

The Mutual Gains Approach to Negotiation



MIEKE VAN DER WANSEM
THE FLETCHER SCHOOL
TUFTS UNIVERSITY

20 August 2014



Today



- **Learn about the Mutual Gains Approach (MGA) to Negotiation in context of Sustainable Development**
 - Win As Much As You Can game
 - What is MGA
 - How is MGA applied
 - MGA success cases
 - How is MGA taught
 - Discuss options for including MGA in your teachings and trainings



Win As Much As You Can

“Win As Much As You Can”



- You are about to play a game in groups of 4.
- The objective is **to get the best score for yourself as an individual** - *Win as much as you can*
- You have been given 2 index cards - mark one of them with an “X” and the other with a “Y.”
- There will be 10 rounds.

“Win As Much As You Can”



- In each round you will play either the “X” card or the “Y” card - all at the same time when I say “play.”
- Your individual score each round depends on what you play and on what the others play.
- There will be **NO TALKING AT ALL**, except before rounds 5, 8, and 10.

Payoff Schedule

Combined Code	Your Individual Score
4 Xs	Lose 1 point each
3 Xs 1 Y	Win 1 point each Lose 3 points
2 Xs 2 Ys	Win 2 points each Lose 2 points each
1 X 3 Ys	Win 3 points Lose 1 point each
4 Ys	Win 1 point each

Choosing X versus Y: Risk vs. Return Analysis



X	1 loss option = -1 point 3 win options = 1, 2, 3 points
Y	3 loss options = -1, -2, -3 points 1 win option = 1 point

Score Card

ROUND	YOUR CHOICE (CIRCLE)	GROUP'S CHOICES	YOUR PAYOFF	YOUR TOTAL (CUMULATIVE)
1	X Y	X Y		
2	X Y	X Y		
3	X Y	X Y		
4	X Y	X Y		
5	X Y	X Y	*3 =	
6	X Y	X Y		
7	X Y	X Y		
8	X Y	X Y	*5 =	
9	X Y	X Y		
10	X Y	X Y	*10 =	

Scoring



For Example:

- **Imagine if player 1 played “X”; players 2 and 3 played “Y”; and player 4 played “X”.**
- **Calculate and write down your individual scores.**
- **The result of 2 “X”s and 2 “Y”s is that players 1 and 4 get 2 points each; players 2 and 3 get -2 points each.**

“Win As Much As You Can”



- There will be 10 rounds in this game.
- Scores for the fifth round will be multiplied by 3.
- Scores for the 8th round will be multiplied by 5.
- The final (10th) round will be multiplied by 10.
- The objective is **to get the best score for yourself as an individual** - Win as much as you can!
- **READY?**

Who Won What

Summary of Scores

	Player 1	Player 2	Player 3	Player 4	TOTAL
GROUP A					
GROUP B					
GROUP C					
GROUP D					
GROUP E					
GROUP F					

“Win As Much As You Can” Debrief



- Describe the events of the game.
- What was your strategy at the start of the game? At the end?
- Did your level of trust change during the game?
- Did you try to build trust? How? Were you successful?
- Once trust is lost, how easy is it to regain?
- Does this happen in real life?
- Did your result make you happy?
- What would you do differently next time?

Lessons from “Win As Much As You Can”



- **Start cooperatively: seek joint gains**
- **Be provokable: only cooperate as long as others do**
- **Be forgiving: if others commit to cooperate, you should too**
- **Be clear: don't risk your trustworthiness**

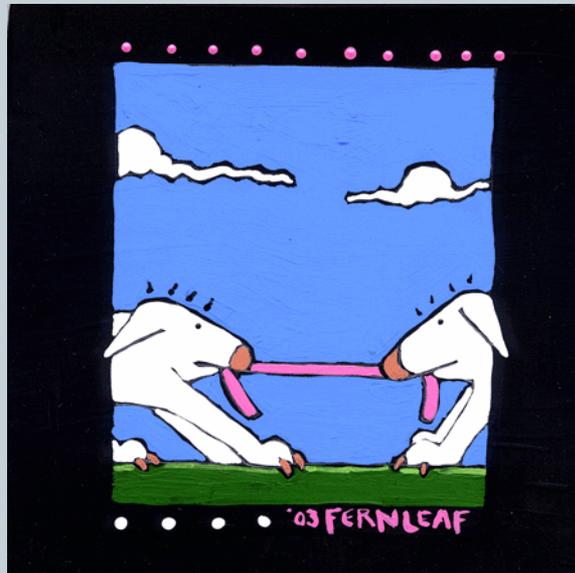
Negotiation



- Think back to a situation where you were involved in a negotiation process.
- What was it?
- Were you successful in achieving your goal in the negotiation?
Why or why not?



Why do we negotiate?



