Collaborative conflict management for enhanced national forest programmes (nfps)

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Foreword

Conflict among stakeholders over access, control or ownership of forest resources is a major impediment to achieving sustainable outcomes in the forest sector. It leads to loss of income, employment, government revenues and environmental services. Traditions, customs, rules, laws, and policies dealing with access, use and management of natural resources, aim to bring order and predictability to situations where there is existing competition and conflicting interests – even within communities.

Conflict, in its different forms, is often inevitable and unavoidable, making natural resource professionals increasingly involved in mediating conflicts among various stakeholders.

Resolving conflict in a collaborative way helps to develop trust and strengthen communication channels between the various parties. It generates inclusive solutions that arise from wider stakeholders' views, and therefore helps clarify policies, institutions and processes that regulate access to – or control over – natural resources.

FAO and the national forest programme facility have developed a training module on collaborative conflict management, in close collaboration with stakeholders in several parts of the world. The training is designed to enhance the implementation of national forest programmes (nfps).

This handbook serves as a tool for conflict managers to address forest policy-related conflicts by focusing on collaborative ways of managing public disputes in forest policy making. It offers a practical 'road map' for planning, designing or leading collaborative conflict resolution. The handbook also recognizes the great diversity of contexts, objectives and actions of nfps around the globe, as such it does not offer prescriptions or ready-made solutions. It seeks to clarify the overall process of collaborative conflict management and outlines important considerations for conflict management.

It is our hope that this handbook will strengthen the understanding of conflict and how it can be systematically managed in order to achieve more effective national forest programmes.

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Acknowledgements

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Acronyms and definitions

Alternative Dispute Resolution

Alternative dispute resolution refers to informal dispute resolution processes in which parties meet with a professional third party to resolve disputes in a manner that is less formal and often more consensual than is possible in court proceedings. The principle forms are adjudication, arbitration, conciliation and mediation. Although it is often voluntary, alternative dispute resolution is sometimes mandated by the courts, which require that conflicting parties try mediation before they take their case to court.

Collaborative conflict management

Collaborative conflict management is a hybrid of systems thinking and alternative dispute resolution. It includes a range of informal approaches that only involve stakeholders or a process assistant. Common to all collaborative conflict management processes is that competing or opposing stakeholder groups work together to reach an agreement on a controversial issue. The framework has been adapted to fit environmental policy making and to show how parties can make progress in managing controversial issues.

Consensus

A **consensus** decision is one that everyone can agree with. It is therefore the best possible agreement to resolve a conflict. A consensus does not mean that everyone is equally happy with the decision, but that all parties accept it as the best decision that could be made at the time.

Consensus building

Consensus building is used to settle conflicts that involve multiple parties and complicated issues. The approach seeks to transform adversarial confrontations into a cooperative search for information and solutions that meet all parties' needs.

Convening

Convening is the first stage in conflict intervention. Its role, as the name implies, is to bring conflicting parties to a meeting where they can discuss the issues and consider options for conflict resolution. Convening paves the way for conflict-resolution processes such as negotiation and mediation.

Facilitation

Facilitation entails helping a group of people to understand their common objectives and achieve them without while remaining objective in the discussion. A facilitator assists groups in achieving consensus on any disagreements so that they have a strong basis for future action.

Framing

Each party to a conflict has its own perception and understanding of its agenda, the relevance of various issues, priorities, opportunities and risks involved in different choices. **Framing** involves assembling a set of lenses or filters through which various parties may view a conflict.

Mediation

Mediation is a way of helping parties to deal with strong disagreements and facilitating negotiations so that parties can make decisions to resolve disputes.

Nfp

National forest programmes are comprehensive forest policy frameworks for sustainable forest management. Nfps are based on a broad, inter-sector approach to formulating policies, strategies and plans of action, as well as implementation, monitoring and evaluating them.

REDD

The United Nations Collaborative Programme on Reducing Emissions from Deforestation and Degradation in Developing Countries is a mechanism to create incentives for developing countries to protect, manage and wisely use their forest resources, contributing to the global fight against climate change.

RRI

The **Rights and Resources Initiative** is a global coalition to advance forest tenure, policy and market reforms. RRI is composed of international, regional, and community organizations engaged in conservation, research, and development.

PART 1: Overview

1.1 How to use this handbook

The handbook *Collaborative conflict management* has four parts:

❖ *Part I*

Addresses the question, 'Why collaborative conflict management in nfps?' It explores what conflict is, why stakeholders should engage in collaborative conflict management and what the benefits and conditions are.

❖ *Part II*

Tackles the question, 'What is a framework for managing public disputes?' It begins by outlining the important principles of collaborative conflict management and then describes the process, which consists of three well-defined stages, each containing a number of steps, tasks and objectives to create a productive outcome.

❖ *Part III*

Explores procedural challenges and provides advice on how to make the process work. Based on practical experience, this section offers techniques for handling the human side of the process, including the underlying dynamics in public disputes, running effective meetings and how to persuade powerful, angry or suspicious people to negotiate with each other.

❖ *Part IV*

Reviews the role of facilitators and offers a checklist for use by nfp stakeholders when deciding whether or not to engage the services of a facilitator or mediator.

The handbook is aimed at officials from a range of backgrounds. Since these users have different needs, they can use the handbook in different ways:

❖ *Newcomers*

May decide to read the handbook as a guideline and use it step by step.

❖ *Advanced users*

May want to directly access the sections outlined above.

❖ *Experts*

May be interested only in specific elements, which they can easily access via the detailed table of contents.

❖ *nfp stakeholders in management positions*

May want to study the handbook as well as the examples and practical tips it provides in detail; Part II may be especially useful.

❖ *nfp stakeholders in leadership positions*

May find it helpful to obtain an overview of the conditions, costs and success factors for resolving disputes. They may wish to concentrate on Parts I and II, and especially Chapters 1.4 and 1.5.

❖ *For all users*

The handbook may be useful as a compendium of good practices.

1.2 What is a conflict or dispute?

First, the straight answer: conflicts or disputes[1] occur when people perceive that their goals, needs, interests or values are threatened. This can be the result of a disagreement, but clearly goes beyond mere differences of opinion. In forestry they are an expression of people's different values and priorities regarding the use of forestry resources.

Conflicts exist everywhere and are not necessarily negative. In fact, conflicts are necessary to bring about change. A conflict may therefore be positive, negative or neutral. It is not invariably dysfunctional or the cause of destructive consequences. How conflicts develop depends very much on how they are managed. Much can be done to prevent conflicts from taking violent or destructive courses by addressing their underlying causes at an early stage. This task is becoming increasingly important with regard to international and national forest policies.

Forestry-related conflicts are unique to the countries in which they take place. Nonetheless, when looking across countries, forest-related conflicts seem to have common roots. This chapter provides a brief overview of these common causes as well as current trends and issues in forestry that underlie conflicts. These are often, but not exclusively, governance concerns:

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[1] The terms 'conflict' and 'dispute' are used interchangeably in this publication because most people do not recognize the difference between the two. However, many conflict scholars do draw a distinction between them. Particularly useful is the distinction made by John Burton, who distinguishes the two based on time and issues of contention. Burton suggests that disputes are short-term disagreements that are relatively easy to resolve while conflicts are long-term, deep-rooted problems that involve seemingly non-negotiable issues and are resistant to resolution. Although both types of disagreement can occur independently of one another, they may also be connected. One way to think about the difference between them is that short-term disputes may exist within a larger, longer conflict.

❖ *Overlapping, competitive or contradictory rules and regulations governing forest use:*

Forest conflicts emerge when there is a lack of harmony and coordination among different policies – formal and informal laws and procedures operating within the same socio-political space. These policies may be rooted in national, religious, ethnic, customary, international or other agreements. "Unrecognized collective rights are a primary cause of widespread poverty, human rights abuse, inequality and political exclusion. Perhaps not surprisingly then, two thirds of ongoing violent conflicts today are driven by contested claims to land and resources" (The Rights and Resources Initiative [RRI], 2010: page 5).

EXAMPLE: "TOO MUCH FOR TOO FEW" – WHOSE RIGHTS WILL PREVAIL IN PERU?

On June 5, 2009, along the jungle back roads of the Peruvian Amazon, indigenous protesters and military police clashed violently, leaving nearly 100 dead. The 'Bagua Massacre' brought world attention to a seething conflict over rights to resources in forests where indigenous groups' titles to ancestral lands overlap with nearly 45 million ha under contract for oil and gas exploitation (RRI, 2010).

EXAMPLE: RESOURCE TENURE BECOMES A BATTLEGROUND IN AFGHANISTAN

With only 7 percent fertile land, pastoral land use is critical to rural livelihoods in Afghanistan. While feudal ownership of farmland was partially addressed in the 1960s and 1970s, a more troubling land-rights issue was left to fester: who owns the pasturelands? They have long been claimed by the Pashtun-dominated Government as state property, then consistently reallocated to Pashtun nomads. Settled Hazara reclaimed them during the civil war (1978–2001) as their customary property. Although the Government is committed to recognizing that at least some pastures are not government property, slowness to act has allowed a new front to be opened in the war against insurgency: since 2007, Pashtun nomads have garnered open backing from the Taliban. Settled Shia Hazara threaten to look to Iran for counter-support. Hundreds have been killed since 2007 as the high pastures open for spring and summer grazing (Alden Wily, 2008).

❖ *Uncoordinated planning:*

Despite a growing recognition of the need for integrated approaches to forest management, many national and regional agencies still rely on single-sector approaches, with limited cross-sector planning or coordination. For example, an agricultural service may promote cash-crop expansion in and around forests in order to raise incomes without recognizing the adverse effects on other resource users. Overlap or competition among agencies may result in their collective inability to reconcile the needs and priorities of all stakeholders.

❖ *Inadequate or poor information sharing:*

Lack of information about the intentions of planning agencies may lead to suspicion and mistrust, and increase the likelihood of conflicts.

❖ *Limited institutional capacity:*

Organizations not only face financial constraints on staff and equipment, they often lack the expertise to anticipate and manage conflicts that arise in the course of their activities.

❖ *Poor identification of and limited consultation with stakeholders:*

Stakeholders are people who possess an economic, cultural or political interest in or influence over a resource. They may need the resource for subsistence, commercial activities, conservation, tourism or for cultural reasons such as use of sacred sites. Conflicts can occur because stakeholders are not properly identified or because they refuse to acknowledge a group's interest in a resource.

❖ *Forest policy reform and changes in policy implementation:*

Necessary as they are, policy changes often cause conflicts between interest groups, especially when they result in the transfer of rights and benefits from one group to another. The broader development context in which forest policy takes place is characterized by several global developments that are likely to aggravate existing problems and trigger new ones. These include:

❖ *Large-scale, international land acquisitions*

Small-scale producers have always faced competition for the land on which their livelihoods depend. Changes in global demand for food, energy and natural resources, along with liberalization of trade regimes, are accelerating competition for land and forest resources.

With some deals involving hundreds of thousands of hectares[2], these investments have been dubbed 'land grabs' or 'land rush' by the media. This may be too simplistic given that these land acquisitions have the potential to inject much-needed investment into agriculture and rural areas in poor developing countries (IIED, 2009), but they also raise concerns about the impacts on the local poor people. Apart from risking losing access to and control over land on which they depend, deprivation of land has historically been a major trigger to conflict and outright civil war (Wily, 2011). This was demonstrated in a review of significant civil conflicts since 1990 (Alden Wily 2009c). In 73% of cases, a key trigger to conflict was disputed land rights, particularly between governments and their people; these included cases as diverse as Guatemala, Aceh, Sudan, and Afghanistan (Van Hemert 2004;

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[2] In spite of the world financial crisis, 2009 was a year of unprecedented land grabbing. Competition over the world's productive land – including forests – has become fierce. "The demand for land has been enormous. Compared to an average annual expansion of global agricultural land of less than 4 million hectares before 2008, 45 million worth of large scale farmland deals were announced even before the end of 2009," according to the World Bank (2010b). Worldwide corporate investment in land acquisitions over the past five years has been estimated at US$100 billion, with at least 24.8 million ha acquired since 2000. Confirmed leases issued from 2007 to the end of 2009 were in the region of 20 million hectares in the lands of some 33 host lessor states, all but one or two of which are developing countries.

Fan 2006; Alden Wily 2008; Robson 2006). It was also observed that, even where this had not been the case, precisely such questions of land became major policy and peace issues after the war had ended (Timor-Leste and Liberia are examples).

EXAMPLE: EXAMPLES OF NEW LAND ACQUISITIONS (ILC, 2011)

Ghana

According to Schoneveld et al. (2010), 17 commercial biofuel developments were identified since 2007, 15 of them foreign-owned, collectively with access to 1.075 million hectares. Their study illustrates chiefly how the capture of peoples' land rights can be as detrimental to majority rights as cases where governments claim ownership of unregistered customary lands. Most of Ghana is customary estate and nearly all leases for biofuel production are made by chiefs, with the support of the Ghana Investment Promotion Centre. Leases are for 25–50 years, and rent is payable to chiefs. Only one company thus far has also paid compensation to farmers directly affected, but at the low rate of USD 1 per hectare per year. Leases also cover communal forested lands within the chiefdoms, which are now being deforested, sharply reducing local livelihoods based on forest product use. In one in-depth study site, affected families have lost 60% of their landholdings, subsistence, and income and have turned to petty trading and some to jobs elsewhere to survive.

