “Mekong Cascade” aims to take advantage of the steep topography of the riverine environment in Yunnan and is to be constructed on a 750 km stretch of river with an 800km drop in altitude. Two of the planned dams have been completed so far: the Manwan dam and Dachoashan dam. Two more, the Xiaowan and Jinghong are under construction. The dams are being constructed for electricity generation to service growing populations in Yunnan Province and to support industrial and urban growth in Guangdong Province. There is also a plan to sell power from Jinghong Dam to Thailand.

Proponents of the dam cascade assert that the dams will enable control of the river and an increase in dry season flows for downstream areas. Opponents, including Chinese, Thai, and international civil society groups point to the negative social and environmental impacts

associated with dam construction. These include problems associated with an altered flow regime including threats to biodiversity and fisheries.

It is important to note that information about negative/positive impacts of the dams is contradictory and contentious. For example, measurements of the impact of Manwan dam range from “negligible” to a decline in mean-minimum discharge of 25%. Various figures are used by different actors to emphasize what is “good” and “bad” for downstream countries according to different values and agendas. An increase in dry season flows may be “good” for irrigation in northeastern Thailand, for example, but may seriously disrupt the annual flood-pulse cycle on which lower basin ecosystems depend.

National Interests

This case illustrates the dynamics of China-lower Mekong relations and the asymmetrical power of the basin whereby the upstream nations are much stronger economically than the downstream nations of Lao PDR and Cambodia.

Chinese interests in navigation and dam construction are dominated by economic concerns. Opportunities for trade with lower basin nations and the generation of electricity to serve growing and industrializing populations within China have been at the centre of plans to utilize the resources of the Lancang-Jiang. China has steadfastly insisted on calling its section of the river Lancang-Jiang, the clear implication being that this is a Chinese river and decisions on its use are subject to Chinese sovereign interests alone.

Similarly, opportunities for increased trade served as an incentive for Thailand, Laos and Burma to sign the agreement to improve the navigation potential of the Mekong. However there are conflicting views on the benefits derived: some in Thailand believe that the trade relationship is primarily a one-way exchange with Chinese vessels bringing goods into Thailand but refusing to facilitate the export of Thai products to China.

With respect to dam construction, China has behaved unilaterally without reference to the concerns of lower Mekong nations. Not being a member of the MRC, China has had no obligation to notify or consult with downstream countries or to share data on its plans or on its operation of existing dams. Furthermore, where China does negotiate with lower Mekong governments, the reliance of those nations on economic assistance from China colors the extent to which the interests of the public and the environment are expressed. Cambodia, for example, is China’s largest aid recipient. Cambodian national interests in maintaining Chinese economic support appear to outweigh competing interests which seek to protect Cambodia from the impacts of upstream development.

The interests of the downstream nations have been central to critiques of Chinese developments. These interests have been expressed by governments and civil society groups and by the MRC. Civil society groups have attempted to represent the interests of the environment and of those relying on the natural hydrological patterns of the Mekong for subsistence. The MRC has engaged with the debate where requested by member governments, representing lower country interests through the pursuit of correct scientific knowledge about the environmental impacts of Chinese development.

The emergence of an environmental lobby in China adds an important element to the ways in which China’s interests in a transboundary river are expressed. The recent impacts of pollution on the Songhua River in northeastern China have had repercussions for its other

international river systems where it is the upstream country. Environmental NGOs have been quite outspoken and have found an ally in the increasingly influential State Environmental Protection Authority. To date, Chinese NGOs have found a greater voice advocating on the Nu Jiang/Salween than on the Lancang Jiang/Mekong, but there has been a growing interest and awareness here too.

Implications for Transboundary Governance and the MRC

These cases illustrate the dynamics of how downstream countries deal with a powerful upstream neighbor largely without mediation of the MRC. China has acted unilaterally and largely without reference to the concerns of downstream nations.

Even though China is not a member of the MRC, the Secretariat's involvement in the navigation project EIA process illustrates the positive contribution the organization can make as a knowledge institution. The critical nature of the expert review allowed for a more informed and open debate on this project.

Civil society opposition to the navigation project further contributed to open debate and dialogue. Thai civil society influenced the position of the Thai government. The events illustrate that there are pathways for civil society to influence national level politics which can in turn influence the international policy landscape. It is fair to say that truncation of the project at less than the originally planned size was at least in part due to concerns resulting from the advocacy of civil society in Thailand.

The existence of Chinese dams implies an altered landscape for both riparian states and civil society and there is a sense that the attitudes of China and of MRC member countries are changing with respect to Chinese involvement in the MRC. There has been talk from Thai representatives that the dams render some articles of the Mekong Agreement irrelevant due to the altered hydrological regime resulting from Chinese dams. Within China, there is an emerging sense of readiness to join the MRC, pending a revision of the Agreement.

Similarly, opportunities for civil society action in the region are shifting, with the area for negotiation now moving towards operation and management of dams rather than protesting against dam construction in reaches such as the Lancang-Jiang in Yunnan where the dams are already in place or under construction.

Within China, there is an emerging environmental lobby. This also gives the lie to a governance landscape based around riparian "national interests" and indicates that even within the more politically controlled Mekong societies there are divergent views on river management with which a river basin management authority needs to engage.

Resolution of Conflicts over Destructive Fishing Gear through Joint Research Songkhram River Basin, NE Thailand

Songkhram River Basin, NE Thailand

Main issues: Fisheries, conservation, economic development

The Songkhram River in Northeast Thailand is one of the country's major tributaries to the Mekong. It is also one of its most productive in terms of fisheries. There are frequent conflicts between fishers and officials of the Department of Fisheries' (DOF) Conservation Division over the use of illegal and destructive fishing gear, in particular *barrages*, locally called *kad ton*.

The *kad ton* is a large and complex fishing tool prohibited by DOF due to the fact that it indiscriminately catches all sizes of fish. However, the regulation is not complied with by many users, and there are more than 100 barrages being operated all over the Basin. The operation of a barrages usually auctioned off by local communities to the highest bidder, resulting in funds used for community purposes, such as provision of infrastructure. Consequently, the use of barrages, despite being harmful to the fisheries, is being tolerated in many villages and sub-districts in the Songkhram river basin.

In 1947, *kad ton* were prohibited under the Thai Fisheries Law, but low compliance and increasing conflicts led to a 1995-2003 campaign by the DOF's Conservation Division to eradicate *kad ton* fishery (via penalties, gear confiscation, etc.). These attempts were largely unsuccessful due to low compliance, and were countered by requests from politicians to provincial fisheries administrators to legalize *kad ton.* In November 2003 a multi-level Working Group was established, but by mid-2004 there was still no viable solution or action to solve the problem.

A solution was needed to address this conflict between the need for conservation of the aquatic environment by the DOF, the interests by fishers for increased income and the expectations by communities and sub-districts for the creation of funds to be used in community development. The primary problems were conflicts between government agencies and users and lack of coordination between agencies. Central issues included the destructive fishing practices, a decline in fish production, non-compliance with DOF rules and regulations, relationship difficulties (between DOF conservation staff, fishers, village leaders, and members of sub-district administrators (OBTs)), and increasing political pressure on the DOF. Yet, the shared natural resources and critical habitats, common interests, opportunities for regional learning and development, and relevance of regional/global principles of governance made this conflict ripe for transboundary intervention.

The planned interventions started with a stakeholder meeting where attendees identified, discussed and prioritized problems and conflicts and arrived at recommendations for subsequent process. After this meeting, the DOF took up the recommendation to administrate a joint research program on the effects of *kad ton* (2006-2007; ongoing), which coincided with the establishment of conservation zones and stocking of undersized fish from *kad tons* into the Songkhram River (since 2006) and the development of specifications for "less harmful" *kad ton* (2007). Finally, once the joint specifications were developed, they would be submitted to the DOF for legalization and subject to joint enforcement of the new regulation.