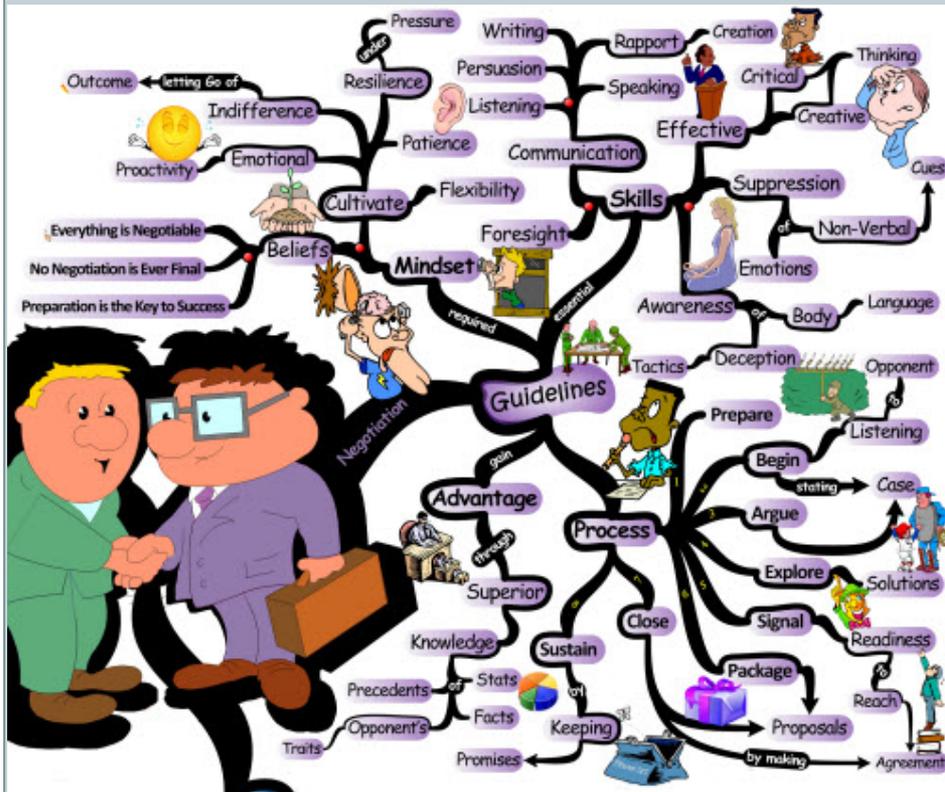
Negotiation



- We negotiate daily!
- With our families, neighbors, at work
- Most often, we care deeply with whom we negotiate
- The MGA recognizes the importance of these relationships



What is Negotiation?



Definitions

- A process of interaction...
- To advance individual interests...
- Through joint action

What is Negotiation?



Characteristics

- Self-interest
- Interdependence
- Potential for mutual gain
- Communication
- Relationship



What is Successful Negotiation ?

- 1. Outcome for all parties**
 - interests met
 - Seen as fair
- 2. Efficiently reached**
 - time not wasted
 - nothing left on table
- 3. Amicably ended**
 - relationship enhanced
 - future dealings easier
- 4. Stable – agreement that works is implementable**



Complexity of Negotiations



- Multiple stakeholders/parties
- Multiple issues
- Complex information
- Variety of frameworks (political, institutional)
- Multiple negotiations
 - ✦ **Within constituency/stakeholder group**
 - ✦ **Between constituency and representative**
 - ✦ **Between representatives at the table**

Negotiation Research



- **Think-tank on negotiation at Harvard Law School - Program on Negotiation (PON), in collaboration with MIT & Tufts**
- **PON research:**
 - What is successful negotiation?
 - What kind of strategies and behaviors lead to success?
- **Developed alternative techniques for resolving conflict**

Mutual Gains Approach (MGA) to Negotiation

Key principles:

- The pie is not fixed (almost always negotiating over more than 1 issue)
- Agreements can be good for everyone
- Relationships are important in the long-run



Some Details About This Type of Negotiation



- Its not the “be nice” way to negotiate, it’s smart and takes work.
- It’s based on preparation & analysis.
- Assumes that the best way for me to get what I want is to listen to what you need.
- Puts emphasis on reaching an agreement amicably, to leave parties in a better position to deal with each other in the future.

Mutual Gains Approach

Four Key Steps



1. Prepare
2. Create Value
3. Distribute Value
4. Follow Through





MUTUAL GAINS APPROACH TO NEGOTIATION

PREPARE

*Clarify your mandate and
define your team*

*Estimate your Best
Alternative to Negotiated
Agreement (BATNA)
and theirs*

*Improve your BATNA
(if possible)*

Know your interests

*Think about their
interests*

*Prepare to suggest
mutually beneficial
options*

CREATE VALUE

*Explore interests
on both sides*

Suspend criticism

*Invent without
committing*

*Generate options and
packages that
"make the pie larger"*

*Use neutrals to improve
communication*

DISTRIBUTE VALUE

*Behave in ways that
build trust*

*Discuss standards
or criteria for
"dividing" the pie*

*Use neutrals to suggest
possible distributions*

*Design nearly
self-enforcing
agreements*

FOLLOW THROUGH

*Agree on monitoring
arrangements*

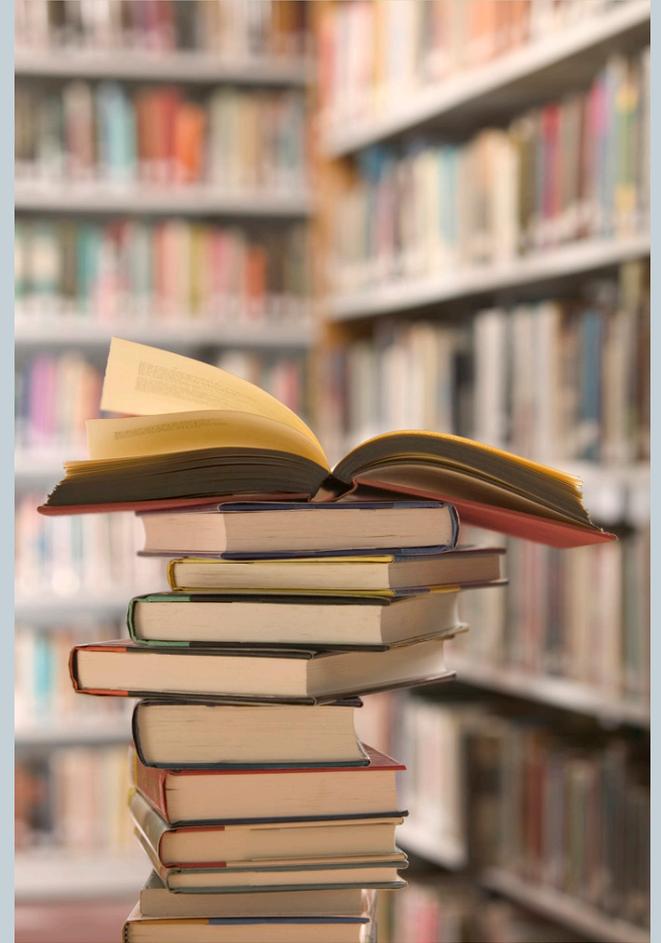
*Make it easy to live up to
commitments*

*Align organizational
incentives and controls*

*Keep working to improve
relationships*

*Agree to use neutrals to
resolve disagreements*

1. Prepare



Preparation Questions



	Mine	Theirs
Authority and Identity?		
Interests?		
BATNA?		
Bottom line?		
Options/Proposals?		