Locally, fallow periods on sharply reduced lands have been eliminated or shortened, promising low fertility for crops. The study found that few affected families, including those evicted, were consulted prior to the appropriation of their lands, although some were optimistic that some jobs and useful services might emerge.

DRC

GTZ (2009a) cites three large leases, to ZTE International (China), Eni (Italy), and MagIndustries (Canada) for oil palm and eucalyptus plantations totaling over 3 million hectares. Mpoyi (2010) cites six leases amounting to 3.23 million hectares, again with the Chinese allocation prominent, of which 100,000 hectares are under active palm oil cultivation and another 250,000 hectares have been selected in forested areas. Mpoyi (2010) illustrates how communities who have lost their village domains through state concession to a private company called TERRA are now squatting in the adjacent Kundelungu National Park.

Mali

GTZ (2009b) has identified five land acquisitions involving foreign-derived investment, totalling 130,105 hectares. Two of these investors plan to work with local farmers. Among the other investments is a 100,000-hectare deal with Libya for production of export rice under a bilateral treaty signed in June 2009, which

leases the land at no cost to Libya for up to 99 years. This land was declared to be "free from any juridical constraints or individual or collective property that hinders the exploitation of the land", having been registered as the property of the Niger Basin Authority some decades previously. At the same time these lands are fully owned, occupied, and used on a customary law basis, and in fact the area represents the most important rice producing zone for Malian farmers. It is also an area seasonally accessed by pastoralists.

Cession agreements with local communities were not obtained prior to the lease to Libya. According to GTZ, the following impacts have already been reported: displacement of local farming families, loss of farmlands, flooding of villages, felling of forests, blockage of transhumance routes, diversion of water from Malian farmers' fields to leased fields, and dust pollution from the Libyan road and canal construction works. Mainly contracted Chinese labour is being used, limiting local employment benefits. Rice production is scheduled for repatriation to Libya. No compensation for loss of access or land use rights has been promised or paid to affected citizens. Local resistance is being mobilised.

❖ *Climate change related efforts:*

Conflicts between forest communities and outsiders (such as loggers, miners and hunters) are not a new phenomenon. In years past, conflicts were more limited in number and shorter in duration – with forest communities quickly overwhelmed by external powers. But things changed in 2009: forest carbon was not worth much to forest owners until that year, when the developed countries began announcing emissions targets and a deal on REDD became likely. Just as powerful investors and national governments realized the enormous profit to be made from the remaining tropical forests, violent conflicts in and over forests were sparked. The general legal assumption is that 'carbon goes with the trees, and trees go with the land', thus 'carbon goes with the trees and land'. But the confusing nature of forest tenure in most countries renders this simple logic naive. Deadly conflicts in Peru and the repression of a longstanding insurgency in India are the most prominent examples, but long-overlooked local disputes over resource rights have spun into international conflicts in Afghanistan and the Niger Delta. These examples are indicative of more to come. As the demand for controlling forests increases, so will violent conflict over these valuable resources (RRI, 2010).

❖ *Forest tenure:*

Between 2002 and 2008, the trends in data on forest tenure revealed a transition away from state ownership of forest lands toward greater recognition of lands owned and administered by communities, households and private firms. The rate of devolving forest tenure from states to communities and individuals varies greatly across regions, with Latin America making quicker progress than Asia and Africa. This transition of tenure from state to communities and households is both a re-establishment

of traditional governance patterns and a modern development towards equitable governance, rule of law and the recognition of human rights. As the world and local economies move closer together, people in developing countries are demanding their rights to land and resources. Decentralized management and privatization of forest resources are likely to result in more conflicts between various interest groups, particularly when responsibilities for forest management are transferred to local users without transferring commensurate access to benefits (Hobley, 2007).

> **EXAMPLE: WINNERS TAKE ALL – UNDERSTANDING FOREST CONFLICT IN THE ERA OF DECENTRALIZATION IN INDONESIA**
>
> In Indonesia, changes brought by reforms and decentralization have also brought increased conflict. Conflicts that lay dormant for years have re-emerged, and new conflicts are more open and explicit. With reform and decentralization, local governments are required to raise part of their own revenues. This is often achieved by granting as many permits as possible to small-scale logging companies. At the same time, reforms have opened space for local communities to demand a share of the benefits. The resulting competition for compensation paid by mining and logging companies has triggered boundary disputes between communities as well as conflicts within communities. Conflicting claims over land and territories based on ethnicity or history have exacerbated the problem. Uncertain government policy, the lack of appropriate conflict-resolution strategies and communities' and local governments' lack of capacity in conflict management have prolonged the increasingly bitter rivalry among ethnic groups (Sudana, 2009).

❖ *Forest governance*

Among the most important governance issues are: providing clarity on land tenure, access, and use (including carbon); encouraging participatory decision making; reducing legislative conflicts; improving laws and regulations governing incentives; strengthening social and environmental safeguards; developing efficient and fair contracts for landowners to protect their forests; ensuring the equitable sharing of benefits among stakeholders; and controlling illegal logging and corruption. Addressing the fundamental drivers of forest policy-related conflict requires strong attention to forest governance.

❖ *Summary:*

Most conflicts have multiple causes because it usually takes more than one problem for a dispute to occur. One can distinguish between the five major sources of conflict as shown below in the *Circle of Conflict* (Moore, 2003):
1. Problems with people's relationships;
2. Problems with data;
3. Perceived or incompatible interests;
4. Structural problems; and
5. Differing values.

FIGURE 1
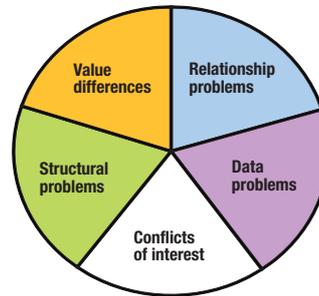
These issues can arise at various levels.

Against this background, conflict management is most effective when it is embedded in a wider political process. Different stakeholders expressing different interests over a particular forest might be one cause of conflict, yet such conflicts often have wider contributing factors in the social, economic and political structures that determine forest use.

❖ *Relationship conflicts*

Relationship conflicts occur because of the presence of strong negative emotions, misperceptions, poor communication or repetitive negative behaviours. These problems often result in 'unnecessary' conflict (Moore, 2003) since they may occur even in the absence of the preconditions for a conflict (for example, even when there are sufficient resources for all stakeholders to agree on goals and processes). Relationship problems often fuel disputes and lead to an unnecessary escalating spiral of destructive conflict.

❖ *Data conflicts*

Data conflicts occur when people lack the information necessary to make wise decisions, when they interpret information differently or when they disagree over what data is relevant. While some data conflicts can be prevented by better communication, others are caused by different people possessing different information or interpreting it differently.

❖ *Interest conflicts*

Interest conflicts are caused by the incompatibility of perceived or actual interests. Conflicts of interest result when one party believes that in order to satisfy its needs, those of the 'opponent' must be sacrificed. Interest conflicts occur over substantive issues (money, physical resources, time), procedural issues (the way decisions have been made) and psychological issues (perceptions of trust, fairness, respect, desire for participation).

❖ *Structural conflicts*

Structural conflicts are caused by limited resources or authority, geographic constraints (such as distance), time (too little or too much) and inappropriate organizational structures.

❖ *Value conflicts*

Value conflicts are caused by the incompatibility of perceived or actual belief systems. Values are beliefs that people use to give meaning to their

lives. They determine people's perceptions of what is good or bad, right or wrong. Value differences cause serious disputes and are very difficult to resolve in negotiations because people believe in them very deeply.

1.3 What is collaborative conflict management?

Collaborative conflict management includes a wide range of informal approaches, most common to all, is that competing or opposing stakeholder groups work together to reach an agreement on a controversial issue.

In this handbook, collaborative conflict management is seen as the facilitation of social learning among individuals, groups and organizations in order to resolve forest policy-related conflicts. Social learning entails stakeholder participation, but goes a step further by examining the competing stakeholders' underlying dynamics, which either enable or prevent joint problem solving for sustainable forest governance.

To summarize, collaborative conflict management in the context of nfps aims to:

■ promote the participation of diverse or competing stakeholder groups in order to reach agreement on a controversial issue to which all nfp stakeholders are committed;

■ assist stakeholders in adopting an attitude that is oriented towards cooperation rather than pursuit of individual interests;

■ establish new forms of communication and decision making on important issues, and raise awareness of the importance of equity and accountability in stakeholder communication;

■ develop partnerships and strengthen stakeholder networks;

■ create space for stakeholders to communicate in order to bring about future agreements so that concrete action can be taken; and

■ produce decisions that have a strong base of support.

1.4 Why collaborative conflict management in nfps?

Nfps aim to facilitate the establishment of consistent national forest policies. The nfp concept is based on a common set of principles, which serve as overall guidance for policy making are endorsed by all countries participating in the ongoing forest dialogue of the Intergovernmental Panel on Forests, the Intergovernmental Forum on Forests and the United Nations Forum on Forests. These principles integrate the wider objectives of sustainable development, poverty alleviation and a cross-sector approach by taking

into account the multiple functions of forests, the variety of actors and interests, and the linkages between forests and other sectors.

For these reasons, the nfp concept is intrinsically linked with collaborative conflict management. Because the roots of most forest conflicts are complex and interconnected, – involving land tenure, access and use (including to carbon) – finding sustainable solutions requires merging perspectives and gaining commitment across stakeholder groups and sectors in order to achieve broad consensus. This level of consensus is not achieved easily given that good governance involves many actors and forest-governance reforms create 'winners' and 'losers'. Losers usually oppose reforms and may even sabotage the reform process. This requires an understanding of the balance of power and the nature of political equilibrium in each country.

Forest policy-related conflicts between the mandates of public agencies, the interests of business and the values of civil-society groups occur in all countries, and are inevitable when managing a resource that has multiple values (productive, recreational, biodiversity, cultural) for multiple stakeholders (local and national governments, citizens, the private sector and international agencies). Naturally, these stakeholders have very different views about how resources should be managed and used. These views are heavily influenced by emotions, misunderstandings, assumptions, suspicions and mistrust. Conflict over different interests has always been part of forest policy making, yet it is even more pronounced in an era of globalized land use and governance.

Against this background, nfp processes can only be effective if they can anticipate and respond to stakeholders' different interests, build trust and cooperation, and seek solutions of mutual gain. This requires a new breed of professionals who can facilitate dialogue, encourage involvement, bridge differences and facilitate collaborative solutions in their countries.

While conflict in nfps may be inevitable, the results of conflict are not predetermined. Conflict might escalate and lead to unproductive results, or it can strengthen nfps.

Positive means of managing conflict arose in the 1960s in order to address overcrowding of courts. These cooperative approaches help parties to find a mutually beneficial agreement based on their needs and interests – their common ground. Today, conflict-resolution approaches are applied in many different settings, transforming the way we view and deal with conflict. These modern approaches should not replace more traditional ways of dealing with disputes; they are complementary and offer distinct advantages and disadvantages.

Why would nfp stakeholders choose collaborative conflict solving processes?

There are many good reasons:

❖ *To enhance the effectiveness of forest policy implementation:*

Early involvement of multiple stakeholders saves time and other scarce resources associated with processes that generate agreements lacking broad support. It also reduces the likelihood of subsequent disagreement or legal challenges.

❖ *To increase the coherence of forest policy:*

Decisions taken collaboratively reflect stakeholders' unique knowledge and expertise. It is important to consider the views of those who come from sectors that influence forestry in order to ensure that the forest sector is coherent with other sectors and that there are coordinated links to government policies, plans and processes.

❖ *To create commitment:*

Seeking and including other stakeholders' input in decision making helps to ensure that the voices of civil society and business are heard. This increases the chances of their voluntary compliance with the end result.

❖ *To increase trust:*

A transparent and inclusive decision-making procedure makes forest policy trustworthy.

❖ *To strengthen relationships:*

Participating in a fair and open process enhances the relationships among government, civil society and business, and increases the legitimacy of government.

❖ *To reduce loss of resources:*

In addition to wasted time and money, other costs of conflict include deteriorated relations, reduced legitimacy of government and harm to mental and physical health.

❖ *To increase the capacity for problem solving to prevent future disputes:*

Stakeholders who engage in joint problem solving learn how to prevent future disputes and are better equipped to deal with future issues of contention related to forest policy.

1.5 The policy environment supportive of collaborative conflict management

> "*And one should bear in mind that there is nothing more difficult to execute, more dubious of success, nor more dangerous to administer than to introduce a new order of things; for he who introduces it has all those who profit from the old order as his enemies, and he has only lukewarm allies in all those who might profit from the new. This lukewarmness partly stems from fear of their adversaries ... and partly from the scepticism of men, who do not truly believe in new things unless they have actually had personal experience of them.*"
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> (From Niccoló Machiavelli, The Prince, Chapter VI. Peter Bondanella and Mark Musa, translators. Oxford University Press revised edition, 1984, p. 21.)

As seen in the previous chapter, there are many good reasons to engage in collaborative conflict solving. But reservations are also heard. Collaborative conflict management processes are always open ended, and can only lead to success if several conditions are met. The conflict analysis at the start of the process (see Section 2.2.1) provides for an examination of these conditions. The following list specifies the nuts and bolts of successful implementation and highlights the importance of state leadership and commitment.