These interventions applied several best practices, including making use of a 'neutral third party' (MRC/FP's Thai Sub-Component) to facilitate and support the conflict management process, developing and implementing a joint research program to arrive at mutually understood and accepted results on the impact of *kad ton* at different water levels and using different mesh sizes, determining jointly the actual effects of the gear, and creating space for mutual information and joint development conflict management procedures. This created space for the venting of grievances and for developing mutual understanding of each party's values and interests. Finally, at a practical level, these interventions implemented a mitigation measure to (1) compensate for using an illegal gear and (2) to enhance fish fauna, while developing technical innovations to render the gear less harmful.

As a result of these interventions, fishers, community members, and representatives of authorities at various levels have become aware of opportunities for conflict resolution. The DOF has started to change its approach to conflict resolution and rule enforcement, taking a less confrontational and more educational approach. At the same time, there is less political pressure on the DOF and improved relationships and communication between DOF, fishers, and community members. Awareness and local capacity increased regarding environmental issues and mobilization for conservation purposes (demarcation of conservation zones and stocking). The interventions were also expected to lead to the legalization of 'improved'/less harmful types of *kad ton,* the continued utilization of an efficient fishing gear by fishers, and the Continued creation of funds for community development.

Several lessons were learned from the Songkhram River fisheries case. First, unilateral imposition of regulations by a concerned authority does not guarantee compliance. Political pressure is likely to favor increase of production, income and revenue, and not the conservation of resources. As such, high-level working groups assigned centrally may not give the issue the necessary priority, may not find time to convene, and may prolong the process unnecessarily. Consequently, conflict management should take place at the level where conflict arises; however, involvement of authority representatives from all levels is, nevertheless, an important prerequisite. Flexibility by technical authorities is needed (including temporarily suspending rules for research and trials, for example). Finally, improved communication, listening, and mutual understanding between conflicting partners are a must. Conflict management is not a short process; it takes time to build relationships among parties, develop collaborative learning (joint research) initiatives, and to generate mutually beneficial policy solutions.

Pak Moon Dam

UbonRatchthani province, Thailand

Main issues: Dam benefits vs. social and environmental impacts

In 1989, the Thai Cabinet approved the construction of the Pak Moon dam in the UbonRatchthani province in Thailand. The dam, originally slated to cost US $155. 2 million, was expected to meet burgeoning demands by producing hydropower, increasing fishery yields, and bestowing irrigation benefits— although the latter was doubtful for a run of the river dam (Bangkok Post 2000). [17]

From the start, there were problems surrounding Pak Moon. In January 1991, preliminary work on the dam was completed, and by March 1991, village representatives submitted a letter of protest against further construction to World Bank representatives in Bangkok. The project was subsequently modified in September 1991 and approved by the National Economic and Social Development Board (NESDB) with an increased cost of US $264 million (Bangkok Post 2000). Protests continued, and in March 1993, villagers protesting dam site clashed with police. Subsequently, negotiations were held, resulting in the Electricity Generating Authority of Thailand (EGAT) agreeing to compensate displaced villagers.

By January 1995, construction of the dam was completed, and the dam entered full operational status. Despite the compensation program, in March 1999 a protest village called Mae Moon Man Yuen (long-lasting moon river) was established at the Pak Moon Dam site.

While the original Environmental Planning Survey predicted 241 households would be displaced by the Pak Moon Dam, nearly 1,700 households were displaced in reality (Bangkok Post 2000). Additionally, a large number of households were affected by declining fish yields, an unexpected negative impact, and 6,202 households were compensated for income losses during the construction of the Pak Moon Dam (Bangkok Post 2000). In April 2000, while land compensation negotiations continued, EGAT announced government's compensation program had reached its final stage, and no more villagers would receive any money. Compensation for long-term fisheries losses was not provided (Bangkok Post 2000).

Since the construction of the dam, villagers have witnessed many social and cultural problems. The new arrangements have disrupted former social relations and changed patterns of interaction among the villagers. Before the dam, the Moon River served as the stage for their social life. Additionally, the dam cost much more than expected, led to 50-100% declines in fish catch and the complete disappearance of some fish species, submerged 50 natural rapids, and inundated riverbanks where local communities traditionally foraged for food and medicinal plants, leading to decreases in biodiversity and food security.

The case of the Pak Moon Dam demonstrates a conflict between expected benefits versus social and environmental impacts (hydropower, irrigation, fishery, relocation, loss of occupation, loss of fish species and habitats, loss of riverbank vegetation, and compensation for losses). There was a strong data conflict between what was expected and the actual basin impacts. Furthermore, this case demonstrated bad practice by the Thai Government due to top-down decision making and lack of public participation in the planning and implementation of the dam project. The combination of these factors forced the

[17]Bangkok Post. October 1, 2000. The Tragedy of Pak Moon Dam (Perspective)

government to spend years trying to resolve the conflict, which could have been avoided via the use of best practices and earlier involvement of the communities.

This case provides several lessons learned that can serve as a cautionary tale for other development projects. First, Environmental Impact Assessments cannot always be trusted. Unreliable or misleading data can leave agencies with a much greater problem and much poorer outcomes than expected. Institutionally, there is great need for an effective system of Administrative Law. Finally, top-down decision-making and lack of stakeholder consultation in the early stages of project lead to additional problems and community blowback. As such, involvement of the impacted communities from early stages can help agencies identify additional project repercussions, develop a plan that better fits the local context, and gain community support and buy-in for the project. Consequently, if communities are partners in (rather than subjects of) development plans, they will perhaps be more likely to give leeway (or at least patience) in the case that there are unexpected impacts. [18]

[18] Two additional case studies could be developed, but we need more information about the history and outcomes: Transboundary Emergency Assistance between An Giang (Vietnam) and Kandal (Cambodia), Transboundary Planning in BDP (Basin Development Plan)

Pandal Basin Overview

The Pandal River Basin (PRB) is five riparian countries, Dalik, Ordon, Gandor, Esund, and Panam. The headwaters of the Pandal River start high in the peaks of Ordon's central mountain range. From Dalik, the river flows directly south into Ordon and then southwest into Gandor. Here, the river meets with two major tributaries, the Nortesund and Suresund, which are dammed to form the Gand Reservoir in Gandor. Finally, the river flows south from Gandor to its mouth in Panam. Along the way, the river supports a multitude of uses: transport of logs; irrigation for rice cultivation and floodplain subsistence gardens; fisheries; a large mangrove forest; and drinking water.

Ordon

Ordon is a poor country, with an economy based on subsistence agriculture, primarily rice and timber, which it has traditionally exported without much regulation by the government. Logging activities have led to the construction of a number of roads leading to the Pandal River, which timber companies use to transport logs downstream. Ordon's objective is economic growth. Its geographic conditions have endowed it with significant hydropower potential along the Pandal River, a potential that has been as yet unrealized due to the reluctance of private groups to invest under its instable political conditions. However, with its first democratically-elected government now in office, Ordon has been seeking to develop hydropower to export to its neighbor countries. Its population is composed of several different ethnic groups, who have occasionally clashed over access to the country's timber resources. All of Ordon's ethnic groups depend on the Pandal River's water for subsistence agriculture and drinking water. One group, the Suwa, also conducts traditional religious rites along a stretch of the Pandal River. Recently, the country's ethnic groups have united in opposition to foreign investors who keep disproportionate profits from the Ordon's timber industry. Five years ago, a brief civil uprising broke out, threatening to "Occupy Ordon" and overthrow the central government before being resolved with help from the larger regional community.

Additional Ordon Challenges:

- Deforestation is leading to increasing frequency of landslides that threaten Ordon's roads and other infrastructure. On one occasion in 2010, a landslide into the Pandal led to high sedimentation of public drinking water supplies.
- While the Occupy movement in Ordon has quieted, the underlying tensions between the indigenous population and foreign timber corporations remain.