Preparation



- Preparation should be about 70% of your total negotiation effort. This is THE essential step.
- Will ensure you have agreement that meets your interests.
- Will help you keep 'cool' and focused, and be confident
- Will help you be creative and a problem-solver.

Focus on Interests, Not Positions



Position = What you want

[it's one way to achieve your interest, explore other ways]

Interest = Why you want it



Interests



- In preparation, analyze your interests, and theirs
- At the table, explain your interests
- Ask questions & listen to discover their interests



How to Explore Interests?



Ask and be ready to answer:

- “What are the key things you need from an agreement?”
- “**Why** is that important to you?”
- “Is it really something else that concerns you?”
- “Would we be moving in the right direction if...?”

Importance of Interests



- If I don't know why you want something, I can't come up with creative solutions that address your interests.
 - Need to know interests to generate good options
- Once you know all the interests, there will be new possibilities.
 - Requires active listening and listening to understand



Exercise:

Turning Positions into Interests

What is a BATNA?



BATNA: Best Alternative to a Negotiated Agreement

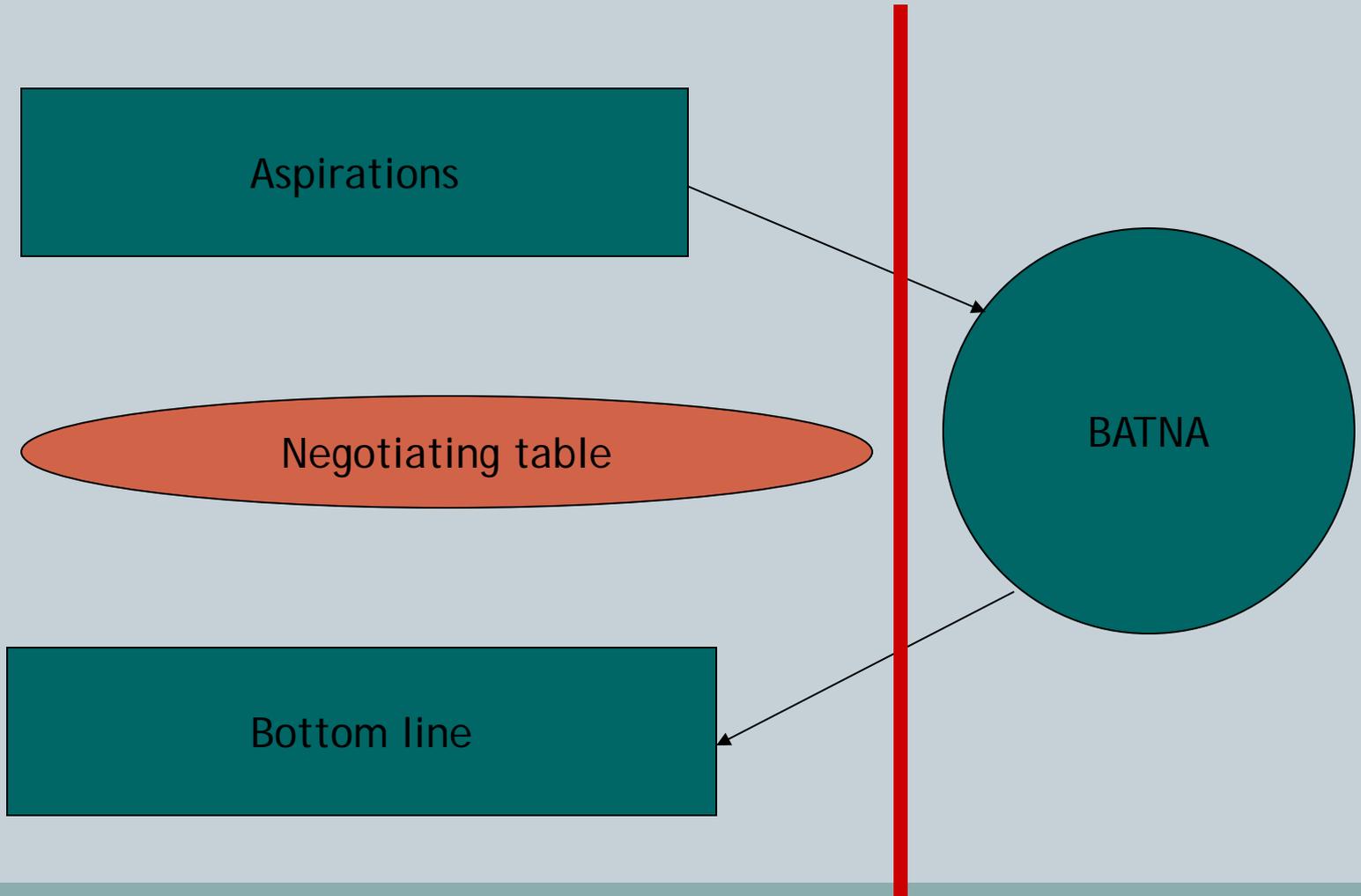
- Best alternative action you are able to pursue away from the table
- When you know your BATNA, you know the minimum you should accept at the table (= bottom line)

BATNA



- Know your BATNA (you always have one)
- Improve your BATNA
- Analyze their BATNA

BATNA, Bottom Line, Aspirations





2. Create Value



2. Create Value



- Identify interests and needs of all parties
- Suspend criticism
- Foster invention without commitment (brainstorming)
 - ✦ Set time aside for this
 - ✦ Bring in more people
 - ✦ Set a problem-solving mode
- Generate options (“what if ...”)
- Seek linkages
- Craft packages
- Use a neutral party to improve communication

Create Value (cont'd)



- Use contingencies to address different tolerances for risk and uncertainty
- Trade things that people value differently
- Optimize scope of negotiation

3. Distribute Value



Distribute Value



Problem: How to choose among options?