❖ *Decision-making sovereignty:*

Government's task is to govern – to make policy. Government has a leadership role, and other nfp stakeholders expect governments to fulfill this role. The question is how to lead when it comes to contentious forest policy issues. When using a collaborative conflict solving approach, governments must be ready to engage in an open-ended process and to partially relinquish decision-making authority. Without high-level government commitment, collaborative initiatives get stuck. But *this does not mean that governments have to give up authority*. Elected or appointed officials often assume that the only way to reach agreements is to give up some if not all of their authority. In practice, this is not true. In collaborative conflict management, any player can walk away any time. There can be no agreement unless the important stakeholders 'buy into' it.

❖ *The rule of law and separation of powers:*

A state under the rule of law, with a functioning legal system and the separation of powers is a positive framework for collaborative problem solving. Transparent planning and decision making, clear authority and the right of appeal also provide fertile conditions.

❖ *Stakeholder inter-dependency and decision making authority:*

Participants will only engage in collaborative conflict management if the satisfaction of their interests depends on the outcome (for example, when the Ministry of Forestry's award of a timber concession depends on the co-signature of the Ministry of Environment). Inter-dependency also exists

when one actor has enough power to obstruct or to delay the project of another actor (such as an environmental NGO). All participants must be assured that they are authorized to make decisions within the framework of negotiation.

❖ *There is enough, but not too much pressure to resolve the issues:*

The bigger, nastier and more public the controversy, the greater the pressure to resolve it quickly. Resolution of a dispute must be a high priority for all stakeholders, and they must perceive that the problems cannot be resolved with instruments. If actors are convinced that they are more likely to get what they want by other means (such as through a court decision), they will not be willing to engage in collaborative problem solving.

❖ *Not all issues are appropriate for collaborative problem solving:*

Collaborative methods are usually not appropriate for dealing with violations of the law. For example, if a company constantly violates environmental standards, it would would be more beneficial for concerned parties to seek judicial or administrative interventions.

Another 'no-go' area concerns issues that cannot be reframed from a "Should we...?" question to a 'How can we...?' question. Issues that focus on basic differences in values or rights cannot easily be reframed. Such issues may be better resolved in other fora such as the legislature or courts.

However, it should be born in mind that most conflicts consist of several issues, of which some may be resolvable through collaborative means, while others may not be.

❖ *Funding is assured:*

One thing is clear: collaborative conflict solving does require adequate resources – time, expertise and funding. There is no point in pushing for a collaborative process that cannot be followed through because of a lack of resources. However, the funds needed to achieve significant results are usually small in comparison to the cost of a prolonged conflict. Activities to be funded include: conflict analysis, hiring an external facilitator to guide stakeholders (see Chapter 4), stakeholder capacity building (see 2.1) and conference facility rental.

❖ *To create opportunities for new institutions and processes that support mutual solutions and joint responsibility:*

There are few well-evolved systems to support stakeholders in collaboratively designing solutions. In the absence of such systems, stakeholders often back away from this responsibility and expect another party (often the state) to solve the problem.

The challenge for governments is to create opportunities for new institutions and processes that: support mutual solutions and joint responsibility; redefine their own roles and foster new ones; and encourage the creativity and courage needed to learn from experience.

Because of the changing policy environment, conflict management will be increasingly important in the future. Natural resource conflict is not going to go away, and permanent resolution of these conflicts is not likely. Management of these inevitable resource conflicts is a public good and merits policy support.

In summary, collaborative conflict management is a joint activity that is likely to have very positive effects – if it is done with attention and care. This handbook demonstrates the potential, points out the pitfalls and shares best practices – helping to make measures for active collaboration a success.

If the circumstances are not right for collaborative conflict management, there is little to be gained from pushing the approach. However, even when full resolution of the issues is not possible, nfp stakeholders may still decide to start negotiations in order to minimize the destructive consequences associated with many confrontations.

PART 2:
A framework for managing public disputes

2.1 Principles of collaborative conflict management

❖ *Decision-making sovereignty:*

The principles presented in this chapter may seem obvious and simplistic, but are often overlooked by people in the midst of the process. In conflict situations, emotion can easily overwhelm logic and reason. Therefore the principles listed here represent the essential elements of good practice to achieve productive outcomes. They are decisive for success. Acknowledging their importance is not enough: success depends upon putting them into practice.

❖ *Principle 1:*
Conflicts consist of three elements, people, problems and procedures

People often assume that if they understand the substantial issues, they will be able to find a reasonable solution to their problem. But conflicts are a mixture of people, procedures and problems. If one group distrusts another or thinks the process is unfair, a substantive agreement will be difficult to reach no matter how reasonable the proposed solution might be.

■ *Problems* can be defined as the specific issues or differences among the people, groups or agencies involved. These include differing values, incompatible interests and needs, and concrete differences regarding the use, distribution or accessibility of scarce resources. They are often referred to as the 'root causes' of conflict, about which people tend to take clear and strong positions.

■ *Processes* are the way decisions are made and how people feel about them. The decision-making process is often overlooked as a cause of conflict. However, resentment, feelings of unfair treatment and a sense of powerlessness often have their roots here. Process issues are often referred to as contributing factors – they do not cause the conflict, but trigger or aggravate it.

■ *People* think about and relate to conflicts differently, and may have different feelings, emotions and perceptions of the problems and the people involved.

FIGURE 2

PROCEDURAL
- Our desires for participation
- Our preferred processes and pace for thinking through issues and making decisions

RELATIONSHIP/ PSYCHOLOGICAL
- How we want to be treated
- How we want to feel about ourselves and the other persons

INTERESTS

SUBSTANTIVE
- Tangible, mesurable outcomes of results
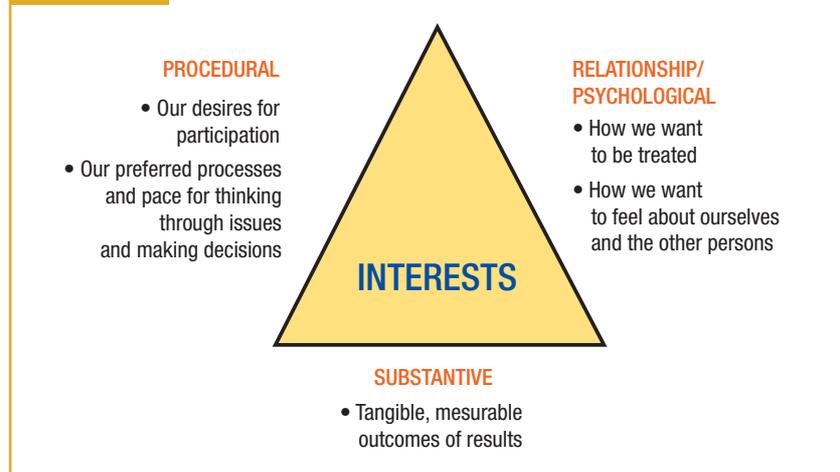
❖ *Principle 2:*
Always start by conducting a sound conflict analysis

There is a natural tendency to think about solutions immediately after becoming aware that a conflict exists. Differences are obviously hard to bear and most people would like to resolve them as quickly as possible. However, in many situations, seemingly quick and easy solutions are not sustainable because they do not take into account all aspects of a conflict (Engel and Korf, 2005).

Conflicts have often been compared to an iceberg:

What is immediately visible above the waterline is only a small part of the complex dispute. Only if the whole iceberg has been explored can adequate solutions for each aspect of the dispute be found.

A sound conflict analysis lays the foundation for developing a successful conflict management strategy:

Time invested in understanding a situation pays off in increased productivity when parties meet to resolve their differences. Moving to a solution without a sound conflict analysis or a well thought-out plan can delay progress and jeopardize success. It is hard to know in advance how long collaborative conflict solving will take. For a simple problem, it might be just one meeting, but for a complex conflict, it may take several months to complete a conflict assessment and decide whether a full-fledged collaborative conflict management process should go forward. The principle of 'go slow to go fast' often applies. When considering the benefits (see Section 1.5), it is certainly time well spent.

A conflict analysis must be based on a wide range of views:

Speaking to just some but not all stakeholder groups about the sources of conflict is like looking only at one side of a coin. Most conflicts arise because of differing perceptions and the different meanings that people attribute to events, policies and institutions.

The analysis should be updated:

Analysis should continue throughout the conflict-management process as new information is introduced and as people and their relationships change.

❖ *Principle 3:*
   Framing the issue
   carefully

In problem solving, the term 'reframing' refers to directing a party's attention away from positions and toward the task of identifying interests and discussing criteria for selecting options. Public issues can be reframed to bring diverse interests to the table.

Beware that framing can invite conflict: How an issue is initially framed greatly affects each party's problem-solving perspectives. Many issues of public concern are initially framed in a bipolar 'either/or' manner, thus inviting debate. One of the most powerful ways of redirecting perspectives is to reframe the issue.

Use reframing to reduce conflict: Once interests are known, an issue may be reframed to reflect each party's interests, shifting attention away from parties' positions. Reframing an issue involves finding a common definition that is acceptable to all parties and can be achieved by substituting the initial 'closed-ended' question with an 'open-ended' question. By substituting a 'How to...?' question with a 'How can we ...?' or a 'Should we ...?' question, disputants are moved from debating the relative merits of their positions to focusing on collaborative problem solving.

❖ *Principle 4:*
   Involve
   stakeholders early

It is important to involve stakeholders in decision making from the start for two reasons:

1. If some stakeholders feel that they have not been adequately included in the decision-making process, they may oppose or even reject the most reasonable solution, regardless of its merits. The content of the solution is therefore less important to stakeholders than the fairness of the decision-making process.

2. In conflict situations individual stakeholders' perspectives are often heavily influenced by emotions, misunderstandings, assumptions, suspicions and mistrust. Organizing an exchange that helps stakeholders to reconsider their perspectives is an integral step in moving away from rigid and inflexible positions towards shared interests. This transformation of perspective is vital to fostering collaboration, but is only possible if stakeholders are involved from an early stage.

❖ *Principle 5:*
   Cultivate trust and
   positive working
   relationships

While technical information is important, equal attention must be paid to human relationships. Even useful and accurate data may be received with mistrust and ignored when a conflict becomes seriously polarized. Cultivating positive relationships between parties can help them to better relate to each other and can greatly facilitate mutually acceptable agreements.

❖ *Principle 6:*
Clarify the
procedures,
process, steps
and objectives
from the outset

One way to improve the overall effectiveness of conflict management is to explain to all parties the procedures that will be used from the beginning. Once parties have a procedure to follow – which they understand and support – they can turn their attention to solving a problem and address questions on how they will be dealing with each other.

All parties need to know how long the process is likely to take, how many meetings are planned and how many hours each meeting will require. By reviewing the scope and complexity of the issues, the number of parties involved and components of the process, it should be possible to determine a reasonable schedule. However, no promises can be made that all components will follow a predictable and orderly sequence, and managers need to be prepared to make adjustments.

Coping with
differences in
negotiating skills:

In many public disputes, some parties may have never been involved in formal negotiation. In addition, parties in a dispute often have a direct personal stake in the outcome. An imbalance of skills and experience among negotiators often results in victory for the more experienced side.

❖ *Principle 7:*
collaborative
conflict
management
requires capacity
building if there
is a critical
imbalance of skills
and experience
among negotiators

Participants in public disputes often have different levels of negotiation experience and skills. Some participants may never have been involved in formal negotiations, but may be are likely to act as negotiators again after the dispute is settled. Some participants may have a direct personal stake in the outcome of the controversy. Others at the table may represent established organizations, government agencies, public commissions or boards and expect to face the same parties in new disagreements. These parties all have reasons to maintain working relationships, while members of citizens groups may not. They often arrive at the scene with a determination to protect their interests but with little or no knowledge of the 'give-and-take' nature of negotiation – they come to win.

Such wide differences strongly influence the negotiation process. Tactics used by inexperienced negotiators to gain advantage over adversaries include breaking agreements, betraying confidence and indulging in public accusations about other parties (in violation of negotiation ground rules).

To reduce the risk that unskilled representatives will jeopardize the process, carefully tailored training must be provided to stakeholders. However, those who need help the most are often be the least likely to recognize it. The techniques described in Section 3.4 to persuade parties to come to the negotiating table may also be effective in convincing them to accept 'coaching' in negotiating skills. An effective method is to hold training sessions that include all parties. Team building or negotiator training is often used as a forerunner to formal negotiations.

2.2 Stages of collaborative conflict management

No single framework exists for dealing with all conflicts, and the processes described here are not intended as a 'one-size-fits-all' solution. Instead, they should be taken as a checklist to consider when designing conflict-management processes.

A typical collaborative conflict management process has three well-defined stages, each comprising a number of steps (see the chart below). But the process is not as straightforward as the map may suggest. It usually develops a life of its own after the first session. Issues unfold, personalities assert themselves and unexpected events occur. The process map provides an overview and reminds conflict management practitioners about important actions to consider. Ultimately, the nature and complexity of the conflict will determine which path the process should take.