Gandor

To the south of the Ordon sits Gandor, a small, landlocked country situated entirely within the Pandal Basin. Gandor is an economically poor country rich in natural resources, including lush agricultural land, valuable minerals, and a large native fishery,. Through its resource reserves, Gandor is making modest economic gains, moving from raw exports to the construction of factories that produce electronic products. As Gandor has developed, its electricity needs have increased. Gandor has traditionally met its power needs through domestic hydropower production at Gand Reservoir, just downstream of the confluence of the Nortesund and Suresund tributaries, but the combination of growing electricity needs and exhaustion of its domestic hydropower supply has made it eager to import electricity from its neighbors. Gandor's population consists of two predominate ethic groups, the larger of which, the Tulsi, dominate the government and industry in Gandor's burgeoning cities. The minority, the Hrang, reside near Gandor's northern border with Ordon, where they live along the riverbed. There is also a small Hrang population on Ordon's side of the border. The Hrang rely on rice cultivation, seasonal floodplain gardening, and traditional fisheries to meet their subsistence needs. They are also characterized by a higher level of poverty than in the rest of the country as well as political marginalization- which came to light in the 1990s, when the international community intervened in Gandor to stop violence against the Hrang. The impoverished conditions that emerged during the 1990s in Gandor's northern region have created political opposition to the governing democratic regime, which the majority party is eager to contain.

Additional Gandor Challenges:

- The ethnic minority, the Hrang, are threatened by the effects of climate change. Larger floods and longer dry seasons threaten their subsistence agriculture.

- Conversely, large hydropower projects proposed upstream in Ordon and Dalik may flatten the hydrograph that supports seasonal floodplain farming and the large and diverse native fishery. These native fish species, used both as an economic export and as subsistence for the Hrang, are unlikely to thrive without historic wet and dry season conditions.

Panam

Southeast of Gandor sits Panam, a coastal country at the mouth of the Pandal River. Most of the country lies along the Tulgy Sea outside of the basin, divided from Gandor by the Panam Mountains. Previously isolated and economically stunted by civil war, Panam has exhibited surprising economic growth since the resolution of the conflict in 1992. Panam's economy is driven by a combination of subsistence agriculture (primarily rice cultivation), clothing production and exports, and coastal fisheries both at the mouth of the Pandal River and in the Tulgy Sea. To the south of the country, where the Pandal River approaches the ocean, sit a large mangrove forest and fishery, recently expanded as an income-generating project for local women by a large international NGO. To spur economic development, Panam has been seeking to draw ecotourists to the exceptional biodiversity in its northern region, including several species of rare and endangered birds that nest along the Pandal River. As the country farthest downstream in the Pandal River Basin, Panam is very concerned about maintaining a reliable water supply for its fisheries. Flash floods from dams constructed in Gandor have on occasion inundated its fisheries, destroying fish stocks and fishing

equipment. Panam has enjoyed a relatively stable democratic government for the last twenty years, and is primarily inhabited by the Klee ethnic group.

Additional Panam Challenges:

- Panam's groundwater is at risk for saltwater intrusion, leaving the Panam government with limited options for drinking water.

- Panam's government is growing increasingly concerned about sea level rise. While there is some high ground along the Gandor border, most of the country lies near sea level. With a sea level rise of +1 meter, most of the habitable land in Panam would be inundated.

Esund

To the south of Gandor and Ordon, neighboring Panam, lies Esund, a relatively wealthy country that contains two significant tributaries, the Nortesund and Suresund, that feed into the Pandal River. Esund's capital lies outside of the Pandal basin, and its economy is centered in large cities with industry, tourism, and service sectors. Esund has a long coastline and a long-established fishery in the Southern Ocean. So far, it has not imposed significant demands on the water resources of the Pandal tributaries. However, the central government has been exploring plans to construct a series of dams on the Esund River in order to generate power for its large coastal cities and to boost industrial agriculture in its western region. The country is diverse, drawing international commerce and tourists. However, a number of ethnic groups who rely primarily on subsistence agriculture inhabit Esund's countryside, and these groups are wary that their traditional practices may be lost in the country's push for industrial agriculture for export.

Additional Esund Challenges:

- Esund, like Panam, relies on groundwater for its coastal urban water supply. Esund's groundwater supply is threatened by industrial pollution and by salt water intrusion related to unsustainable withdrawals.

- Esund's globalized capital draws tourists, many of whom venture inland to see the rainforests surrounding the Nortesund tributary of the Pandal. Esund's governing officials are worried about how to meet their energy demands needed to maintain economic growth without losing their burgeoning tourism industry.

Dalik

In the northernmost headwaters of the Pandal basin, Dalik borders all four of its much smaller neighbors. Dalik is a large, wealthy country still exhibiting rapid economic development. Most of Dalik's population lives in large cities along the Tulgy and in the north of the country, where large industrial fisheries, agriculture, mining, and large-scale manufacturing and industry have sustained a diverse economy. Politically, Dalik has used its economic and military power to achieve its goals in the region, backing a civil war in Panam and supplying weapons to the Tulsi in Gandor in the 1990s in order to procure raw goods and to distract the international community from its massive deforestation and mining operations, which involved relocating many minority ethnic populations. Today, Dalik suffers from high levels of pollution, and it hopes to green up its image by switching from its oil reserves to hydroelectric power. It has already two dams in the Pandal headwaters, and plans to build several larger dams within the next few years. Dalik has not joined any regional agreements or otherwise participated in river basin planning.

Additional Dalik Challenges:

- Dalik is worried that the international community will oppose unilateral construction of dams in the Pandal headwaters. If hydropower production is delayed, the Dalik government is investigating new developments in hydrofracturing, which will make natural gas deposits in the east economically viable.

- Dalik's municipal water supplies in its large cities are contaminated to unsafe levels by mining and agricultural runoff. One political party in Dalik has proposed diverting water from the Pandal River to meet drinking water needs.