Risk: Revert to positional bargaining

Strategy: Find mutually acceptable criteria or procedures

Getting to Criteria



- **Ask Questions:**
 - ✦ How did you arrive at that?
 - ✦ What is the theory behind this?
 - ✦ What makes that fair?
 - ✦ How are others (people, organizations) handling this problem?
- **Maintain creative mode**
- **Behave to build trust**

Drafting the Agreement



- Determine form of agreement up front when possible
- A clear decision rule up front is key
- Active membership and full participation is essential
- Identify each party's ratification process early and assist one another with different needs
- Use drafting committees and single text procedures

4. Follow Through



Follow through



- **Make it easy to live up to commitments**
- **Align organizational incentives and controls**
- **Include performance measures and periodic reviews**
- **Agree on monitoring arrangements**
- **Keep working to improve relationships**
- **Include dispute resolution mechanisms**

Build Relationships Along with Agreement



- **Be trustworthy: say what you mean and mean what you say**
- **Recognize legitimacy of their interests**
- **Balance empathy and assertiveness**
- **Address difficult behavior, don't escalate it**
- **Recognize that to “separate the people from the problem” you may have to deal with: history, perceptions, emotions, communication**

Build Relationships Along with Agreement



- **Emotions – surprise with empathy**
- **Identities – seek common connections**
- **Interests – seek joint gains**
- **Values – seek shared visions**

Mutual Gains Approach

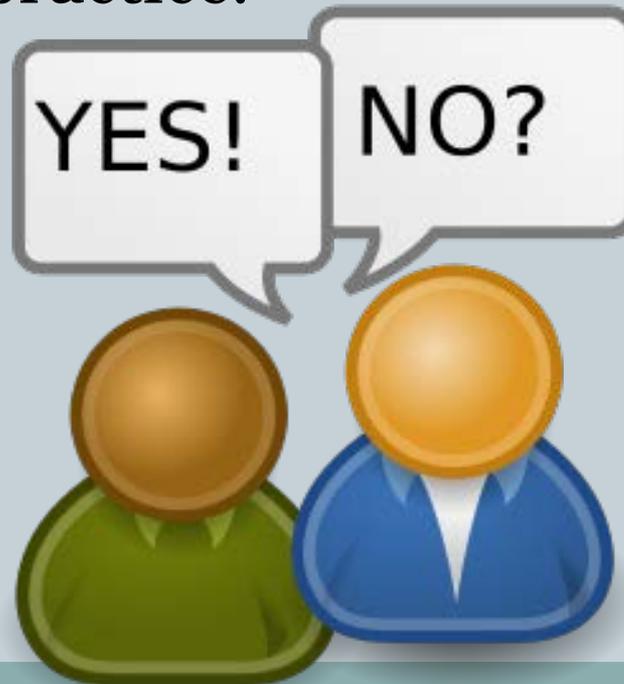
- Applying the MGA does not happen automatically. It takes a certain kind of conversation - one that is cooperative, creative, has positive energy where stakeholders are able to see possibilities.



Mutual Gains Approach



- The MGA helps you apply common sense more consistently.
- This is not difficult or complicated, but it does take preparation and practice.



Sustainable Development & MGA



- Sustainable development is a multi-stakeholder consensus-building process – dynamic, ongoing.
- Using the mutual gains approach increases the likelihood of achieving stakeholder consensus on these issues.
- Effective design and management of participation, consultation, and consensus building processes helps to ensure the transparency, credibility and ultimate acceptability of development decisions.

Negotiation Power



- **Negotiation Power = the ability to influence others decisions**
- **Sources of Power in Negotiation:**
 - a good BATNA
 - coalitions
 - skill
 - an elegant solution
 - information

Negotiation Power is also:



- **Preparation**
- **A good relationship**
- **Creativity & good ideas**
- **Legitimacy, authority, moral authority**
- **Issue framing**
- **Deal structuring**