FIGURE 3

After the Agreement is Reached: The Post-deliberation Phase

Step 14: Implement the agreement

Step 13: Approve the agreement

Step 12: Develop a written agreement

Step 11: Reach an agreement

Step 10: Evaluate options

Step 9: Develop criteria for evaluating options

Searching for Agreement: The Deliberation Phase

Step 8: Generate options

Step 7: Prioritize the issues

Step 6: Specify information needs

Step 5: Explore issues and interests

Step 4: Establish negotiation ground rules

Step 3: Inform stakeholders about your strategy

Step 2: Develop a conflict-management strategy

Getting Started: The Pre-deliberation Phase

Step 1: Analyse the conflict

2.2.1 Getting started: the pre-deliberation phase

Taking the time to negotiate the process before diving into talks is beneficial to all the parties involved. It might be time consuming, but in the long run will not only save time, but it also will enable wiser, more robust, and more valuable deals" (Wondwosen, 2006).

A conflict management process is initiated when stakeholders or a facilitator or mediator are contacted to determine their willingness of parties to work together to solve a problem. Anyone can initiate a process as long as the person or organization is seen as credible by all stakeholders.

Once collaboration is sought and the process is initiated, the pre-deliberation or planning phase begins with stakeholders who are willing to participate.

STEP 1: ANALYSE THE CONFLICT

The first step in managing a conflict is to gain a preliminary understanding of the problem. A conflict analysis should aim to answer the following questions:

■ *What are the issues?* An issue is a matter or question that must be addressed if the conflict is to be resolved. Issues can be substantive (resources, money, etc), procedural (who does what and when) or involve relationships.

■ *Who are the stakeholders?* Stakeholders are parties who can influence or are affected by an issue. Stakeholders are not homogeneous but can be divided into subgroups according to their specific interests. Many interventions face challenges in defining exactly what constitutes a community because of the limited ability of planners to identify the range of interests within it. When planners and managers fail to consult with the full spectrum of stakeholders, their understanding of these groups' diverse needs, priorities and knowledge is limited. Other questions involve whether participation should be representative or open to all interested individuals. Representative participation is appropriate for task groups or direct negotiations while open participation is appropriate for public meetings and workshops where formal agreement is not required.

■ *What capacities exist locally to manage the conflict:* Existing conflict management mechanisms and existing capacities need to be assessed before starting new processes. If customary or traditional ways of managing conflicts exist, it is worthwhile exploring if they still

have the leadership, authority, resources or incentives to carry out their nominal roles and duties. Taking note of existing local capacity to manage conflicts is important for three reasons:

○ Much can be learned by reflecting on previous attempts to manage a particular dispute and by analysing the reasons why they failed.

○ The ultimate aim to manage conflict is to strengthen people's ability to manage their differences constructively. Local capacities to manage conflicts are therefore not to be undermined but to be strengthened;

❖ *Conditions for collaboration – are all parties ready to negotiate?*

■ Previous conflict management experiences are likely to shape the parties optimism (see conditions for collaboration). Two factors influence readiness. The first is the actors' motivation to reach an agreement, which depends on their estimation of the seriousness of the conflict and their perception of the costs and benefits of solving it. The second is the parties ' level of optimism, which is based on their skills, previous conflict management experiences and resources.

The aims of conducting a conflict analysis are to: (i)collect information necessary to determine the best way is to handle this particular conflict; and (ii)design a conflict management strategy.

Information about a conflict is usually gathered from: direct observation, secondary sources and personal interviews.

Direct observation is valuable because it provides a clear view of the nuances of stakeholders' interactions. Often, parties that want to solve a dispute will welcome a conflict manager to attend their meetings in order to show that somebody is interested in their side of the issue. Of course, it is desirable for meetings to be attended by parties representing several perspectives, not just one.

Secondary sources include minutes of meetings, written reports, research on the issues and newspaper articles. Secondary sources should be reviewed before conducting interviews since they offer useful background information.

Personal interviews provide the richest detail about a situation. If an interviewer is trusted, people are likely to give more varied perspectives and a greater sense of the subtleties of the issue than can be obtained through direct observation.

The following list of questions will help you to structure your interview:

■ Before we begin, do you have any questions to ask me?

■ What are your interests or concerns about this particular issue?

■ Is your group willing to participate in the process I described? (if no) What will it take for you or your group to participate?

■ Who can or should represent your group or constituency?

■ What would you need to see in advance in order to commit to working towards resolving this issue?

■ If you participate, what would you consider a successful outcome?

■ Do you have any concerns about participating in this process? What can we as facilitators do to overcome them?

■ Who needs to be present from other stakeholder groups?

■ What are your alternatives to participation?

■ What about other parties? What if they are not there?

■ What data do we need to bring to the table? Who, when, and by whom should the data be presented?

■ What ground rules would you like to establish?

■ Is there anything I haven't asked you or that you would like to say?

After information about a conflict has been collected, it must be organized. Tools for this purpose include the conflict analysis chart, the conflict analysis summary and the BATNA guidelines (see annexes). They are especially useful when several people are involved in collecting information.

This information then needs to be interpreted in order to identify people's sensitivities to each other and the issues, conflicting views and areas of common interest.

STEP 2: DEVELOP A CONFLICT MANAGEMENT STRATEGY

Analysing a conflict will determine whether or not collaborative conflict management is an appropriate way to handle the problem. If parties are interested in resolving the issue and if there is room for negotiation, the conflict manager proceeds to the remaining two steps in the pre-deliberation phase: designing a conflict management strategy and informing stakeholders about the strategy.

Every conflict is different: no simple template fits neatly over all problems. Conflict management must be therefore tailored to the particular characteristics of an issue and the parties involved.

❖ *Determine who should participate:* This involves identifying forms of participation, participant categories, the number of participants and individuals who can best represent groups' interests. In selecting participants, pay careful attention to the following considerations:

■ A good working size for a group is eight to twelve people. Larger groups are desirable when diversity of knowledge and experience is important. However larger groups take more time to negotiate and scheduling meetings can become a problem.

■ In identifying individual representatives, look for people who are knowledgeable about the substance of the issue, are respected members of interest groups, are capable of negotiating with adversaries and can keep agreements made in good faith.

■ An imbalance of skills and experience among negotiators results in an unfair process; one party's victory can be destructive for everyone else. Consider training and coaching unskilled representatives to prevent them from upsetting a discussion by resorting to tactics that more experienced negotiators may consider to be outside the norm for rational interaction.

❖ *Define the roles that everyone associated with a negotiation is expected to play:*

Including participant, initiator, convener, chairperson, sponsor, technical resource expert, recorder, observer and logistical support person.

❖ *Identify external constraints:*

External constraints on parties must be considered in process design. Does an organization have deadlines that are likely to influence the path of discussions? Are there legal issues that affect the conflict management process? Are all principal stakeholders available to participate or are they occupied with other matters?

❖ *Establish a conflict management goal:*

Reaching an agreement may be the most obvious goal, but a conflict analysis may suggest others that are more appropriate. For example, if an analysis suggests that parties do not have major differences but do have serious misperceptions about each others' activities, a programme designed to assist participants in exchanging information may be all that is required.

❖ *Select the most productive meeting format:*

Public meetings, task groups, advisory committees, problem-solving workshops and formal negotiation sessions offer different ways to involve people. The most appropriate structure depends on the conflict management goal. A single meeting format may not be sufficient; large-scale disputes usually require more than one. *Public meetings* may be held in conjunction with negotiations when public acceptance of a proposed course of action is required. Public meetings can also be organized as open discussions where participants can question other speakers. *Problem-solving* workshops are designed to accommodate many participants and a facilitator, who directs their efforts towards specific goals using a resolution plan. An open problem-solving workshop is different from a public meeting because the people come to work out a solution, not

simply to convey information. *Formal negotiation sessions* are specifically designed for parties to resolve their differences. Usually, these parties represent constituency groups who have delegated them authority to represent their interests. *Task groups or advisory committees* are used to address technical issues; members are appointed because of their technical or political expertise.

❖ *Estimate costs of the process:*

Will staff time be used to support the process? Will a facilitator or mediator be hired? What technical studies might be needed? Where will the funding come from?

In some circumstances, stakeholders may want the help of a third party (a facilitator or mediator) to assist them in designing and managing the process. Facilitators are trained to help parties to hold productive meetings. Mediators have additional experience in working with large groups and helping parties to negotiate.

When to Engage a Third Party
You may want to consider engaging the services of an outsider when:

■ *Negotiation is deadlocked*: If relationships have deteriorated into accusatory rhetoric or progress is blocked, a third party can help to get the discussion back on track.

■ *The parties need help in establishing communication*: At some point in a dispute, the parties may lose interest in talking about perspectives other than their own.

■ *Parties have lost faith in the process*: When a third party enters into a dispute, parties expect things to change. Because change is essential to interrupt the spiral of conflict, this expectation can be a powerful aid to moving ahead.

STEP 3: INFORM STAKEHOLDERS ABOUT YOUR STRATEGY

Conflict analysis will reveal whether parties have worked together in the past and how successful their efforts have been. Whether or not tensions are high, parties should always understand the process being proposed. The less familiar parties are with negotiations, the more important it will be to explain the process in detail.

❖ *Educate parties about the steps in the process:*

A clearly defined process is useful whenever people get together to exchange views, but it is *essential* when issues are contentious. Prior to the first meeting, parties must understand all the tasks – and the purpose of each task – in the conflict management process. These include deciding on common definitions, describing issues and interests, determining what information is missing and

developing options. Once the tasks are explained, participants will understand that negotiation is a process that requires adequate time.

❖ *Estimate the duration:*

People should know what they are committing themselves to. Conflict managers should be prepared to outline how long the entire process is likely to take. Timelines, milestones and deadlines help to define the process. They should be realistic and spaced far enough apart so that participants engage in a relaxed manner.

❖ *Choose a location:*

The question of where meetings will be held is an important one. The answer can set the atmosphere for discussions and influence the productivity of a negotiation.

❖ *Define meeting ground rules (also called a group charter, meeting plan or convening document):*

Ground rules are the rules of conduct by which all parties abide during negotiations or other conflict management activities. The concept of ground rules is based on the belief that a negotiation should treat all parties equally and fairly. Some ground rules define the behaviours of individual participants (such as, "Personal attacks will not be permitted"), while others apply to procedures used by the group ("All decisions will be made by consensus") or define the role of observers ("Only recognized observers will be allowed to attend"). Ground rules are usually developed by the person setting up the negotiation. They are based on that person's own experience and on concerns raised by the parties during the analysis.

2.2.2 Searching for agreement: the deliberation phase

Once all the stakeholders have been invited to the first meeting and the protocols are ratified, participants can begin to identify and deliberate on the issues.

STEP 4: ESTABLISH NEGOTIATION GROUND RULES

The ground rules drafted in the planning phase should be adopted by the entire group; ground rules only work when all parties agree to use them. Rules can be added or modified if necessary; however the entire group must approve any changes before they are adopted.

STEP 5: EXPLORE ISSUES AND INTERESTS
(FROM THE PERSPECTIVES OF CONFLICTING PARTIES)

❖ *Parties educate each other:*

In this step, parties describe their perceptions of the problem, identify and discuss the issues, explain their concerns and list their assumptions. This may be time consuming, and to some it may seem unnecessary. Individuals may oppose the idea and ask "Can't someone just summarize the issues

so that we can move on?" However, education serves the important function of letting participants hear how others feel and explain their perspectives to others. It is important to note that this may be the first time parties have met each other and exchanged information in person.

❖ *Parties identify and share interests:*

Each party should describe its needs, concerns and the motivations underlying participants' positions. Individual interests are the key to identifying workable solutions. People who have difficulties describing their interests may find it easier to talk about why they are concerned about the problem. A list of all issues that the parties wish to discuss during the negotiations can be drawn up.

❖ *Reframe issues in a way that parties will be willing to talk about them, if necessary:*

Parties enter into conflict resolution with their own interpretations of the problem – what issues are in dispute, why the problem has arisen and how best to resolve the conflict. The way a party describes or defines a conflict is known as framing. The technique of reframing is often used to clarify an issue that has been framed in an unproductive manner and present it in a way that can be more easily addressed. This may involve changing the wording of a comment or idea so that the original content is preserved, but the form is acceptable to other stakeholder groups. Mayer (2000) describes different levels of reframing, including detoxification and definitional reframing. Detoxification is necessary when issues are formulated in a biased or rude way (blaming or attacking other parties). Definitional reframing involves redefining the problem in an acceptable way. For example, the issue can be presented as a problem to be solved, such as "How can we?"

❖ *Consider the BATNA:*

'Best alternative to a negotiated agreement' (BATNA) is a term invented by Roger Fisher and William Ury (2nd Edition, 1991). Whenever we are involved in a negotiation, we have other options besides reaching an agreement with the party that we are negotiating with. One other option is to reach an agreement with a party outside the current negotiation – this option is known as the BATNA. A BATNA serves three important functions:

(1) *Having a good BATNA increases negotiating power.* Good negotiators know when their opponent is desperate to reach an agreement. Knowing their opponent will give in, they can increase their demands. If it is apparent that the opponent has other options outside the negotiation, this opponent is likely to receive more concessions in an effort to keep them at the negotiating table.