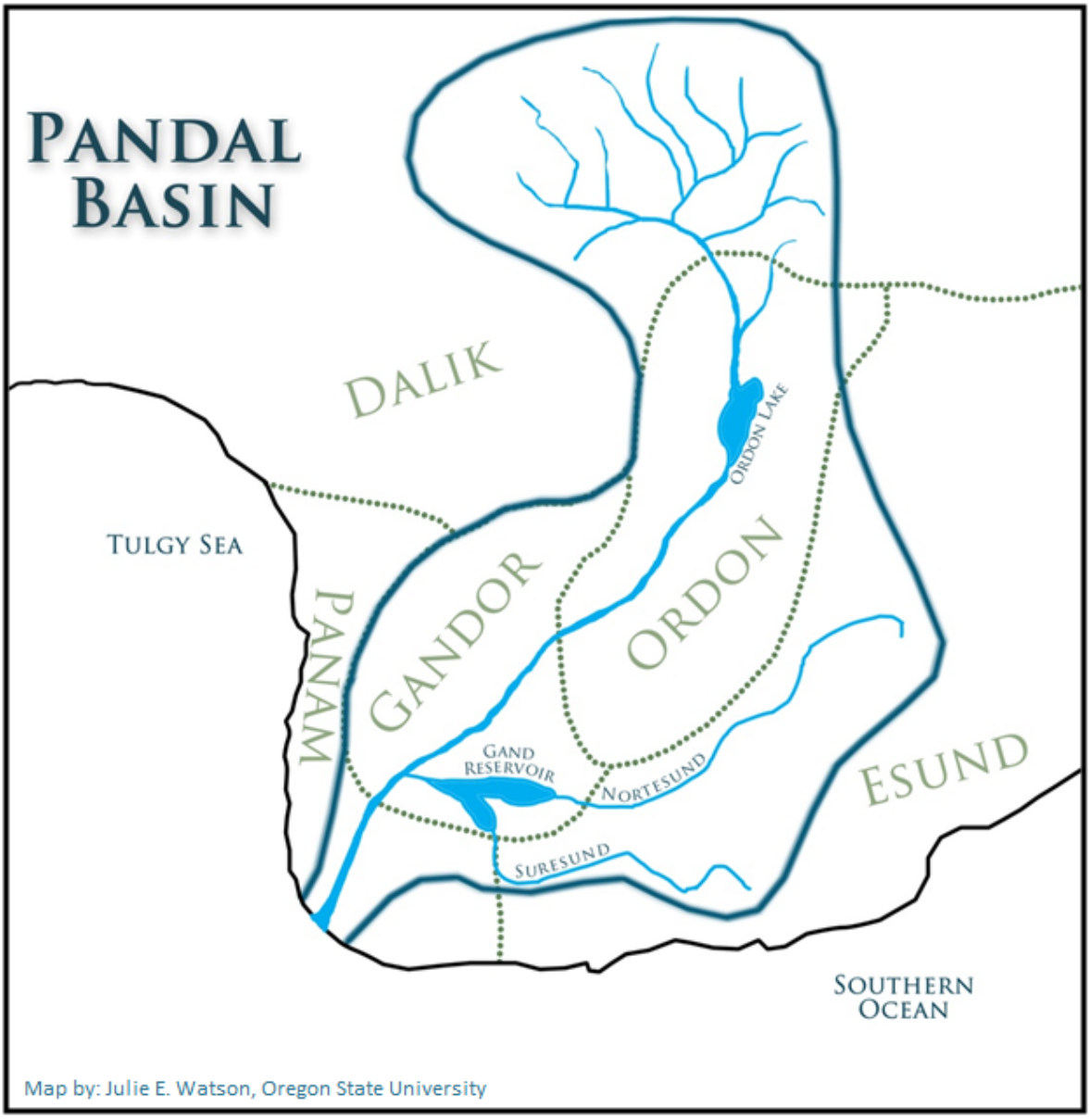


Figure 10. Map of the Pandal Basin with Borders.

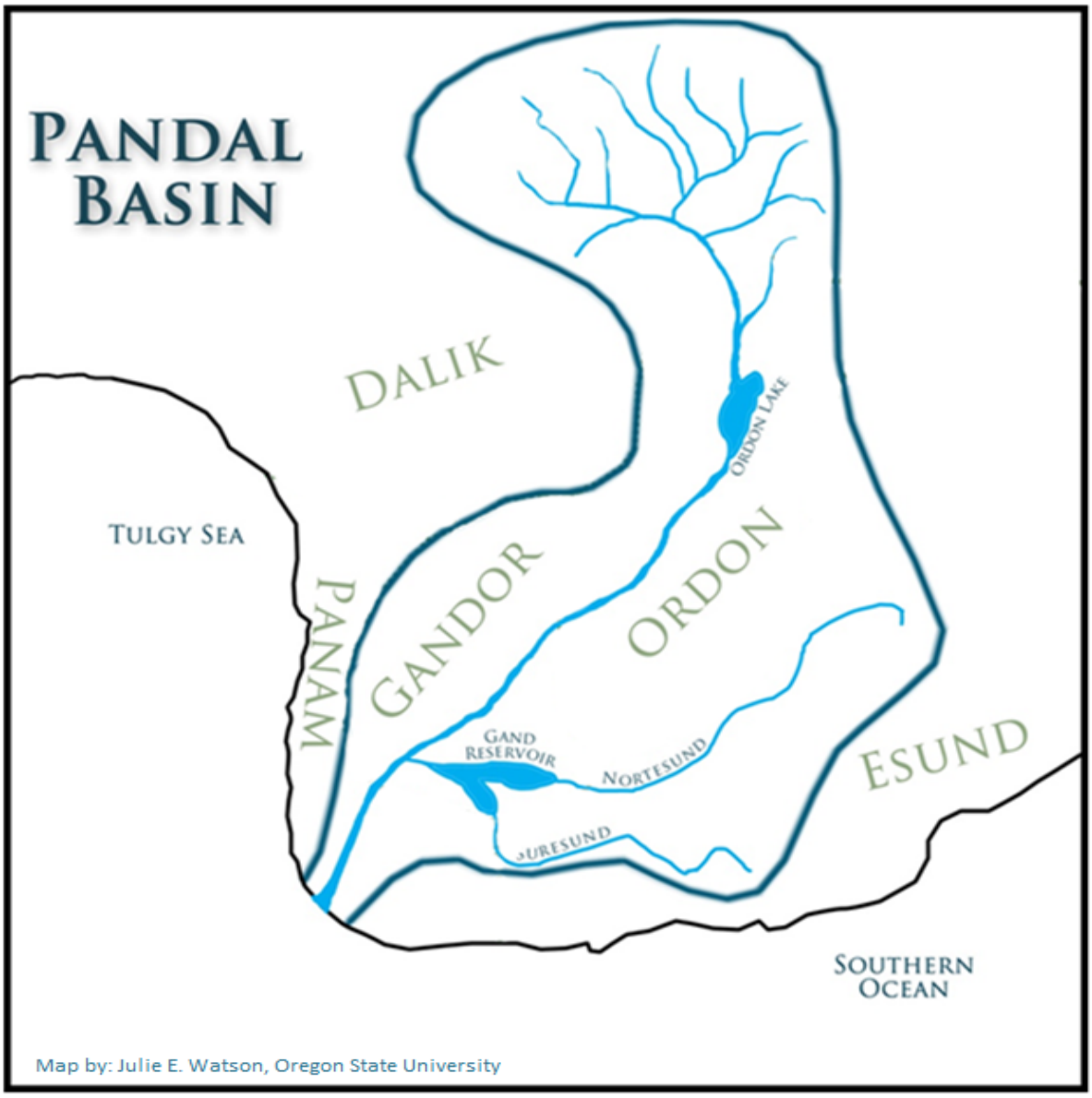


Figure 11. Map of the Pandal Basin without Borders.

Summary of Key Issues and/or Interests by State				
Ordon	**Gandor**	**Panam**	**Esund**	**Dalik**
Priority is economic growth	Growing electricity needs	Subsistence agriculture (rice)	Industry & service sectors	Large population
Forestry	Mining	Coastal fisheries	Tourism	Wealthy
Hydropower potential	Agricultural land	Clothing production	Agriculture & irrigation needs	Rapid industrialization
Safe drinking water/sedimentation	Growing number of factories	Mangrove forest with endangered birds	Considering hydropower development	Agriculture, mining, large-scale manufacturing
Indigenous spiritual use of the river	Indigenous riverine interests	Flash floods from upstream dams	Indigenous subsistence agriculture	Pollution and drinking water contamination
Civil uprising	Subsistence agriculture	Salt water contamination of groundwater	Salt water contamination of groundwater	Interested in cleaner energy: hydro or natural gas
Landslides, erosion	Native fishery	Sea level rise	Potential eco-tourism	Two dams in headwaters, more planned

Table 7. Summary of Key Pandal Basin Issues and/or Interests by State.

The Pandal River Basin (PRB) is five riparian countries, Dalik, Ordon, Gandor, Esund, and Panam. The headwaters of the Pandal River start high in the peaks of Ordon's central mountain range. From Dalik, the river flows directly south into Ordon and then southwest into Gandor. Here, the river meets with two major tributaries, the Nortesund and Suresund, which are dammed to form the Gand Reservoir in Gandor. Finally, the river flows south from Gandor to its mouth in Panam. Along the way, the river supports a multitude of uses: transport of logs; irrigation for rice cultivation and floodplain subsistence gardens; fisheries; a large mangrove forest; and drinking water.

Panam is 100 percent dependent on groundwater for drinking water. Panam's groundwater is at risk for saltwater intrusion, leaving the Panam government with limited options for drinking water. Panam has been seeking to draw ecotourists to the exceptional biodiversity in its northern region, so the perception of a "green" destination is important. Panam is very concerned about maintaining a reliable water supply for its bottled water industry, which is dependent on the coastal aquifer for the source.