MGA Success Cases

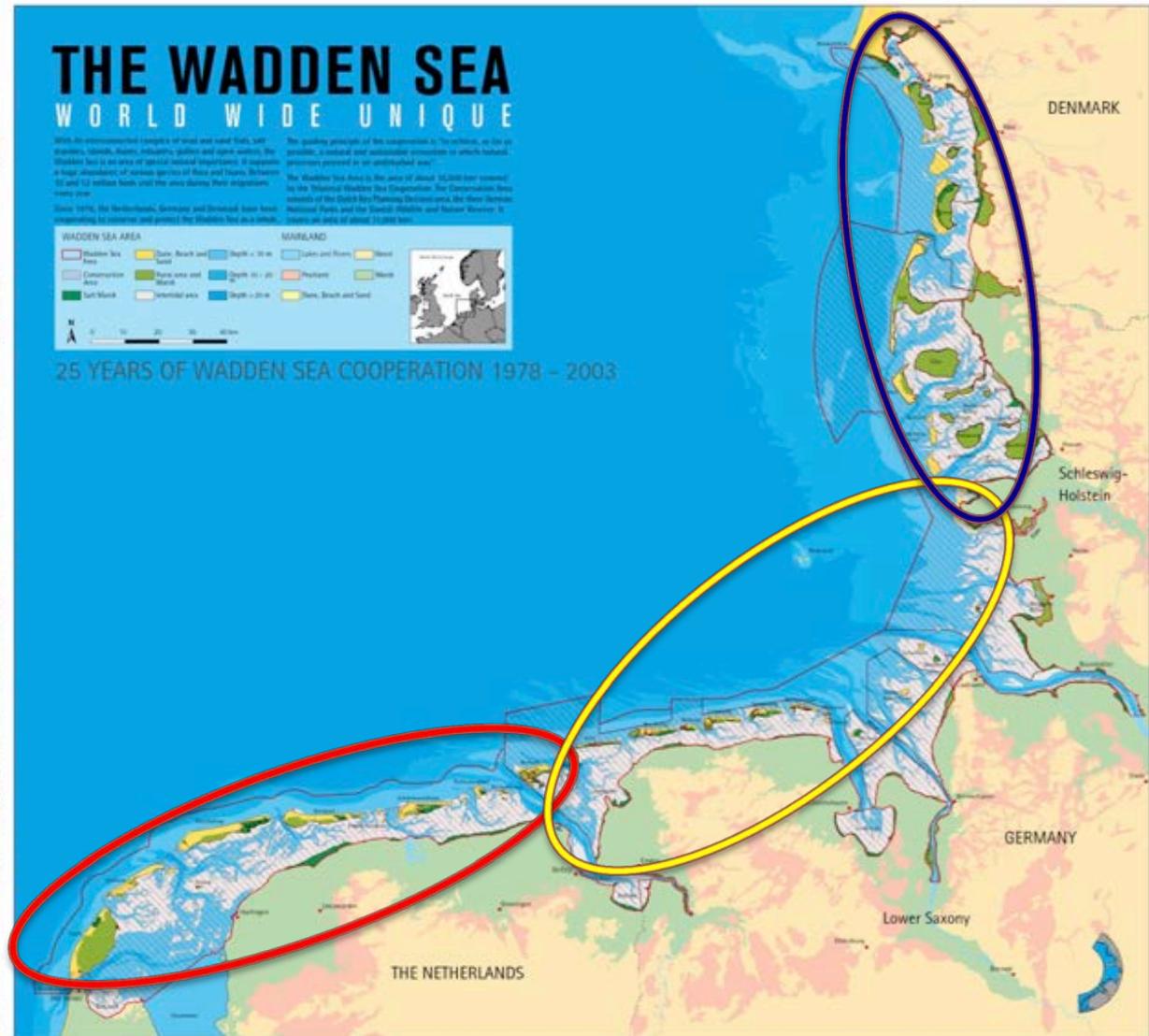


- **Wadden Sea, NL**
- **Natuurmonumenten, NL**
- **Multiple large infrastructure projects in NL**
 - **Maasvlakte II**
 - **N69**
- **Osu Forest Protected Area, Nigeria**

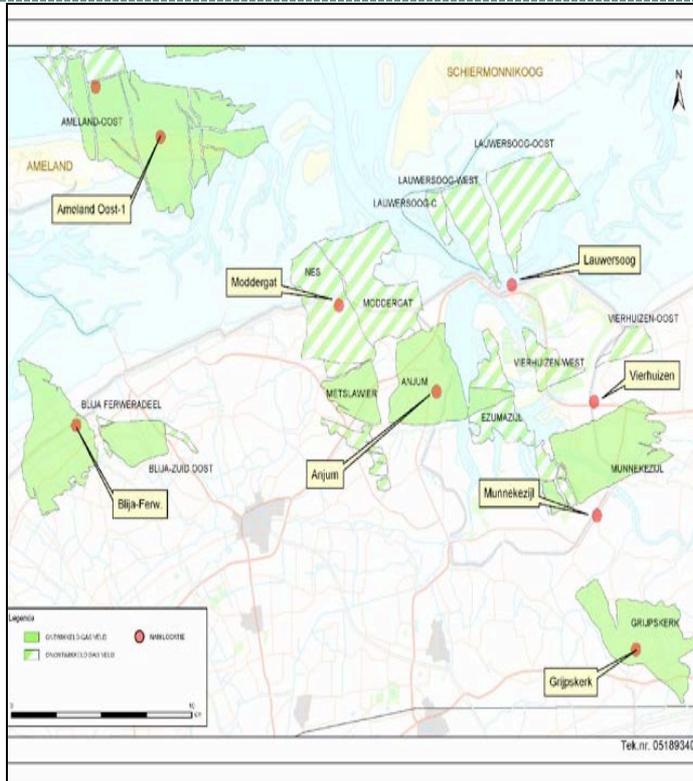
The Dutch Wadden Sea: snapshot of a negotiation with MGA



Wadden Sea: an intertidal area of international importance



Wadden Sea: multiple functions, multiple claims



- Natural gas
- Fishery: fish, mussels, cockles
- Tourism
- Harbours
- Waterways
- Cooling water
- Military
- Nature
- Salt mining
- ...

Also: a 'commons'

the cultural and natural resources are accessible to all members of a society, including natural materials such as air, water and a habitable earth