> *"The reason you negotiate is to produce something better than the results you can obtain without negotiating" (Roger Fisher and William Ury in their 1981 bestseller, Getting to Yes: Negotiating Without Giving In).*

(2) *BATNA lends greater security in negotiations* since it marks the point at which negotiations must be broken off. BATNA is the only standard that can protect you both from accepting terms that are unfavorable and from rejecting terms it would be in your interest to accept.

(3) *BATNA helps in the analysis*: BATNA is not just for one side to determine – every negotiating party should consider the alternatives available to the other side. Some parties may be overly optimistic about what their options are. The more one learns about the options available to other parties, the better prepared one will be for negotiation. It is then possible to develop a realistic view of what the outcomes may be and what offers are reasonable.

BATNA also affects what William Zartman and others have called 'ripeness' – the time at which a dispute is ready or 'ripe' for settlement. When parties have similar ideas or 'congruent images' about what BATNAs exist, then the negotiation is ripe for reaching agreement. Having congruent BATNA images means that both parties have similar views of how a dispute will turn out if they do not agree. In this situation, it is more advantageous and cost-effective for them to negotiate an agreement than to continue the dispute. A similar situation occurs when disputing parties are involved in an out-of-court lawsuit settlement. The parties agree to settle because their lawyers have come to an understanding of the strength of each case and how likely each is to prevail in court. They can then avoid a time-consuming trial and obtain the same result more quickly and easily through negotiation.

Determining your BATNA (Roger Fisher and William Ury. 1991. Getting to Yes: Negotiating Without Giving In, 2nd Edition page 104.)

BATNAs are not always readily apparent. Fisher and Ury outline a simple process for determining your BATNA:

1. Develop a list of actions you might take if no agreement is reached;
2. Improve some of the more promising ideas and convert them into practical options; and
3. Tentatively select the one option that seems best.

(see Annex 3 for the "BATNA assessment" tool)

STEP 6: SPECIFY INFORMATION NEEDS

Public disputes are waged with facts and figures about technical matters and policy issues. Early in the process, the groups should identify what kinds of data are relevant to their problem. When differences in data or their interpretation occur, parties should discuss the sources of data, the assumptions on which the data are based and the methodologies used to draw conclusions.

❖ *Identify technical information that is pertinent to the issues:*

Information gaps and scientific uncertainty are inherent in policy disputes. Many disputes grow out of disagreements over social, economic or environmental priorities. The 'fuel' for these disputes is often data about their likely impact. Parties with differing interests will always interpret data differently. Data may not be deliberately inaccurate, but they may be used selectively to prove a point. It is important to assess the validity of the data on which options for conflict resolution are based.

❖ *Agree on methods for answering technical questions:*

Even if no consensus exists, the group can use methods such as field trips, soliciting reports, holding briefings and conducting interviews to resolve differences in data interpretation. As a general rule, discussion of data is effective when the material does not require specialized training to understand its significance. If data is highly technical, parties can hire an impartial expert to review and comment on the figures in question, or delegate this responsibility to a small task group.

❖ *Management hints:*

■ Efforts to resolve disagreement about data are more likely to be successful if they are undertaken in a routine manner than in an atmosphere of suspicion.

■ When important technical or scientific issues are at stake, joint fact finding offers an alternative to adversarial investigation. Parties in dispute should jointly determine the issues that require technical analysis, the limitations of the analytical methods used, the questions that the experts should be asked and who those experts should be (Susskind, McKearnan and Thomas-Larmer, 1999).

STEP 7: PRIORITIZE THE ISSUES

Defining an entry point for talks is an important decision. The starting point can impact all other issues in the conflict.

❖ *Sequence the issues productively:*

It is also helpful to prioritize the issues that need to be resolved immediately and then move on to those that can be resolved later. It is a good idea to obtain a few easy agreements first before tackling the more difficult issues. This helps to build a 'habit of agreement' and

encourages parties to agree on more difficult issues to avoid jeopardizing 'easier' agreements.

❖ *Good entry points are:*

■ An issue that is important to everybody, but not so complicated that it takes a long time to resolve;

■ A procedural or psychological agreement – for example, an apology when another party is willing to forgive sets the scene very well;

■ Agreements on general principles, which can shape or direct agreements on later issues;

■ Foundation issues, which form the basis for discussion of future issues;

■ Key issues, the resolution of which will make agreement on later issues easier to achieve; and

■ Linked issues, which may be discussed concurrently.

STEP 8: GENERATE OPTIONS

In this step, negotiators use the information they have gathered about issues, interests and data to identify options for solving the problem. After defining their interests, the parties can achieve a basis for recognizing which options will address their needs and which will not. To develop options, parties must: understand the need for a range of alternatives to choose from; be flexible enough in their positions to disengage from unacceptable proposals; and be aware of procedures for generating options.

Negotiators are encouraged to create multiple options for each issue; because the search for a good solution necessitates broadening the discussion and 'thinking outside the box'. Multiple options are also advisable because it is quite common for party x to suggest an option that party y rejects. The goal at this stage is to produce the broadest possible selection of alternatives.

❖ *Techniques that can be used to produce settlement options (Moore,2003):*

■ *Expansion of the resource*: Often used in union-management negotiations, the idea is to add issues such as cost-of-living benefits, goodwill, insurance options or working conditions to a basic issue like wage increases, which makes mutually satisfactory outcomes more likely.

■ *Logrolling*: This refers to trading components of differing importance without compromising on principles. Every negotiation contains a range of requests of differing importance for each individual negotiator. When pressed in an exchange, negotiators can concede on items of lower priority in order to obtain those of higher priority.

■ *Alternation*: When there is no way to expand resources, parties may alternate between the options each of them favours. For example, each is allowed to enjoy the same land at a different time.

■ *Designing new and integrative interest-based solutions*: These solutions meet the needs of each party, but not at the expense of another's needs. The classic illustration of this type of solution is the conflict of two children fighting over the last orange left in the fruit bowl. Each child adamantly demands the orange. The wise mother intervenes and offers to help the children to decide who should get it. Upon first examination, it appears that each child has an equal claim to the orange. What should the mother do? She could halve the orange and give each child a piece. However the mother is dissatisfied with the solution and decides to explore each child's interest more deeply. She discovers that one child wants to eat the orange while the other wants to peel it to prepare a cake icing.

❖ *Different ways to produce options:*

■ All parties work together to develop options with the expectation that more people will produce more options.

■ Outside experts can supplement the group's own thinking and can expand the number of options on the table.

■ Each party is asked to develop a proposal that reflects the interests of its own constituency along with those of the other parties.

■ An intermediary conducts individual brainstorming sessions with each party and presents the list of ideas to the entire group for discussion.

STEP 9: DEVELOP CRITERIA FOR EVALUATING OPTIONS

At this stage, the parties need to assess how well their interests will be satisfied by each of the options that have been generated collaboratively. Using objective criteria facilitates the process of deciding which options will be most satisfactory to all groups. It also ensures that there are fair and independent standards for decision-making.

The criteria vary depending on the conflict; however, to assure a wise and fair agreement, they should be:

❖ *Minimum standards for defining criteria:*

■ Decided upon jointly;
■ Independent of will;
■ Legitimate;
■ Practical; and
■ Applied to all sides.

Assessing options against criteria: A decision grid can assist in analyzing possible solutions through the use of indicators.

TABLE: SAMPLE DECISION GRID

	Option 1	Option 2	Option 3
General achievability			
Cost and inputs			
Advantages (pros)			
Disadvantages (cons)			
Opportunities			
Risks			

Having identified objective criteria, how do you discuss them with the other party?

There are *three basic points* to remember:

❖ *1. Frame each issue as a joint search for objective criteria:*

If you are in a sales negotiation, you may start off by saying, "Look, you want a high price and I want a low one. Let's figure out what a fair price would be". What objective standards would be most appropriate to determine the price?

❖ *2. Reason and be open to reason regarding which standards are most appropriate:*

Insisting that an agreement is based on objective criteria does not mean insisting that it is based solely on the criteria advanced by one party. One standard of legitimacy does not preclude the existence of others. Behave like a judge in deciding between suggestions made by different participants. Consider standards that have been used by the parties in the past and standards that are used more widely.

❖ *3. Never yield to pressure, only to principle:*

Pressure can take many forms: a bribe, a threat, a manipulative appeal to trust or a simple refusal to budge. A refusal to yield except in response to sound reason is an easier position to defend – publicly and privately – than is a refusal to yield combined with a refusal to advance sound reason.

STEP 10: EVALUATE THE OPTIONS

❖ *Apply the criteria to evaluate options:*

Compare options with interests to determine whether any of the options adequately addresses parties' main interests.

❖ *Encourage parties to look closely at their BATNAs (see Step 5):*

Each party needs to determine whether it is better off with or without the proposed agreement. Among the most influential factors determining the outcome of a negotiation are the parties' alternatives to a negotiated agreement – their BATNAs. Parties are often motivated to find common ground by their knowledge of what will happen if no agreement is reached. The no-agreement alternative is an important baseline for both parties to evaluate the merits of various options. Although no-agreement alternatives can be disappointing, they can prevent the spiral of losses that sometimes occur in negotiations. Armed with no-agreement

alternatives, each side has well-defined indicators for when they should walk away from the table and a clear idea of what will happen if they do.

STEP 11: REACH AN AGREEMENT

There are several ways to reach an agreement:

❖ *Agreements in principle, or the formula approach:*

This strategy entails progressing from the most general level of agreement to more specific details of settlement. Start with general principles that all parties agree to. The central issue needs to be formulated in broad terms and the disputing parties encouraged to generate general principles of agreement (see example below). Through reaching a series of agreements in principle, the parties can clarify how these principles can be implemented to lead to a lasting agreement.

Example:
■ Problem: How can we make sure that local people have the same chances of finding employment with companies as workers from outside the area?

■ First agreement in principle: The companies and the community agree in principle that the companies should employ more local people.

■ Second agreement in principle: The companies and the community agree in principle that those hired should have certain qualifications or skills.

■ Third agreement in principle: The companies and the community agree in principle to develop a list of specific qualifications and skills that those employed must have. These are listed in the resulting agreement.

❖ *Building block approach:*

The building block approach divides an issue into sub-issues or components. These smaller components comprise manageable tasks for problem solving. Options are generated to address each sub-issue.

Issues are divided into sub-issues because:

■ disputing parties may more easily see and understand smaller issues than those that are complex and multi-faceted; and

■ dividing issues may isolate specific issues that are preventing settlement.

❖ *Brainstorming:*

Brainstorming is a powerful tool that people can use to generate a variety of options. The process begins by framing the issue as a problem.

Problems are often stated as 'how' questions, such as "How can an important cultural site be maintained while still allowing companies to explore for minerals?" It should be clear that parties do not have to agree to any option suggested at this point; generating options is separate from evaluating options. The most important rule in brainstorming is that all ideas generated by participants are worthwhile and should be listed. The objective is to be creative, to move beyond usual patterns of thinking and to widen the options, even if some of them seem strange at first. Options can be prioritized and narrowed down using other tools later.

Brainstorming guidelines
Brainstorming is a tool to generate multiple ideas, usually in a short time. It allows a number of possible choices to emerge. Unexpected solutions can be proposed that might not have been considered, but may play an important role in building a solution. Brainstorming works best when the following rules are observed:

- Any idea is better than none.
- Be creative and imaginative.
- Be forward thinking.
- Do not make critical comments or evaluate ideas.

❖ *Links and trades:*

To solve one problem, link it to another. If a local community wants compensation and jobs, a company can offer a set number of jobs as part of its compensation package.

❖ *Procedural solutions to substantive problems:*

For example, a company has cut down a lot of trees in the water course, and water quality has declined. To reduce runoff, the community wants large numbers of certain types of trees to be planted in specific places. The company maintains that this would involve a lot of unnecessary effort, and disagrees with this solution. Instead of finding one solution, the company and the community therefore need to find a process for tackling the restoration issue. They could start by implementing the company's suggested solutions, but both the company and the community could monitor water quality. After a season of implementing the company's solution, if the water quality has not improved, the company could increase its re-vegetation efforts. This process is useful when parties cannot find an immediate solution to their disputes.

❖ *Vision building:*

This entails getting the parties to imagine the future and working from that vision. For example, a future vision envisions that in five years, a joint forest management plan will have established good working relations, improved forest health and brought better economic outcomes to the community. If all the parties want this outcome, they can work backwards from that vision, defining the steps required to get there.

❖ *Model agreement:*

Past successes from other areas can be used to build or revise a suitable agreement for the current dispute.

❖ *Single-text document:*

This is effective when some parties cannot read. The mediator listens to all the possible options and writes a draft. One by one, the parties add to or change the draft so that it works for them, until the document works for everybody.

❖ *Substantial, Procedural and psychological interests:*

To achieve a durable agreement, substantive, procedural and psychological interests must be satisfied. Like a three-legged stool, the three types of interests form the basis of a negotiated agreement. If any one of these interests are not fully satisfied, the agreement may collapse under future pressure.