Dalik's municipal water supplies in its large cities are contaminated to unsafe levels by mining and agricultural runoff. Dalik has proposed diverting water from the Pandal River to meet drinking water needs. Natural gas deposits in the east economically viable using conventional drilling technology. Dalik government is investigating new developments in horizontal drilling and hydrofracturing for unconventional exploration and development of a new natural gas field discovered along the border of Panam and Dalik.

Panam was awarded a grant from the Global Water Protection Agency to prepare one of the first groundwater protection programs in the world since Panam relied on wells and springs for their water supply. The groundwater scientist responsible for completing the work for Panam was sensitive about not having finished specialty graduate work in groundwater science, but was confident that their on-the-job experience for the past few years, along with their familiarity with Panam's water system, would provide them the background to complete a technically and legally defensible groundwater protection report. Most of the area to be delineated as a groundwater protection area was located in the shale gas exploration area located along the border of Panam and Dalik.

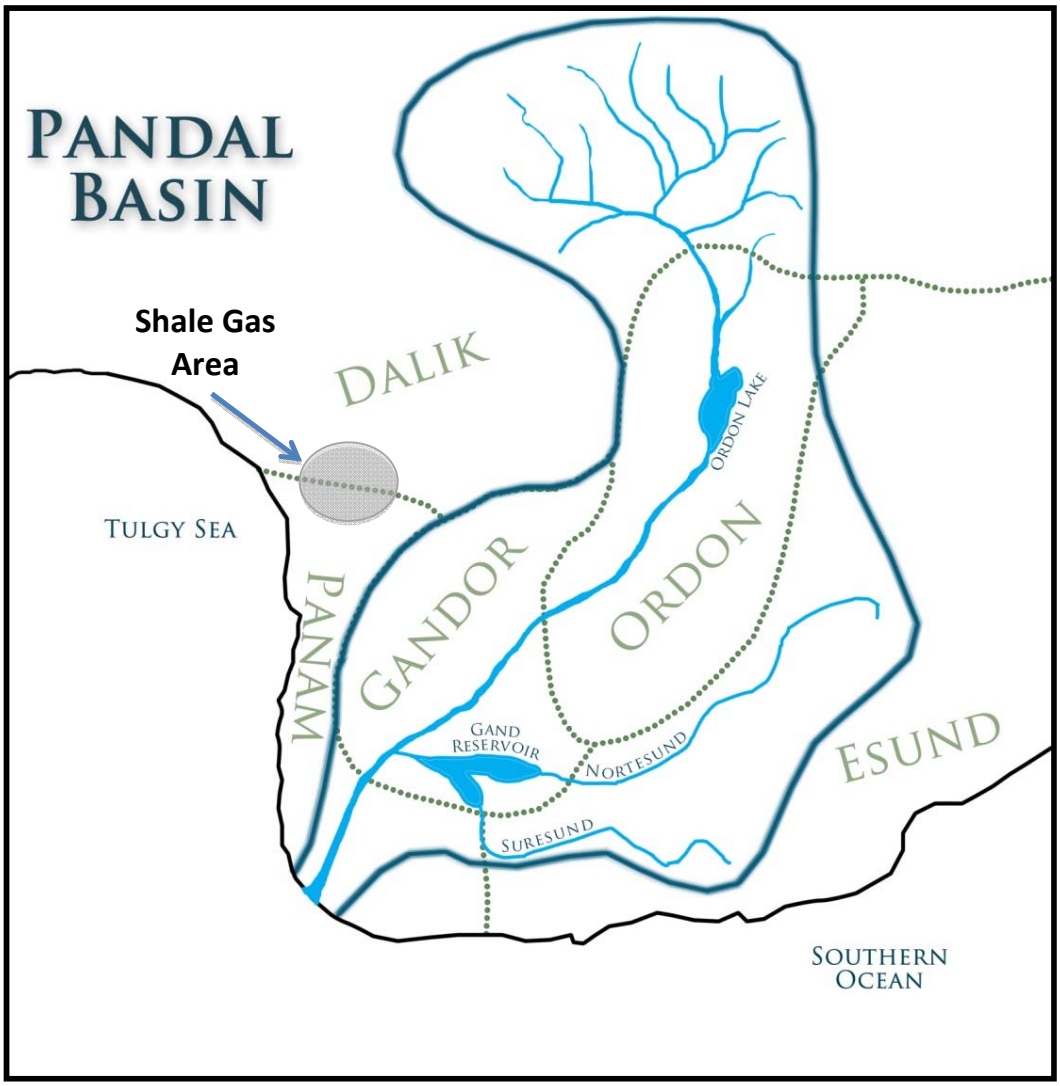
The initial meeting of the Panam and Dalik was contentious because the Dalik groundwater engineer considered the groundwater protection plan prepared by the Panam groundwater scientist to be too conservative and expensive to implement.The Panam newspaper was in attendance, sensing a story on a hotly contested local issue since it was a rural community.The consultant from Dalik made attempts to keep the meeting on a professional level, but any attempt to start the meeting was shot down by the Panam's constant defensive posturing. After the first six months of regular meetings resulting in no measurable progress, the Panam and Dalik councils suggested a neutral third party with technical expertise to assist with the negotiations between the Panam and Dalik consultants.

Instructions

The neutral third party will meet with each party for five minutes before the negotiation to discuss the ground rules to save time and expedite the process to save money.

The neutral third party recognizes that maps and sketches are an important part of a hydrologist's methods of presenting complex information, so it will be important to use an overhead projector and transparencies of the PRB map, or provide a white board or large pad of paper for drawing and note taking. You have identified an alternative from another country for the preliminary groundwater sampling and analysis of nearby wells, as well as a new well design for the experts to consider using the classic "what if" line of inquiry, specifically as it relates to whether or not the hydrofracture method will cause cross communication between wells.

The third party's goal is to break the impasse between the dueling experts and get them to agree to Joint Fact Finding approach suggesting a Joint Technical Memorandum in less than one hour. If an agreement cannot be reached in one hour, you will stop the negotiation.



Groundwater Scientist For Panam

You have been working for Panam for the past two years and know their water system better than anyone else in Panam.You helped Panam acquire the grant to complete the groundwater protection work and so you deserve the work.You have developed a strong working relationship with the water master of Panam.

You are almost done with your Master of Science degree in groundwater science and all that is left is to finish writing your thesis.However, you are finding it hard to complete with your work and the social life that has evolved since you started working for Panam.You are aware that other groundwater scientists who have completed their advanced degrees live and work in Dalik, but you have the same or better credentials than them with your on-the-job training, so you really don't need the degree anyway.

The groundwater protection project was more challenging than you thought it would be.You spent a lot of time inventorying the locations of orphan, old and plugged wells.You spent much time researching hydrofracturing technology because you did not study this subject while attempting your Master of Science.You are certain that hydrofracturing causes pollution because you have read that some countries in the world have banned the practice.You also have read editorials in the international news media prepared by "knowledge journalists" that make a compelling case against the practice from the perspective of increasing greenhouse gas emissions to the atmosphere through leaks in casings, through increased reliance on fossil fuels, and the perception that the injected fluids under high pressures has to go "somewhere" and it just can't get into Panam's water supply. Your charge is to help Panam protect their drinking water supplies because they have no alternatives.

Dalik Groundwater Engineer

You recently opened a branch office in Dalik after working nearly ten years for one of the largest groundwater engineering firms in the world.Unlike the groundwater scientist who works for Panam, you have a graduate degree in groundwater science from the Esund Water Resources Research Institute, the most prestigious institute in the Pandal River Basin.

You completed some work for Panam while living in Dalik, but it was not for the Panam water master.You are not desperate for work, but are interested in not traveling to other continents as much as you used to and desire to become part of the Pandal River Basin so you accept a position with the Dalik government. You are aware of the personal and professional relationship the groundwater scientist at Panam maintains with the Panam water master.