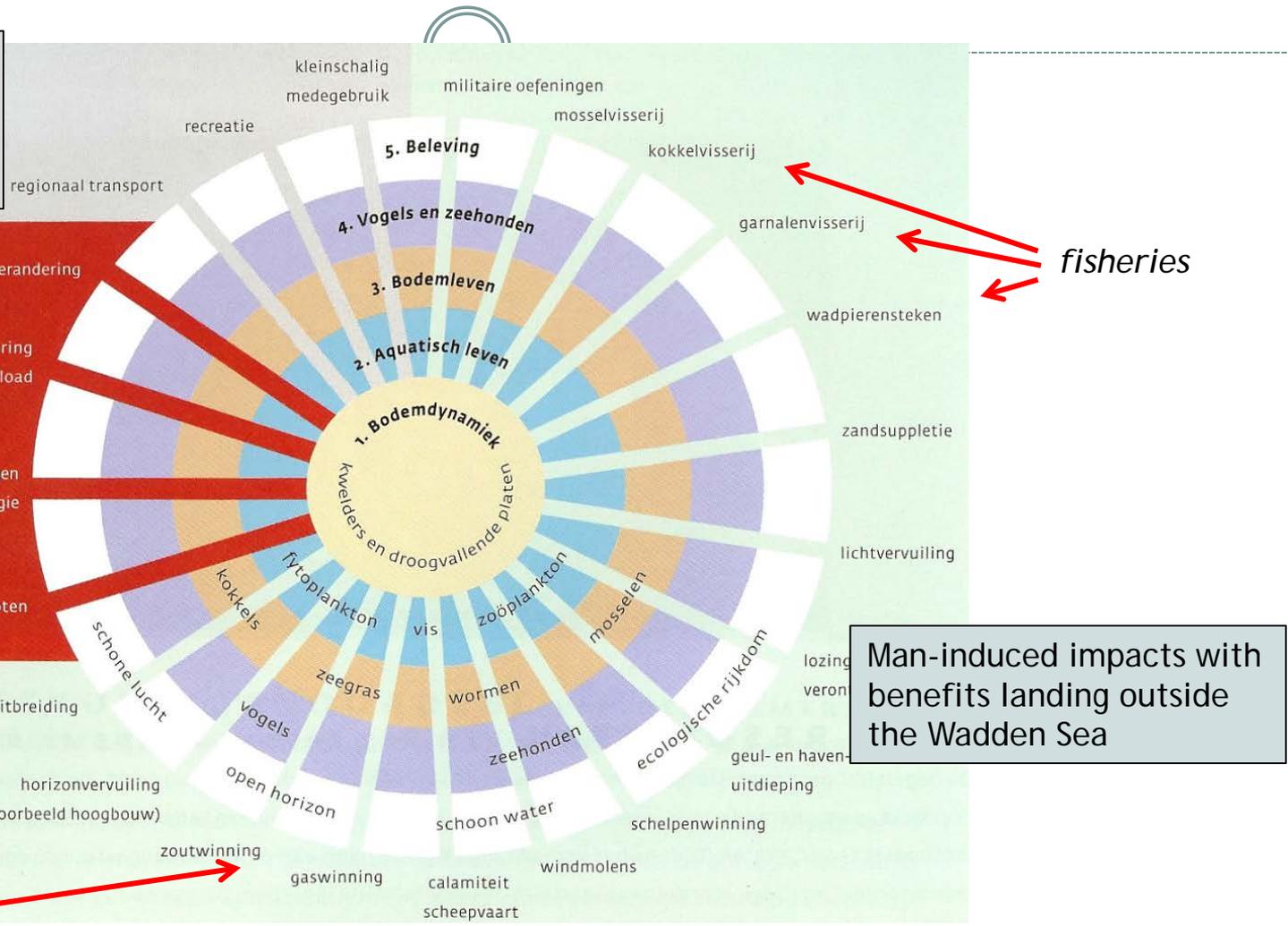
Wadden Sea, boundaries & resilience

Locally-induced impacts with benefits remaining in the Wadden Sea area

Impacts resulting from autonomous developments

ECOSYSTEEM

Gas production



Wadden Sea: the issue



- NAM, a Dutch oil & gas company, has the everlasting right to explore and exploit natural gas reserves under the Wadden Sea
- NAM wanted to use this right and started the process for acquiring licences, incl. preparing EIAs for exploration drilling
- Huge opposition from all corners of society because:
 - It is the last Dutch wilderness
 - It is already eroding, loosing its biodiversity quality due to uncontrolled use (fisheries) and disturbance
- Court cases over EISs, location permits, etc.



Wadden Sea: the issue



- Conflict between pro: *use the gas and the money for economic development* and anti: *development will negatively impact the ecosystem*
- Political inability to arrive at a decision, acceptable to all parties
- Escape route: 10 years moratorium on gas exploration and production and use that period for more studies, to know more about the ecosystem and the impact of gas production
- But: on-going deterioration of the Wadden Sea ecosystem due to uncontrolled use and disturbance



Wadden Sea: after the moratorium



- Dispute over facts and validity of information remained
- NAM still confident that legal process would produce the licence to operate: lawyers in the lead
- On-going deterioration of the Wadden Sea ecosystem continued
- A political and societal stalemate !

How did we get out of that situation?



Wadden Sea, process 2001 - 2003

How did we come to a solution?

Two parallel tracks:

- 1. Internal process:** making NAM aware: your social license to operate, depends on: successful negotiation/stakeholder engagement process with respect to the commons in which you operate, delivering:
 - sustainable use, No Net loss of biodiversity, natural values, safe operating space (planetary boundaries, resilience)
 - establishing a stable governance model
- 2. External process:** environmental guru invited NAM management and top Ministerial civil servants for a one-day visit to experience the Wadden Sea wilderness

Wadden Sea, process 2001 - 2003

Results:



Internal NAM: acceptance that an alternative process might be worth trying (despite lawyers' fears)

External: let us ask an independent person, respected by all parties to test the willingness among stakeholders to engage