FIGURE 4

SUBSTANTIVE
INTERESTS

PROCEDURAL
INTERESTS

**DURABLE
AGREEMENTS**

PSYCHOLOGICAL INTERESTS
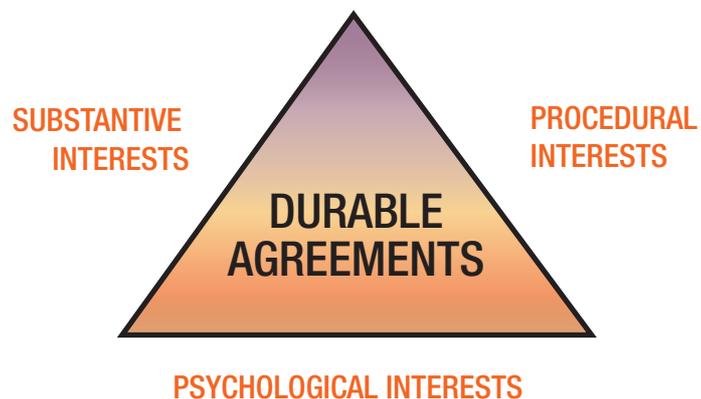
Most parties enter a negotiation to get something. Although their ideas about their interests may change over the course of the negotiation, they need to come away with some sense of substantive satisfaction – a sense that they got what they came for.

Even if they get what they want, parties will not be satisfied if they think the process was not fair. Fairness is a subjective assessment, but a powerful one. For example, if a party thinks the procedure was irregular, that party may distrust others and work against implementing the agreement.

Everyone needs to feel heard and respected. If one party perceives that it was not adequately heard during the discussions, the agreement may not prove durable. Poor relationships that develop during negotiation will overshadow otherwise acceptable results.

At the end of the decision-making process, the parties should be able to identify one option that they can all support. This is the ideal outcome of conflict management – reaching agreement through consensus. However, there is a whole range of possible outcomes from negotiations (Moore, 2003). Some of the many possible outcomes are listed below:

❖ *Some of the possible outcomes*

■ *Compromise*: Parties share gains and losses in order to reach agreement.

■ *Experimental or trial decision*: Parties are unable to reach a permanent decision and agree to a temporary settlement, which will be evaluated at a later date.

■ *Procedural solutions to major issues*: Parties agree on a process through which they can arrive at a solution.

■ *Partial settlement*: Parties agree on many issues, but continue to disagree on others.

■ *Continued negotiations*: Parties agree to disagree. They want to continue negotiations, sometimes by calling in a third party to assist them in reaching a binding decision.

STEP 12: DEVELOP A WRITTEN AGREEMENT

Generally, one individual or a group of negotiators is assigned the task of preparing a draft agreement. If the agreement contains specialized information such as complex legal or scientific language, the job of drafting may be assigned to a sub-group of negotiators who are familiar with the information. All parties should review the document to determine whether it precisely reflects the oral agreement.

❖ *Present the draft to constituents or lawyers for review and approval:*

The parties to the conflict need time to confirm the options they agree to and obtain support from their constituents. One of the greatest pitfalls in negotiations occurs when a negotiator for one of the parties exceeds his or her authority in reaching an agreement. For example, public officers involved in managing conflicts may need to obtain approval – and authority to act – from their superior officers. This is especially true in situations where changes to policy or administrative practice are required. It may therefore be beneficial to break up the negotiation process, especially at important times. The final agreement should not be worked out until all the representatives can provide assurance that they have the mandate and support of their constituencies.

Sometimes representatives need assistance in explaining to their constituents the constraints imposed on them by policy or administrative

❖ *Draft a final written agreement:*

practice. Parties may also require assistance in deciding who from their wider constituencies should be involved in the final agreement.

Writing an agreement can be a powerful tool to facilitate the termination of a dispute. Questions related to the timing of the agreement, who should write it, the form the document should take and the language used all influence the acceptability of the settlement. The list below includes considerations to be observed by parties in dispute or conflict managers preparing a written record of an agreement.

Written agreements may either take the form of an informal memorandum of understanding or – if legal issues are concerned – a legal contract.

Agreements must be workable if the parties hope to achieve a durable settlement to their dispute. *Workable agreements are FAIR, WISE and STABLE (Natural Resource Leadership Institute, online resource).*

FAIR Agreements
Workable agreements are fair when:

■ The process is open to public scrutiny;
■ All groups who wish to participate are given the chance to do so;
■ All parties are given access to the technical information they need;
■ Everyone is given an opportunity to express their views;
■ The people involved are accountable to the constituencies they represent; and
■ There is a forum for due process complaints to be heard at the conclusion of the deliberation.

WISE Agreements
Workable agreements are WISE when:

■ 'Advocacy science' is avoided;
■ The most relevant information is brought to the table;
■ All parties participate in order to minimize the risk of being wrong; and
■ An environment is created that accepts the best technical evidence, regardless of which side that evidence supports.

Stable Agreements
Workable agreements are stable when:

■ The agreement is feasible and can be carried out;
■ Commitments made by each party are realistic;
■ Parties take responsibility for cultivating support for the agreement from their constituencies;

■ Parties take responsibility for meeting all policies and protocols specific to their own organizations;

■ Timelines for implementation are realistic;

■ Provisions are made for re-negotiation; and

■ Good working relationships among the parties are fostered.

TABLE: POINTS TO DETERMINE STRENGTHS AND WEAKNESSES OF AN AGREEMENT (MOORE, 2003)

Strong agreements are:	Weak agreements are:
Substantive: They define specific exchanges that everyone can touch or see (money, services, labour, etc.) resulting from negotiations.	*Procedural*: They define the process by which a decision is to be made.
Comprehensive: They include the resolution of all the issues in dispute.	*Partial*: They do not include the resolution of all the issues in dispute.
Permanent: They resolve for all time the issues in dispute.	*Provisional*: They involve temporary or trial decisions that are subject to change in the future.
Final: They include all the details in their final form.	*In principle*: They include general agreements, but not the details.
Non-conditional: There are no conditions or requirements for future performance.	*Contingent*: The conclusion of the dispute depends upon additional information or the future performance of one or more parties.
Binding: They are formal contracts that obligate the parties to certain actions (people often stick to the terms of a settlement if they understand the consequences of not doing so).	*Non-binding*: They make recommendations or requests only; the parties are not legally bound to comply.

Strength of any agreement is demonstrated when it is put into practice…
The strength of any agreement is demonstrated when it is put into practice, and not by how it appears on paper. For example, a partial agreement that is carried out in practice may be stronger than a complete settlement that is never implemented.

Mechanisms for resolving future conflicts
To save participants' time and money if problems arise later on, mechanisms for resolving future conflicts should be built into the framework of the negotiations.

2.2.3 After the agreement is reached: the post-deliberation phase

Once an acceptable solution has been identified, it must be approved and implemented by all stakeholders.

❖ *The final version of the agreement should include agreement on how to resolve future disputes:*

2.2.3 After the agreement is reached: the post-deliberation phase

Once an acceptable solution has been identified, it must be approved and implemented by all stakeholders.

STEP 13: APPROVE THE AGREEMENT

❖ *Confirm the agreement with a larger constituency:*

Once an agreement has been drafted, the negotiating parties may wish to confirm its acceptability to their broader constituencies. This is an important step in obtaining broad support and acceptance. Before final agreement, the full support and commitment of all stakeholders must be confirmed. If sub-groups remain apart from the main group, the document needs to clarify which participants are party to the agreement and which are not.

❖ *Make the agreement public:*

A final point of discussion is the extent to which stakeholders wish to make their agreement public. Depending on its nature, the final agreement may be enacted through a formal signing in front of witnesses or may require government approval. If the agreement affects many people, stakeholders may consider holding a public forum. Some groups choose to bind their decision formally by entering their agreements into the legal system. Others announce their agreements at local council meetings or through the media.

STEP 14: IMPLEMENT THE AGREEMENT

A negotiation is not successful until the methods for achieving its goals have been mapped out. For this reason, the final agreement should include a plan for implementation, not produce one as an afterthought. Although parties now understand other stakeholders better and have likely developed a greater understanding of their differences, they may remain adversaries. It would be very risky to assume that differences of opinion and competition for resources will disappear completely.

Any effort to carry out agreements should involve the following three actions:

❖ *Monitor results:*

A monitoring system provides a central point to which all parties can direct their concerns and suggestions. It should outline specific tasks associated with implementation and set reasonable deadlines for completing them. It also keeps parties informed of progress, including governing bodies and agencies not directly included in implementation. Monitoring can be conducted by a political official, local leader, government agency or committee made up of representatives involved in the negotiation.

❖ *Decide which actions constitute violations of the agreement and how to handle them:*

Violations will occur: public disputes involve organizations, and organizations change their staff and policies. The monitoring committee must take responsibility for naming violations and exploring the reasons for any infraction with the offending party. If the possibility of violations is anticipated and sanctions established, the job of the committee is easier.

❖ *Renegotiate, if necessary:*

Agreements regarding nfps are made in the context of a large framework of national and international policies that are subject to change. Therefore it should not be surprising if some sections of an agreement require re-negotiation.

❖ *Celebrate your success:*

A collaborative conflict-management procedure is successful when it leads to a consensual negotiated settlement. The implementation of an agreement is another measure of success. In both cases, one can only speak of success when all participants rate the outcome as better or more time- and cost-efficient than other forms of conflict management (such as court decisions).

But measuring success in terms of results and their implementation does not fully take into account the benefits of collaborative conflict management. Even when it is not possible to reach a consensus, the participants may acquire useful experience:

■ The joint search for solutions builds trust among all participants and prevents policy strangulation when the state is one of the conflicting parties. Citizens see themselves as the subjects and not only the objects of policy and administrative decisions.

■ The stakeholders' relationships are improved.

❖ *Participation creates competence*

■ Collaborative conflict management is a learning process for all participants. Parties may have gained new insights on their means of influencing decisions, learned new ways of managing differences and developed a better understanding and greater respect for each other's interests in the future. For this reason, collaborative conflict management processes are likely to result in increased competencies for handling conflict situation, a strengthened sense of responsibility in conflict-charged situations, and may ultimately contribute to political change.

PART 3:
Making the process work

This chapter is devoted to making the process work by anticipating challenges, preventing problems from occurring whenever possible and dealing with setbacks. It includes process as well as human considerations.

3.1 Managing effective meetings

When disputing stakeholders gather in a room, their facilitator assumes a substantial responsibility. The way the meeting is managed either leads to improved relationships and towards a solution to the problem, or to disaster. The way meetings are managed is an essential but often disregarded consideration in conflict management.

Best practices for meeting management include the following:

❖ *Establish an agenda:*

It is desirable to prepare an agenda before the meeting and elicit feedback from the parties, including whether the items are appropriate, whether enough time has been allotted, whether any issues have been forgotten and whether the sequence of items makes sense.

❖ *Keep the discussion focussed on the agenda:*

Nothing is more tempting in a conflict situation then for one party to digress into a lengthy exposé of the grave injustices inflicted upon it by another party. The discussion can be kept on track by reminding parties of the particular agenda item they are discussing. Sometimes people skip to a future point in the discussion, describing for example the preferred solution before all parties have finished exploring options for settling the dispute.

❖ *Clarify statements:*

Clear communication is absolutely critical to resolving conflicts. If one party's statement is unclear to the conflict manager, it is likely to be unclear to other parties as well. The conflict manager should ask the speaker to clarify the statement or try to restate it in his or her own words ("If I understand you well, you were saying that ..."). The conflict manager should also be alert for situations in which the discussion is clear to some, but not to others. When this happens, the conflict manager should stop and clarify what is being discussed.

❖ *Summarize the issues:*

If issues are not clear, the conflict manager should ask additional questions to elicit more information about issues and interests. The conflict manager also should ask whether the party would like to add anything to the discussion.

❖ *Encourage all parties to participate:*

In every meeting, some members are more vocal than others, and they dominate the discussion unless quieter participants are encouraged to speak. Silence can mean many things: people may be afraid or not able to express their ideas, or they may be dissatisfied with the process. The conflict manager may not wish to spend hours in discussion only to discover that the silent party strongly objects a proposal that everyone else has worked hard to develop.

❖ *Maintain a positive tone:*

Parties can get frustrated when the process slows down. They need reassurance that it takes time to develop agreements and they need to be reminded of what they have accomplished so far.

❖ *Offer process suggestions:*

The person responsible for the meeting is also responsible for the process – how issues are discussed – but not for the content of the discussion. The conflict manager assesses the steps being taken to achieve the meeting's goals, and if they are not productive, suggests alternative methods. All suggestions should be tested with the group: for example, "This discussion seems to be going nowhere. Would it make sense to divide it into three sub-topics and discuss each separately?"

❖ *Supervise record keeping:*

Capturing accurate notes on important ideas, decisions and actions is an important function of conflict managers. An effective method for recording the process can be found in Annex 2.

3.2 Activities between meetings

Important as they are, meetings constitute only a small portion of any conflict management programme. Parties in negotiation normally spend far more time working between sessions than in the meetings themselves.

Between meetings, parties confer with their constituents to describe what happened at the last meeting and develop plans for the next meeting. Although constituents do not attend meetings, they decide whether negotiations will succeed or fail. If a representative gets too far away from his or her supporters' agenda, the constituency may become hesitant and cease to endorse agreements. The representative may then be forced to change his or her position in succeeding negotiations, which is extremely frustrating for others at the table.

Carpenter and Kennedy (2001) make the following suggestions for building effective constituencies:

❖ *Ensure that all coalitions of interests are effectively represented:*

If there are parties with separate views – and if this group is either large or far from the others' views – then there must be an additional representative. Otherwise, a party may break apart from the negotiations when a negotiator tries to synthesize an impossibly wide range of opinions.