You are surprised by Panam's proclamation that all hydrofracturing of shale gas reservoirs is an environmental risk. You attend all of the public meetings regarding this groundwater protection project, and keep to yourself when the opportunity exists to ask questions.In the spirit of professionalism, you surprise the Panam consultant with a telephone call congratulating them on the quality of his public presentation.However, after you have reviewed the groundwater protection report and something doesn't appear correct.

A medium-sized international oil and gas company desires the concession to develop the natural gas in the shale reservoir along the Panam-Dalik border region. The Panam council must approve the drilling program due to an regional agreement with Dalik.On the recommendation of the groundwater scientist from Panam, the Panam council refuses to allow an exploratory well due to concerns of impacting the coastal aquifer that Panam uses for its drinking water supply.This position surprises you as the exploratory well is located outside of the mapped boundary for the groundwater protection program that Panam is implementing.You are requested by the oil and gas company to present the facts and findings of a technical review of the groundwater protection program to the Panam council.You point out that the land is outside the mapped boundary, and that based on the results of drilling other exploratory wells in the Pandal River basin, the local hydrogeology is favorable for protecting the groundwater supplies of Panam.The Panam consultant indicates that while the subject property is outside the mapped boundary of the groundwater protection area, other countries in the world reportedly outlaw hydrofracturing and that the practice places Panam's drinking water supplies at risk.You provide additional information detailing why hydrofracturing elsewhere in the world poses no threat to drinking water supplies without success.

Other neighboring riparians in the Pandal River Basin and their technical consultants also encounter the same treatment by Panam.You continue to attend the public meetings and listen to the same complaints and answers to complaints.In your discussions with other consultants, you discover that there is interest in redoing the groundwater protection program using volunteers from other countries, the primary oil and gas operators, and instructors at the Esund Water Resources Research Institute.

The Dalik council requests your technical assistance with coordinating the volunteer efforts to redo the groundwater protection mapping project.You are concerned that any changes made to the mapping will be perceived by the Panam as a personal attack on them and their consultant.You are also concerned about the perception of uncertainty and indecision in the groundwater sciences by the public.You are also concerned that while the groundwater

protection program is important to every country in the Pandal River Basin, it will not be embraced by other countries because it could not be developed with any consensus in region that is the technical center of excellence for groundwater science in the world.However, one thing is certain, and that is the groundwater protection program universally condemning hydrofracturing of shale gas reservoirs completed to date is technically impracticable as it makes the assumption that all shale gas wells leak greenhouse gases and that continued use of fossil fuels is immoral.

Your interest is designed to salvage the shale gas development program, to gain the trust of the public in the value of groundwater sciences in their everyday lives, show other water systems in the Pandal River Basin that hydraulic fracturing of shale gas reservoirs is fully protective of groundwater protection and that the assessments can be technically defensible using volunteers and industry technology and resources.

Neutral Third Party

The neutral third party is a water resource professional such as a hydrogeologist, environmental scientist, or civil engineer who has been selected due to expertise in the field and familiarity with the technical issues and jargon.Professional negotiators suggest that it is wise to seek out advisors such as a scientist or engineer with process skills and technical expertise to assist with complex environmental negotiations.Case development or “intake” will also be important, so a “telephone call” to each country’s representative might provide some insight into the various issues and conflicts associated with the dispute.It is obvious to you that this negotiation is oriented around many different interests and values, but that there may also be an identity-based component to it as well.On the basis of the personalities of the negotiators, you suspect it might take more than one negotiating session.You are aware there are many negotiation frameworks available, so the choice is up to you.

You think there might be some value in building Program Development Skills perhaps through a “Collaborative Learning” discussion on groundwater protection using your own research because Adler and others (2011) indicate “joint fact finding” and “educating” assists in earning the trust of the parties, as well as building trust between the negotiators as they “ask each other for help” on understanding the issues regarding hydrofracturing and groundwater or aquifer protection.Because you have little time to prepare, you decide to visit the Global Water Protection Agency site and look under Hydrofracturing for links to information on the method and its relationship to drinking water or groundwater protection.

What you discover is that there are few, if any, documented cases of groundwater contamination from hydrofracturing. The technical literature focuses on a few suspected case studies, but the data are not definitive. You learn some countries elsewhere in the world have completely banned the practice in their countries. Elsewhere, the issues focus on the geologic setting where protective layers exist between the natural gas reservoirs and the drinking water aquifers and the hydraulic integrity of these layers when the large pressures are used to propagate the fracture and inject the fluids and proppants to condition the well casing and the reservoir. Orphan wells, old wells, and improperly abandoned wells also serve as conduits for cross communication between reservoirs and aquifers. There is also the issue of the proprietary nature of the fracking fluids – companies are hesitant to share the chemical composition of the fracking fluid not because they are concerned about pollution, but because it will give away a trade secret.

Annex3 Different Training Scenarios

The following training scenarios can be used depending a number of factors that will influence how you design and deliver your training:

- Target audience
- Objective of the course
- Duration
- Resources: budget, venue

The training scenarios have been deliberately kept simple and only the learning block have been provided as trainers may need to modify these training scenarios according to the factors above.

1. Training Scenario One: One Off One Day Negotiation Skills for Transboundary Water Seminar

Target:

- High-level Mekong country decision makersand
- High ranking representatives at negotiations

Time	Session and Sections
AM	• Self Assessment on Negotiation Skills (S 7. 4) • Rules of the Road (S 3.2) • Effective Negotiation Skills for Transboundary Waters (S 5.1, S 5.2 , S 5.3 , S 5.4)
PM	• Stakeholders , Positions and Interest (S 4.2a) • Water, Rights , Need , Benefits and Equity (S 6.2

2. Training Scenario Two: One off training on negotiation skills for transboundary waters

Target Group:

- Line managers and officers involved trans boundarywater resource management
- MRCS personnel

Time	Day One	Day Two	Day Three
AM	Introduction Pre - Self Assessment (S7.4)	Daily Reflections Positions and Interests in	Daily Reflections

	Understanding and Working with Four Fold Approaches(S3.1 Meeting Design for Collaboration (S3.2) Needs: Physical, Emotional, Intuitive and Spiritual (S3.3)	Negotiation (S 4. 2) Negotiations, Conditions for Negotiation and Collaborative Management Strategies(S4.3)	Water, Rights Needs, Benefits, Equity (S 6.2)
PM	Analyzing Stakeholders and Issues (S 4.1) Daily Feedback	Listening: The Heart of Difference Management (S 5.1) Culture and Negotiation Style (S 5.2) Reframing (S 5.3) Daily Feedback	Best Practice for Negotiation for Water related conflicts in the region (S 6.1) Synthesis of multi-discipline, collaborative and governance water negotiation framework (S 6.3) Evaluation and Post Self Assessment (S 7.4) Conclusion

3. Training Scenario Three:Field based on negotiation skillsfor transboundary waters

Target group:

- Line managers and officerswho are involved on the ground on contentious water issues
- Representatives from member countries who are involved in negotiations and planning
- Community based organization or NGOs who are working on transboundary water related issues
- MRCs personnel

Time	Day One	Day Two	Day Three	Day Four	Day Five
AM	Introduction Pre - Self Assessment (S7.4) Understanding and Working with Four Fold Approaches(S3.1 Meeting Design for Collaboration (S3.2) Needs: Physical, Emotional, Intuitive and Spiritual (S3.3)	Daily Reflections Positions and Interests in Negotiation (S 4. 2) Negotiations, Conditions for Negotiation and Collaborative Management Strategies(S4.3)	Daily Reflections Positions and Interests in Negotiation (S 4. 2) Negotiations, Conditions for Negotiation and Collaborative Management Strategies(S4.3)	Field Visit	Reflections from Field Visit (Using Fishbowl Technique) Water, Rights Needs, Benefits, Equity (S 6.2)
PM	Analyzing Stakeholders and Issues (S 4.1) Daily Reflections	Listening: The Heart of Difference Management (S 5.1) Culture and Negotiation Style (S 5.2) Reframing (S 5.3) Facilitation (S 5.4) Daily Feedback	Listening: The Heart of Difference Management (S 5.1) Culture and Negotiation Style (S 5.2) Reframing (S 5.3) Daily Feedback	Field Visit	for Water related conflicts in the region (S 6.1) Synthesis of multi-discipline, collaborative and governance water negotiation framework (S 6.3) Evaluation and Post Self Assessment (S 7.4)

A. The Kirkpatrick's Four- Level Training Evaluation Model

Kirkpatrick's Four- level training evaluation model is the suggested methodology for monitoring and evaluation for the trainings that will be conducted because of its attention to long-term impacts and results. Much training in the development world is only evaluated at the end of the training course or project. The Four-level Kirkpatrick training evaluation thoughtfully aims to understand both immediate impacts/results and long-terms impacts/results of training activities.