❖ *Make the decision process clear:*

Everyone should understand how decisions are made within the constituency group. If they are made by majority rule, the representative should obtain commitment from all members to abide by the will of the majority. If decisions are made by consensus, the representative should make sure that everyone understands what this means.

❖ *Help the group establish regular, predictable methods of communication:*

Constituencies should be informed of all issues being discussed. If they feel that they are not well informed, they might block progress out of resentment. It is therefore important to determine the most effective methods of keeping members informed of developments.

❖ *Assess constituents' experience in negotiations:*

How familiar are the constituents with the concept of good-faith negotiations? If they are not familiar, what can be done to educate them so that they will understand the actions of their representatives?

❖ *Allow adequate time between meetings for representatives to meet with their constituencies:*

Negotiation sessions must not be scheduled so frequently that regular meetings with constituencies are difficult. Adequate time is essential because negotiators may need several meetings with their constituencies to discuss and work out differences. This is especially true in the final stages of negotiations as major movements towards agreement occur. A negotiator may sense the need to push to solution within the group, but participants' constituencies are outside the meeting and might still be wary of proposed solutions.

❖ *The public must be viewed as a resource, not as an obstacle. Keep the public informed:*

The question of how to inform the public and to what extent is a tricky one because the results of communicating with the public are unpredictable. However, an uninformed public is likely to misrepresent facts, and misunderstandings can easily develop into new conflicts. Information does not guarantee public support, but it increases the chances that the public will come to the right conclusions.

3.3 Underlying dynamics: values, trust, power

VALUES

Values are the standards by which we judge events and the behaviour of other people. They are the composite record of our life experience and are therefore slow to change. Asking someone to change his values is like asking

him to change his sense of reality. Value differences are often present in public disputes. Therefore a basic premise in conflict management is, "*Never negotiate on the basis of values*". However, it is important to identify the part that values play in a controversy and to determine whether it will be possible to work around these differences. Three points are worth considering:

1) *Find ways of getting people to set aside their expectations of each other*: In emotional situations, people tend to stereotype each other. Citizen activists are assumed to think and behave in a particular way, as are business people and government employees.

2) *Values may be more important than they first appear*: Failure to detect significant value differences can be a major problem for conflict managers.

3) *When the battle is over ideologies themselves*: chances for constructive negotiations are exceedingly slim.

TRUST

Trust is the expectation that that other people can be relied on. Trust is confidence that other people will act as they say they will. This may not necessarily be out of goodness, but because it is in their interest to keep promises. Trust is the solid structure build little by little as people in a dispute understand the benefits of believing others and being believed.

Successful problem solving depends upon three separate elements of trust: (i) confidence in the convener's integrity and competence; (ii) belief in the process; and (iii) the expectation that the parties will deal honestly with each other.

Trust in another individual is often grounded in our evaluation of his or her ability, integrity, and benevolence. The more we observe these characteristics in another person, the more our level of trust in that person is likely to grow.

Following are some suggestions for building trust and credibility:

❖ *What Individuals Can Do (Lewicki and Tomlinson, 2003):*

Trust building is a bilateral process that requires mutual commitment and effort, especially when attempting to de-escalate conflict. Nonetheless, there are several actions that individuals can initiate in order to facilitate trust-building. This includes taking steps to minimize the risk that the other party will act in untrustworthy ways and ensuring that one's own actions are perceived as evidence of trustworthiness.

❖ *Establish consistency and predictability:*

When we behave in consistent and predictable ways, we increase the chances that others will regard us as trustworthy. Every effort should be made to ensure that our words are congruent with our subsequent actions, and that we honor pledged commitments. Our integrity is reinforced to the extent that we 'do what we say we will do'.

❖ *Communicate accurately, openly and transparently:*

Openness means being clear about the intentions and motives for one's actions. If we are willing to act transparently and to be monitored for compliance, other parties will consider us trustworthy.

❖ *Perform competently:*

All duties and obligations should be performed competently. Individuals should strive to demonstrate proficiency in carrying out all their obligations. This may entail increasing skills and abilities as technology advances. As others determine our trustworthiness, they assess our qualifications and ability to perform.

❖ *Share and delegate control:*

Trust needs to be given in order to be returned. There is symbolic value in soliciting input and making decisions with others. Likewise, when control is hoarded and others feel that they are not trusted (such as with monitoring and surveillance systems), they are more likely to engage in behaviors that reinforce mistrust.

❖ *Show concern for others:*

The trust others have in you will grow when you show sensitivity to their needs, desires, and interests. Acting in a manner that respects and protects other people – and refraining from self-interested pursuits – contributes greatly to the trust others place in you. When trust is violated, people assume that others are acting in their own self-interest, and are therefore more likely to act in their own self-interest instead of on conflict resolution.

❖ *Rebuilding Trust (Lewicki and Tomlinson, 2003):*

Despite some scholars' assertions that broken trust cannot be repaired, recent research provides a more optimistic view. However, rebuilding trust is not as straightforward as building trust initally. After trust has been damaged, there are two key considerations for the 'victim': (i) dealing with the stress of the violation of trust; and (ii) determining if future violations will occur. After a trust violation, the first critical question is, *is the victim willing to reconcile?* If the victim believes that the violator will not make efforts to correct his actions and minimize future violations, the victim has no incentive to restore trust.

Reconciliation occurs when both parties exert effort to rebuild a damaged relationship, and strive to settle the issues that led to the disruption. Trust can only be rebuilt if the victim is willing to reconcile.

Lewicki and Tomlinson (2003) provide several suggestions for rebuilding trust:

❖ *Take immediate action after the violation:*

Offenders should act quickly to engage in restorative efforts. This communicates sensitivity to the offended person and the relationship.

❖ *Provide an apology and a thorough account of what happened:*

Offenders need to carefully explain the circumstances that led to the violation, so that the victim can understand the events that led to it. If victims understand the rationale behind the offender's actions, they will better understand the values and issues that are likely to shape future actions.

❖ *Be sincere:*

The victim will closely scrutinize the offender's motives and intentions, so it is imperative to make sincere efforts to repair any harm. Every effort should be made through words and actions to show a genuine desire to regain the victim's trust.

❖ *Be mindful of the history of the relationship:*

If the relationship's history is positive and there are have been few trust violations in the past, the prospects for repairing trust are more promising than in relationships characterized by many trust violations or few trust-confirming events. Make it a priority to honor trust on a daily basis in order to provide a conducive environment for repairing trust if necessary.

❖ *Demonstrate good faith:*

Make every effort to compensate the victim for the harmful effects of the violation.

❖ *Be trustworthy in future interactions:*

An offender is likely to be on 'probation' for a period of time as the victim tests the waters to determine whether to regain trust. Take proactive steps to manage the victim's expectations by articulating what standards are be expected and commit to observing these standards in the future.

POWER

When assessing a dispute, it is important to understand *who has the power to coerce whom*. However, in public disputes, the situation may be too complex to determine who has power, how much and for how long. Power is not only determined by financial resources or number of lawyers but intangibles such as inventiveness, moral resentment and standing in court.

WHAT DOES 'POWER' MEAN?

Power is the ability to assert one's own will, regardless of resistance or the nature of the occasion. Based on Max Weber's definition, power relations appear to be clearly divided: on one side, the strong state collaborating with industry and multinationals; on the other side, the weak, powerless individuals, who must humbly submit to the will of the powerful.

But reality is different. For example, as the 'Brent Spar' conflict between Greenpeace and Shell demonstrated, while wealth, connections and influence may be strong cards in one party's hand, mobilization of public opinion through the media brings with it a great deal of control and pressure. With public opinion mobilized, boycotts and the threat of court actions can make life difficult for the other side. Indeed, project contractors tend to avoid public confrontation but are still interested in maintaining a 'clean' image. The threat of one party's influence can create an incentive for the other parties to negotiate. In this light, the balance of power may be leveled out. In both industrialized and developing countries, NGOs have evolved into effective opponents of established power cartels and are taken seriously. Experience shows that in developing countries, NGOs effectively support the interests of marginalized groups. What makes NGOs effective is a minimum of bureaucracy and the free flow of information (CDR Associates, 1998).

❖ *The many forms of power:*

The many forms of power other than coercive force have deservedly received the attention of conflict management practitioners. These practitioners have sought to challenge the familiar argument that a balance of power must be achieved before meaningful negotiations can begin. Those embarking on conflict management should take a hard look at their assumptions about the power possessed by the different parties: can one party influence the behaviour of another? A conflict manager should examine the capacities people have to influence each other and ask, "do the parties understand their own power and that of their adversaries?"

USING POWER FOR MUTUAL GAIN:

A state agency had the statutory power to decide some highly controversial environmental issues, which it usually handled by making unilateral decisions without explanations. Its employees then tried to deal with the public outcry that always arrived soon after – a costly strategy for resource managers who would have preferred to devote their energies to practising their professional skills. The agency's director decided to try negotiation. He made it clear to representatives of the 12 organizations gathered around the table that he retained the authority to make final decisions, as was required by law. But he invited the participants to share with the agency new any information they had gathered and the responsibility for choosing workable alternatives. The director offered to make the discussions public, thus placing himself under public scrutiny to make decisions that were consistent with the group's recommendations. In granting interested parties access to the decision-making process, the director provided potential adversaries with information they could conceivably use against him. But in sharing the information, he gained an informed constituency. They began to understand the complexity of the problems he faced (Carpenter and Kennedy, 2001: 222).

Actions can be taken to level the playing field or increase the influence of marginalized stakeholders (Engel, 2007):

❖ *Identify which forms of influence used by parties are effective and which are ineffective:*

Study the means of persuasion that parties are engaging in. Consider what might influence their feelings and views about the issues under discussion.

❖ *Select the right form of power for the issue and the person being persuaded, and select the right moment:*

Decide what means of influence are likely to be most effective. When considering effectiveness, most people think about what would influence them rather than what would influence the other party. Instead, find methods of persuasion that appeal to others by considering values, such as cost-effectiveness, efficiency and timeliness.

❖ *Encourage conflicting parties to use effective means of influence:*

The most powerful source of power stems from being in coalition with others who have power. For example, when a local elder is acquainted with a small business that sometimes provides services to a mine, he is in a better position to influence the mine owners in negotiations. The elder has more power because of his connections to others. The more associations a person has with powerful people, the more power that person will have.

❖ *Discourage parties from using means of influence that are ineffective:*

Assuming strong positions and coercing are the least effective forms of power. Negotiators should avoid using coercive power since it creates resistance. Coercion works only when a party actually holds power that it is willing to use and its counterpart cannot withstand the pressure.

❖ *Use the minimum amount of power and influence necessary to induce change:*

Other parties should be influenced gradually, with no hard pushing. Overuse of any source of power may cause resistance from counterparts.

❖ *Differentiate between actual and potential sources of power:*

For example, a community group negotiating with a company threatens to block the road and stop the company's machinery. The company's management does not believe that this will happen because it knows that many people in the community are afraid and will not speak out. In this case, the community has potential power but unless it carries out the action, it does not have actual power. The community must have the will to use its power.

The existence of negotiating power does not in itself determine the outcome of a negotiation. For power to be effective, a negotiator must be able to:

■ distinguish between potential and actual power;
■ mobilize his or her power, and convert it into influence so that it can be used effectively;
■ determine the costs and benefits of exercising different types of power;
■ determine how much power he or she will need to use; and
■ muster the will to use this power when necessary.

3.4 Persuading people to talk

Persuading powerful, angry or suspicious people to negotiate with each other is the first and often the most difficult task in conflict management. If the dispute is heated and the parties are angry, talking with each other may be the last thing they want to do, especially if they have publicly attacked each other before. Citizen groups contending with large government agencies or powerful corporations must take a hard stand in order to retain the support of their members. Government agencies or businesses that are used to turning problems over to their lawyers may deem it safer to litigate than to negotiate.

The most common reasons why people refuse to negotiate include the following:

■ Agreeing to cooperate may appear to adversaries or constituencies to be an admission of failure or weakness.
■ One of the parties believes that success is possible without negotiating.
■ The negotiation process is unfamiliar and appears too risky.
■ Parties are concerned that negotiations will increase the visibility of the dispute.

The first thing to do when facing resistance is to review how the dispute may be resolved, assess risks of harm to parties that embark on an alternative course (such as policy revisions, legal decrees or informal discussions), and decide whether conflict management is appropriate to the situation. If the answer is yes, the second task is to persuade the parties to negotiate. Parties may have good reasons for their reluctance to negotiate.

❖ *Explain the advantages of negotiation:*

For example, emphasize the advantage of negotiators having direct control over discussions with adversaries rather than being dependent on lawyers and judges. Conflict managers can also call parties' attention to the value of establishing long-term relationships to manage other problems in the future.

❖ *Raise a doubt:*

Be explicit about the unpredictability of what the judge will decide, what politicians will do or what losers will try next. Parties that still firmly believe

they will win should be asked to consider what will happen if their victory is not complete.

❖ *Try a trial meeting:*

If the parties are too fearful or too locked in disagreement, they may agree to a single meeting. Parties should be told about the protection offered by of negotiations facilitated by a third party. After the meeting, they can decide whether another meeting would be useful.