Level one evaluates the immediate reactions of participants and level two measures the increase in knowledge or intellectual capability from before to after the training experience. Both are conducted during the capacity development activity. Level three occurs when participants are interviewed after the activity by the trainers, hired consultants, or by the M&E team of the organization, to evaluate the extent to which the participants applied their learning or changed their behavior. The fourth and final stage evaluates the uptake of the new knowledge and skills, as well as the long-term impacts as a result of the training participant applying the new knowledge and skills.

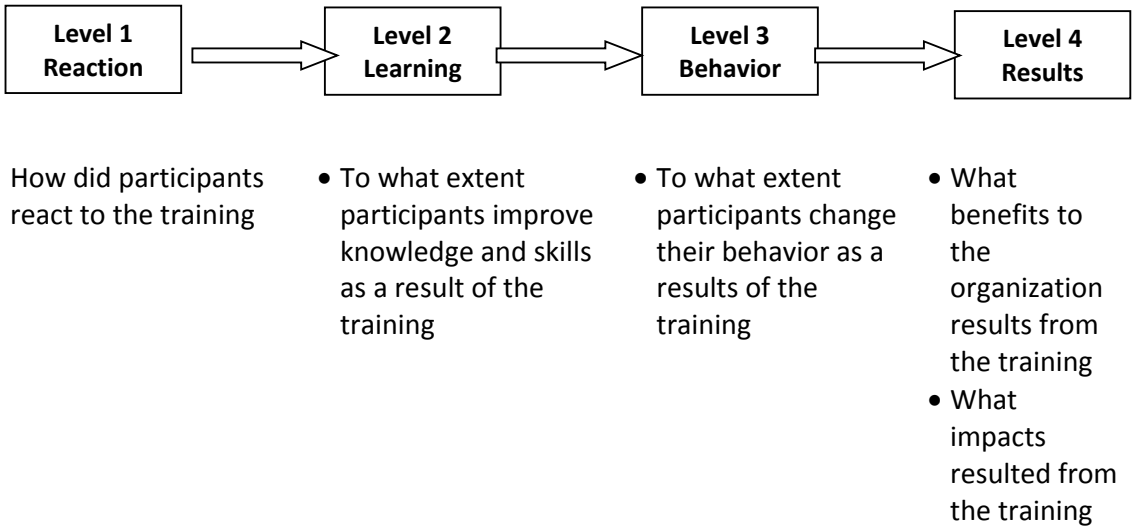


Figure 12. The Four-level Kirkpatrick Model for Evaluating the Effectiveness of Training Program.

For level 3 and Level 4, questionnaires have been developed and first tests conducted. Since it requires a lot of personnel and financial resources, and because of its time consuming nature, level 3 and level 4 can be done only for a sample of training participants.

The Kirkpatrick Monitoring and Evaluation Matrix

Level	Evaluation type(what is measured)	Evaluation description and characteristics	Evaluation tools and methods	Timefra me	Indicators
1	Reaction to Training - data to reflect participants' satisfaction degree in training organizing, trainer/facilitator, material, logistic, etc. (a basic tool of evaluating the quality of training in general)	How the participants felt about the training (i.e. trainers, logistics, venue, materials, activities, tasks etc.)	- level 1 -Training Evaluation Form Pre and post training surveys or questionnaires ***(See Level 1_Training Participant Feedback Form)*** - Daily Reflections – happy sheets', feedback forms, verbal reaction	Completed at end of each training	- Number of training hours disaggregated by gender - Appreciation of various variables (objectives, trainers, organization, materials, exercises)
2	Learning - data to reflect the learning	- change in knowledge and skills - can sometimes also assess change in attitude towards specific issues related to social equity in forest climate change mitigation	- Tasks/demonstrations during trainings - interviews or observations by facilitators-Pre and post training self-assessments ***(See Level 2-Participant self – assessment Feedback Form)***	Completed before and after each training	Percentage of increase/decrease in knowledge and skills (perceived by participants)
3	Behavior - qualitative and quantitative data to show some changes in participants behavior with applying learned knowledge and skills in their working environment after training	- What are changes in the ability/skills to participate in meetings/events related to social equity in forest climate change mitigation and to communicate grassroots concerns related to this issues	- observations and interviews 6/12 months later to assess change, relevance of the change, and sustainability of the change - case studies , stories of change, -surveys	Usually from 0. 5-1yr after training	- Extent to which participants have applied the acquired knowledge and skills - Level of organizational adoption and adaptation of knowledge and skills through : 1. Self perceived evidence of trainees disaggregated by gender 2. Opinions of managers of attending participants 3. Opinion of beneficiaries of attending participants
4	Results - the effects on the business or environment resulting from the trainee's performance	- tangible results of the learning , and looking at individual and organizational performance	- observations and interviews 6/12 months later to assess change, relevance of the change, and sustainability of the change - case studies , stories of change -surveys	Sometime from0. 5-1. 5yr after each training	Beneficiaries are satisfied with support from target stakeholders

Further Descriptions of Kirkpatrick Level 3 and Level 4 Assessment

Adapted from: RECOFTC, An Introduction to Monitoring and Evaluation (internal document), 2012

Parameters	Level 3	Level 4
What does it Evaluate?	Extent to which participants have applied the acquired knowledge and skills based on: Self-perceived evidence of trainees male/female; topic; geographical) Opinions of managers of attending organizations Opinions of clients/ beneficiaries of participants	Level of organizational adoption and adaption of knowledge and skills Opinions of managers of attending organizations Opinions of clients/beneficiaries of organizations
Why should it be done ?	Evidence of application will be gathered by Kirkpatrick level 3 evaluations. Other information to be collected includes areas of improvement for further and future capacity building and what barriers are there to the application of the lessons learned. This can be presented thematically and through stories of change.	Evidence of adoption and adaptation will be gathered by Kirkpatrick level 4 evaluations. Information should include areas of improvement for further and future capacity building and what barriers are there. This can be presented thematically and through stories of change.
Who should do it ?	Individual trainer for evaluation for each training (prepare questionnaire) Relevant MRC personnel in the M&E Unit Hired Consultant	Individual trainer for evaluation for each training (prepare questionnaire) Relevant MRC personnel in the M&E Unit Hired Consultant
How do collect the data? (Means of Verification)	1. Systematic Survey (Kirkpatrick Level 3 Assessment) Training Participant Feedback – Level 3 Evaluation % of training participants that effectively use knowledge and skills gained No. of organizations that use knowledge from MRC products and services 2. Uptake logs (ODI 2011, p. 6) A simple log (database) where comments, anecdotes and examples of 'uptake' or influence are recorded. This would be, essentially, a collection of informal and anecdotal evidence about the services provided by MRC, but could provide useful ongoing monitoring and contribute to deeper analyses once a number of instances are accumulated. 3. Annual survey (via E-news, alumni, and networks)	1. Interviews 2. Form – Level 4 Evaluation Purposeful selected sample of organizations 3. Case studies; stories of change 4. Annual survey (via E-news, alumni, and networks)
When should you do it?	Anywhere from0. 5-1. 5yr after each training (when an appropriate amount of time has passed where application of the training knowledge and skills can be assessed)	Anywhere from0. 5-1. 5yr after each training (when an appropriate amount of time has passed where impact of the application of the training knowledge and skills can be assessed)
What Resources do you Need?	Telephone costs if survey made by phone All training related M&E costs should be included in the training budget (include in training/project proposals already) Relatively time-consuming	Telephone costs if survey made by phone Consultancy fees, if not done by MRC All training related M&E costs should be included in the training budget (include in training/project proposals already) Relatively time-consuming

B. Developing a Personal or Organizational Action Plan

Just as important as assessing a participants learning during and after the training, it's also critical that participants have a follow-up plan that will uses the skills, knowledge and attitudes they had assimilated through the training. One way to ensure this is to do an individual or institutional action plan. An institutional work plan may be divided into unit or department work plans depending on the objective.