❖ *Use the power of public opinion:*

Large businesses and government agencies can gain public approval by dealing reasonably with less powerful adversaries. Conflicting parties should be reminded of the importance of public opinion and reminded that they may lose support if they continue to be obstinate.

KEEPING PEOPLE AT THE TABLE

❖ *Tell them to expect frustrations:*

Because of impatience, anxiety and pressure from constituencies, parties often get frustrated when the process moves slowly. This is especially true during the early but fundamental stages of conflict management. For this reason, it is important to explain the individual tasks involved in conflict management and their purpose: finding a common definition, describing issues and interests, determining what information is missing and developing options.

❖ *Use the group:*

All group members must understand their responsibilities for keeping the process alive. A conflict manger can ask parties what they think of one party dropping out: "George says we are not getting anywhere. Does anyone have a comment?"

❖ *Make gains explicit:*

Potential gains should be spelled out in precise detail so that they are clearly understood by all members. If relationships among individuals have improved, this should be highlighted: "Ms X told me that six months ago, we could never have had a positive discussion like we had this morning". If people are acquiring new information, the conflict manager should point out that they could not have obtained the information if they were fighting each other.

❖ *Reshaping the membership:*

If negotiations have reached a standstill, the problem may lie with the personality of an individual representative. It might be necessary to ask that person's constituents whether they would like to appoint another representative and seek agreement from the group to change the membership.

PART 4:
Using a facilitator

Most stakeholder groups have their own rules for addressing problems or taking decisions. However, when approaching an unusual situation, they can benefit from an expert that is familiar with the situation. For this reason, many conflict management processes are led by facilitators, mediators or process managers. The terms 'facilitator' and 'mediator' are often used interchangeably, but 'facilitator' is a more general term, which can be applied to anyone who guides group processes, while 'mediator' refers to a person who is specialized in conflict management.

This section reviews the role of a facilitator, including why facilitators are more concerned with process than content. It also describes the skills and experience desired in a facilitator and under what circumstances nfp stakeholders may want to consider engaging one.

4.1 The role of a facilitator

According to Webster's New Collegiate Dictionary, 'facilitate' means "to make easier". This is what facilitators do: they make it easier for the parties in dispute to resolve their differences by providing leadership and expertise. Mediators are people who — officially or unofficially — become involved in a dispute in order to help the parties to resolve it. Unlike arbitrators or judges, mediators have no power to define or enforce an agreement, but they can help the parties to reach an agreement on their own by identifying their options and facilitating negotiations.

Mediators play a variety of roles in conflict management (see Section 4.3), but they involve three core elements, which underpin all collaborative efforts:

■ 1) Exploring the issues and identifying *what* is underlying the conflict;

■ 2) Exploring *who* is involved in the conflict; and

❖ *Problems*

❖ *People and their relationships*

❖ *Process*

■ 3) Finding a constructive way forward and determining *how* stakeholders will work out their differences.

Mediators can explore the problems and people's relationships to define how the process should be structured. Depending on the complexity of the conflict, the need for process expertise can be great. Unlike parliamentary procedure, in which there are rules that address nearly every issue groups can encounter, there is no rule book for collaborative processes. Instead of making up the rules as they go along, groups can benefit from adopting the rules of a process expert. The expert acts as a group process parliamentarian – choosing which rules to apply, explaining them as needed, and steering the group through the process. Process expertise requires judgment, practical skills, and specialized knowledge of problem solving and decision making.

It is important that facilitators simply facilitate the process and leave the content of the discussions – and the solution – to the conflicting parties, who must implement any agreements stemming from the negotiations.

To summarize, a facilitator can: help to organize a group's efforts; offer advice on how to proceed; create an atmosphere of fairness and respect; ensure that everyone has an opportunity to participate; and steer the group toward a successful agreement.

4.2 When to ask for assistance

A mediator moves people through negotiations in difficult circumstances that they cannot negotiate themselves. Typical situations in which mediators are asked to assist include the following:

■ When a process is not working: Stakeholders often come together with the best intentions only to find months later that they have made little significant progress. A mediator can introduce a process that will move parties through a sequence of steps towards their goal of agreement.

■ When stakeholders have little experience or trust in working with one another.

■ When the numbers of issues under consideration are so great or complex that stakeholders have trouble focusing upon one or two at a time.

■ When there are so many parties that conversation is cumbersome. In these cases, a facilitator is required to ensure productive discussions and decision making.

■ When a deadlock in negotiations has occurred because of inflexibility on important issues or problems, such as false perceptions, poor communication or intense feelings.

■ When a timely decision is required, a facilitator can speed the group's work.

■ When participants are reluctant to attend meetings because of competing demands on their time, doubts about their progress or high travel costs. By increasing the efficiency and productivity of each meeting, a facilitator can reduce the overall costs. Because more is accomplished at each meeting, the total number of meetings can be reduced.

■ When stress or fear restrict stakeholders' ability to explore new ideas: When a mediator arrives, people expect things to change. Because change is essential to interrupt the spiral of conflict, this expectation can be a powerful aid to moving ahead and seeking new options.

4.3 Qualifications of a mediator

Once nfp stakeholders have decided that they need a mediator, the challenge is to select the right person or organization. A mediator of public policy disputes requires specific competencies.

COMMUNICATION

■ Initiate and maintain productive discussions among conflicting parties.
■ Handle intense emotions in individual conversations and in multi-party meetings.
■ Convey complex or technical information to a range of people across technical disciplines.
■ Explain process alternatives to stakeholders and obtain their support.
■ Conduct conflict analysis (or situation assessment), which requires investigating and quickly assimilating complex or technical information.
■ Identify what interests need to be represented and by whom.
■ Recognize how the relationships among stakeholders and the issues being addressed will affect the dynamics of negotiation.
■ Weigh incentives and disincentives for settlement and confirm that negotiations have a good chance of succeeding (or at least doing no harm).
■ Assist parties in assessing available resources, including people, finances, time and information.

PROCESS DESIGN

■ Define goals for negotiation among the parties.
■ Select an appropriate format for negotiation sessions (roundtables, team negotiations, workshop sessions, task groups).
■ Identify, define and obtain agreement on appropriate roles (negotiator, observer, technical expert, convener, sponsor, chairperson, mediator, facilitator, recorder).
■ Assess negotiating teams and clarify the role that each member will play.

NEGOTIATION

■ Help participants to separate short-term from long-term organizational interests.
■ Where appropriate, develop a negotiating document.
■ Structure issues and present alternatives.
■ Respond effectively to crises.
■ Assist representatives in managing communications with their constituents or organizational hierarchies in a way that maintains the flow of information and increases commitment to the decision.

FACILITATION

■ Determine the conditions that make face-to-face group discussion more efficient than one-on-one communication.
■ Identify the people who must be present in order to make meetings successful.
■ Develop realistic timeframes for moving through the agenda.
■ Assist participants in establishing behavioural and procedural guidelines, including expectations about confidentiality, press contacts, representation and other safeguards.
■ Establish and maintain a productive tone during a meeting.
■ Ensure the full participation of all participants, particularly those who are less vocal.
■ Manage conflicts within the group by maintaining a healthy balance of tension and motivation.
■ Assist groups in establishing options for agreement and decision making.
■ Obtain commitment to implement a decision.

DATA MANAGEMENT

■ Determine the importance of data and technical information to resolving the issues.

■ Organize information in a format and language that is useful to all parties.

■ Help parties to reach agreements on data where differences of interpretation occur.

ADMINISTRATION

■ Coordinate activities and communication among negotiators, observers, resource people, constituents, the public and media, including meeting minutes, reports, correspondence, meetings and press contacts.

■ Manage financial resources, including administrative costs, mediator fees, technical expert fees and participant compensation, if required.

In addition to the competencies listed above, other helpful knowledge includes: techniques for conducting discussions; communication and moderation skills; rhetorical skills; and knowledge of the mediation process. Some skills require both acquired experience and personal characteristics, such as strategic thinking and networking.

The success of mediation depends upon acceptance of the mediator by all nfp stakeholders involved in a dispute. The qualifications required for gaining acceptance vary greatly. By European standards, only mediators with absolute neutrality – who are strictly impartial regarding the interests of the parties – are acceptable, while in other cultures mediators may have a hierarchical relationship or close social ties to the parties. In traditional societies, mediators are often employed precisely because their social bonds to participating parties oblige them to act fairly. Mediators are often expected not only to support the immediate negotiations but also to engage in 'symbolic communication' or interactions that emphasize common ground and values.

The following figure makes these differences clear.

TABLE: TYPES OF MEDIATORS

Social network Mediator	Authoritative mediator	Independent Mediator
Previous and expected future relations to parties/ tied into their social network	Has an ongoing authoritative relationship with the parties before and following the conflict	Neutral and impartial with regard to outcomes
Not necessarily neutral, but perceived by all to be fair	Seeks jointly developed solutions with specific parameters	Serves all parties
Very concerned with promoting stable, long-term relationships among all parties	Has the authority to advise, propose or decide	May be a professional mediator

TABLE: TYPES OF MEDIATORS

Social network Mediator	Authoritative mediator	Independent Mediator
Often involved in implementation	*May have resources to assist in monitoring and implementing the agreement*	*Seeks voluntary and non-pressured settlement developed jointly by all parties*
Has ongoing relationships with parties after dispute is resolved	*Has authority to enforce the agreement*	*May participate in monitoring of implementation*
May use personal influence or public pressure to encourage adherence to the agreement	*Has current or anticipates future relationship with one or more of the parties*	*Has no authority to enforce the agreement*

Source: **CDR Associates, 1998**

In fact, within the profession, there is a debate about whether facilitators should be neutral. Referees in sporting matches must be non-partisan: they uphold the rules of the game to which everyone has agreed. This is what is commonly meant by neutrality – it implies an absence of bias with respect to the conflicting parties.

But mediators' impartiality and neutrality does not preclude them from having their own views about the conflict. No one is completely disinterested. In this case, neutrality means that the mediator separates his or her own ideas about the possible outcome of the conflict from those of the parties and concentrates on helping them to make their own decisions without favouring either party. The ultimate criterion in the choice of a mediator is whether or not he or she is accepted by all parties to the conflict.

The competencies listed above do not include information about professional qualifications. Few mediators are likely to be experts in all forest policy-related issues. However, facilitators in public policy disputes need to know something about the area of work and be extremely sensitive to the larger context.

In the past, there was debate about whether or not mediators of public disputes should have a background in public management or planning. Now it is clear that the demands of multi-party public dispute resolution require a professional facilitator – or facilitation team – concerned with the dynamics among participants and their constituencies. Extensive experience with the public sector and experience in working with large groups are real assets.

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Annex 1
Conflict Analysis Summary*

PARTIES

1. Who are the main parties and their spokespeople?
2. Who are the secondary parties?
3. Are the parties well defined?
4. Do the parties want to work towards a solution?
5. Are the parties capable of working with each other?

SUBSTANCE OF THE PROBLEM

6. What descriptions best characterize the conflict?

    ⊙ Conflict focuses of different interests.
    ⊙ Conflict focuses on strongly held values.
    ⊙ Conflict focuses on perceived differences that do not really exist.

7. What is the most constructive way to define the problem?
8. What are the central issues?
9. What are the secondary issues?
10. Are the issues negotiable?
11. What are the key interests of each party?
12. What interests do parties have in common?
13. What positions have been taken?
14. What other options for resolution exist?

PROCEDURES

15. What do parties think about using some form of conflict management? What suggestions do they have?
16. Does a consensus process serve the parties' interests?
17. What constraints might affect the conflict-management process (timing, legal activities, resources)?
18. What other obstacles must the process overcome?
19. Which parties are experienced in using alternative dispute-resolution procedures?
20. What are the chances for success?

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* Source: Carpenter and Kennedy, 2001.

Annex 2
Conflict Analysis Chart

Conflict parties	Issues *(all the topics that need to be addressed)*	Importance of issues *(in order of priority)*	Interests *(the substantive, procedural and psychological interests of each party)*	Options *(for meeting most of the parties' identified interests)*	Power and influence	Willingness to settle	Next steps *(procedures, strategies and fora to address the issues)*

Source: **Adapted from the Centre for Dispute Resolution (CDR Associates, 1998).**

Annex 3
BATNA question guideline

REVIEW THE CONFLICT:

- What are the central issues to this conflict?
- Who is involved and what kind of relationship do you have with each of them now?
- What kind of relationship do you want with them in the future?
- What kind of outcome do you hope to achieve?
- Which conflict management process would best help you to achieve your interests, and why?
- What are the potential outcomes with that method (the best outcome, the minimal outcome and the worst outcome)?

ASSESS THE ALTERNATIVES:

- What alternatives do you have for satisfying your interests if you do not reach an agreement?
- What would be the best alternative?

STRENGTHEN THE BATNA:

- What steps should you take to strengthen your chance of success if you have to use an collaborative conflict management strategy? (Are there additional resources that may be required? Will you need extra time or financial support?)

CONSIDER THE OTHER PARTY'S BATNA:

- What do you think your neighbours' key interests might be?
- What commitments do you think the neighbours would be willing and unwilling to make?
- What do you think through which conflict management procedure your neighbours could satisfy their interests best?
- What might they do if no agreement is reached?