The action planning can be done in two ways:

- At the last session of the last day of the training (facilitated)
- After the training (individually /organizationally)

This action plan is also an element that can be monitored through the Kirkpatrick Level 3 and Level 4 assessments. (See Annex 7. 5 Kirkpatrick Evaluation Model)

A suggested frame for developing an action plan

When doing the action planning with the participants or giving the assignment to participant to develop their action plan, it is important to highlight 2 main aspects of the Action Plan. These are:

1. Setting specific and achievable Objectives of what they would like to achieve in t terms of the training they have done.
2. Setting indicators that they will use to track their objectives.

Ask participants to list down SMART indictors for the objectives and outputs as a way to track their progress in implanting this action plan. SMART indicators are described below:

SMART indicators

Specific	means that the indicator will refer to specific that will be achieved through the implementation of the action plan
Measurable	means that there is a simple way of measuring or quantifying the indicator
Accurate	means that the indicator is measuring something which relates directly with progress towards achieving the objective
Realistic	means that the indicator measures something which actually means something
Time-bound	means that the indicator varies in value over a period of time

A template that can be used to develop the Action Plan is shown below.

Plan of Action for _____

Plan Objective: _____

Expected Outputs: _____

What will be done 1. 2. 3. Indicators: 1. 2. 3.	**When will it be done** 1. 2. 3.
With Whom will it be done 1. 2. 3.	**How will it be done** 1. 2. 3.

Training Participant Feedback Form – LEVEL 1 - EVALUATION

(To be administered at the end of the training)

Title of the Training Course/ Code No. :
Date:
Name of the Participant/Code No. :

To be filled in by RECOFTC before distributing to participants

Please note that your constructive feedback is valuable as it will help in assessing quality of our training programs and improving them further to be more effective. Kindly read each question carefully and respond openly, if possible with examples and comments. ALL QUESTIONS MUST BE ANSWERED.

1. Do you have any suggestions to make the training program more effective?

2. How did you contribute towards achieving the training's objectives as compared with what you stated at the beginning of the training?

3. The Objective of the Training Program and Contents	**Strongly agree**	**Agree**	**Neither Disagree nor Agree**	**Disagree**	**Strongly Disagree**
3. 1 The Objectives of the Training Program were clear	☐	☐	☐	☐	☐
3. 2 The contents of the Training Program and activities were relevant to the Objectives	☐	☐	☐	☐	☐
3. 3 The length of the program was appropriate	☐	☐	☐	☐	☐

Comments

4. The Resource Person/Facilitator(NAME) ***(please copy question 4 for every resource person/facilitator involved in the training***	**Strongly agree**	**Agree**	**Neither Disagree nor Agree**	**Disagree**	**Strongly Disagree**
4. 1 Is highly competent in the subject area.	☐	☐	☐	☐	☐
4. 2 Delivered clear and logical sessions.	☐	☐	☐	☐	☐
4. 3 Was well organized and prepared.	☐	☐	☐	☐	☐
4. 4 Presented material at an appropriate pace.	☐	☐	☐	☐	☐
4. 5 Encouraged participation.	☐	☐	☐	☐	☐
4. 6 Responded well to participants' needs and questions.	☐	☐	☐	☐	☐

Comments

5. The Training Course Materials & Exercise	**Strongly agree**	**Agree**	**Neither Disagree nor Agree**	**Disagree**	**Strongly Disagree**
5. 1 Were sufficient, clear and relevant.	☐	☐	☐	☐	☐
5. 2 Will be useful back on the job.	☐	☐	☐	☐	☐

Comments

6. Environment (Training Venue, Accommodation & Logistics)	**Strongly agree**	**Agree**	**Neither Disagree nor Agree**	**Disagree**	**Strongly Disagree**
6. 1 The venue, seating arrangement, room temperature and lighting were conducive to learning.	☐	☐	☐	☐	☐
6. 2 All administrative and logistic support was satisfactory.	☐	☐	☐	☐	☐
6. 3 Accommodation was satisfactory and in close proximity to the Training Venue	☐	☐	☐	☐	☐
6. 4 Meals and refreshments were delicious and no health problems encountered.	☐	☐	☐	☐	☐

Comments

7. Conducive Working Environment	**Strongly agree**	**Agree**	**Neither Disagree nor Agree**	**Disagree**	**Strongly Disagree**
7. 1 Current working environment is favorable for applying learned knowledge and skills to my work.	☐	☐	☐	☐	☐

Comments

Self-Assessment Form

Title of the Training Course: _____

Name of the Participant: (Optional)_____

Self-Assessment of your development in _____ . Below is a list of attributes/ topics that a participant may use to measure their competencies and their degree of knowledge, skills and attitudes towards _____. Read through the attributes and along the continuum for each of the attributes, place an O (circle) where you think you were before the course and a triangular (?) where you are now. Any remarks are appreciated to indicate. Before taking this course:O After learning from this course:?

Attributes/ Topics *** Fill in the specific training objectives/ title of sessions /learning blocks below**	**Title of Training** **Very Low** No general understanding and knowledge about the topic		**Moderate** Understand the basic knowledge of the topic		**Very High** Can confidently describe the contents and explain them with examples	**Remarks**
Ability to know and manage one's self in situations that challenge comfort positions	1	2	3	4	5	
Understanding of the structure of a pathway of transformation towards collaboration	1	2	3	4	5	
Ability to recognize and handle different negotiation stages: to move from adversarial > reflexive > integrative > action oriented	1	2	3	4	5	
Ability to design meetings to foster creative dialogue and collaboration	1	2	3	4	5	

Attributes/ Topics	Very Low No general understanding and knowledge about the topic		Moderate Understand the basic knowledge of the topic	Very High Can confidently describe the contents and explain them with examples		Remarks
Ability to use communication techniques to facilitate interest based negotiations, through fostering creative dialogue and collaboration	1	2	3	4	5	
Capacity to build trust, as experienced in the communications skills, especially through active and transformative listening skills	1	2	3	4	5	
Ability to reframe situations	1	2	3	4	5	
Ability to assess costs / benefits and risks / opportunities of management options	1	2	3	4	5	

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Online Resources

Mediators, Arbritrators, and everything related to Alternative Dispute Resolution:http://www.mediate.com/

Mediators Beyond Borders International:http://mediatorsbeyondborders.org/

International Institute for Sustainable Development:http://www.iisd.ca/

Learningforsustainability.net, helping people collaborate and innovate: http://learningforsustainability.net/

The Beyond Intractability Project, The Conflict Information Consortium:http://www.beyondintractability.org/

The Program in Water Conflict Management and Transformation: http://www.transboundarywaters.orst.edu/

Water Diplomacy:http://waterdiplomacy.org/

Water Security:http://www.uea.ac.uk/watersecurity

Consensus Building Approach – A blog by Larry Susskind: http://theconsensusbuildingapproach.blogspot.com/

International Association of Facilitators:http://www.iaf-world.org/index.aspx

National Center for Technology and Dispute Resolution:http://www.odr.info/