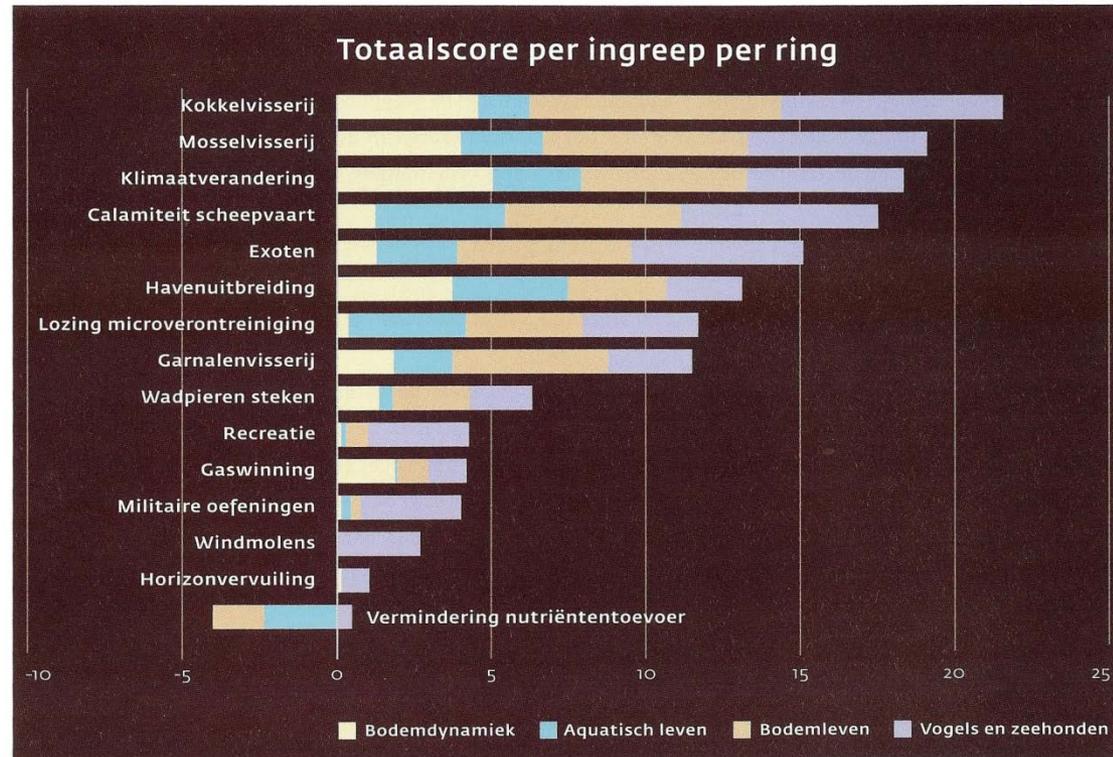


- *Stakeholder process, sponsored by NAM*
- *Knowledge management: joint fact finding*
- *High-level committee overseeing the process*
- *Informal, later formal agreements*
- *Political decision making*

Wadden Sea, severity of impacts



- Expert panel
- Weighing impacts per ecological sensitivity
- Contrary to perceptions gas production not at place 1 but 11!



DESKUNDIGEN OORDEEL VAN DEELNEMERS AAN HET FRYSKE AKADEMY BERAAD (ZONDER BELEVINGSWAARDE)

In de discussies over de procedure werd duidelijk dat de aanwezigen de score op ring vijf, de belevingswaarde, van een andere orde achten dan de score op de overige vier ringen. De groep aanwezigen is weliswaar deskundig, maar vormt geen representatieve doorsnede van de groepen die de beleving het meest aangaat: bewoners, recreanten en diverse belangengroeperingen. Bij de presentatie van de resultaten is daarom ook gekozen voor een weergave zonder subscore op deze waarde.

Wadden Sea, dialogue outcome



- Key boundary for gas production:
max. ... mm subsidence / year
- Hence, controlled gas production:
boundary – monitoring – readjustment
("Hand on the tap")
- Wadden Sea Investment Fund à 750 M€
- Transition shell fisheries:
 - Buy-out cockles fisheries
 - Transition to sustainable mussels and shrimp fisheries
- Permanent knowledge management
body: Wadden Academy
- Governance on the agenda
- 'Social contract': license to operate ++



Wadden Sea, 10 years after



- Inclusive process has been effective
- Commons character recognized
- Zero impact options identified and implemented
- Governance (informal) sufficient



Wadden Sea, a few lessons

Issue:



- A 'commons' conflict
- Different values and world views
- Different opinions on weighting issues
- Acceptance of knowledge, what are the facts; science mistrusted
- Politics

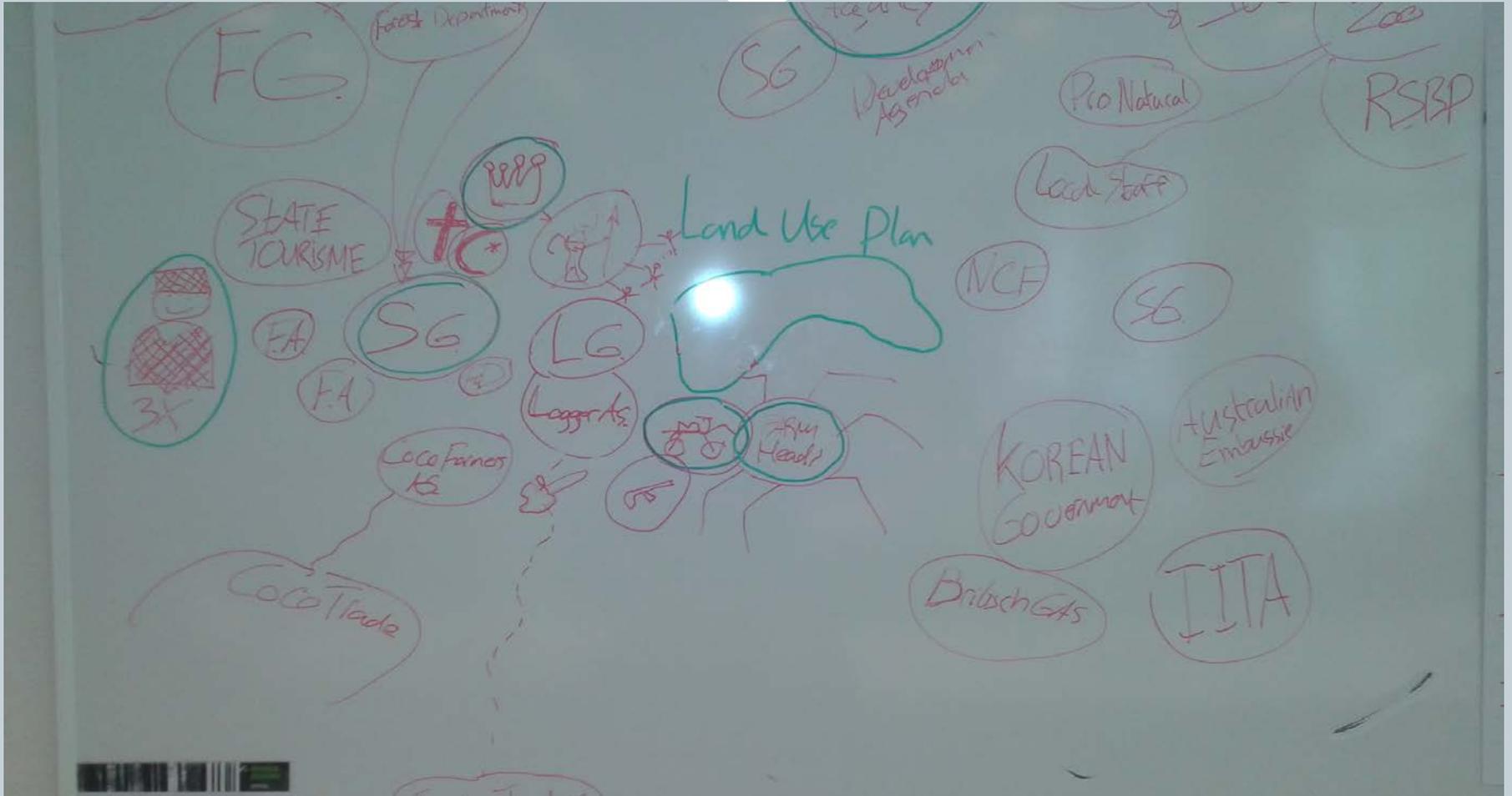
Process:

- Trust building through informal meetings, pre and outside the negotiation room
- Independent respected convenor: testing willingness to come to the table
- Reframing the issue: from *gas production* to *sustainable use of an ecosystem*, hence from *individual position* to *shared interest*
- Joint fact finding: what are the impacts and how serious are they
- Multiple issues, requiring individual solutions (covenants)
- Leadership: respected convenor and facilitator
- Joint monitoring on the effect of selected options

MGA Success Cases



- **Wadden Sea, NL**
- **Natuurmonumenten, NL**
- **Multiple large infrastructure projects in NL**
 - Maasvlakte II
 - N69
- **Osu Forest Protected Area, Nigeria**



How MGA is Taught



- **Executive Education (4-7 days)**
 - IPMS (for 21 years, 1,000 alums)
 - RPMS (tailored) (for 10 years, 350 alums)
- **Training Modules (1-2 days)**
- **Organization-Specific Trainings**
 - VROM (implementation challenge)
 - Natuurmonumenten (engaging with SHs)
 - UNDP Resident Representatives (on-line)
- **Train-the-Trainer courses (4-6 days)**
- **University Courses (full or half semester)**

IPMS – THE SUSTAINABILITY CHALLENGE LEARNING MODEL

- Use of Tools and Integration of Technical Information
 - Human Rights Based Approach
 - Role of Science in Policy Making
 - Joint Fact Finding
 - Risk Assessment
- Facilitation Skills

- Mutual Gains Approach to Negotiation
- Use of Tools and Integration of Technical Information
- Group/Process Management

FRAMEWORK

TOOLS & TECHNIQUES

SIMULATIONS & CASES

GROUP & INDIVIDUAL FEEDBACK

STRATEGY CLINIC & NETWORK BUILDING

- Consensus Building
- Mutual Gains Approach to Negotiation
- Sustainable Development Diplomacy and Governance
- Sustainability Pyramid

- Oil Pricing
- Local Sustainable Development (Puerto Mauricio)
- National Sustainable Energy (Bepo Dam)
- Cross-Border Sustainable Water Use & Agriculture (Pablo-Burford)

- Strategy Clinic
- Simulation Interaction
- World Cafe
- Social Contact
- SCF Network

RPMS



- Kenya – forest management
- South Africa (2)
- Southeast Asia (Indonesia) – wetlands protection
- West Africa (Ghana) – coastal zone management
- Brazil – agriculture development
- Mozambique (2) – agriculture development & SEA
- Turkey – ascension into EU
- Moldova
- => Eastern & Southern Africa (IPMS 67; RPMS 83)

Train-the-Trainer



Sample T3 training

- Day 1: Trainer does MGA training
- Day 2: Trainer reviews key concepts and participants work on making it their own
- Day 3: Participants take turns presenting different parts of the training

University Courses



- **Key Text Books:**

- Getting to Yes: Negotiating Agreement Without Giving In, by Fisher, R., Ury, W., and Patton, B.
- Negotiation Analysis: An Introduction, by Wheeler, M.
- 3-D Negotiation: Powerful Tools to Change the Game in Your Most Important Deals, by Lax, D., and Sebenius, J.
- Negotiation Skills for Managers, by Steven Cohen
- Essentials of Negotiation (5th Edition), Lewicki, R.J., Saunders, D.M., & Barry, B.
- The Heart and Mind of the Negotiator, by Thompson, L.
- The Art and Science of Negotiation, by Raiffa, H.

University Courses



- **Key Text Books:**

- Negotiating Rationally, by Bazerman, M., and Neale, M.
- Negotiating Globally: How to Negotiate Deals, Resolve Disputes, and Make Decisions Across Cultural Boundaries, by Brett, J.M.
- Breaking Robert's Rules, by Susskind, L. and Cruikshank, J.
- The Mediation Process, by Moore, C.

Sources of Simulations



- **Harvard Program on Negotiation (PON) Clearinghouse**
- **Sustainability Challenge Foundation (SCF)**
- **Consensus Building Institute (CBI)**
- **The Fletcher School, Tufts University**
- **Other university negotiation programs**
- **Other negotiations training centers**

Possible Training Topics



- **Consensus Building and Stakeholder Engagement**
 - Stakeholder Assessment
 - Conflict Mapping
 - Convening a Consensus Building Process
 - Representation
 - Process Design
 - Setting Goals and Ground-rules
 - Joint Fact Finding (JFF)
 - Internal and External Negotiations
 - How to Prepare your Organization for MGA negotiations

Possible Training Topics II



- **Consensus Building and Stakeholder Engagement**
 - Internal and External Negotiations
 - How to Prepare your Organization for MGA negotiations
 - Linking Informal Agreements with Formal Frameworks
 - Facilitation & Mediation
 - Selecting a Mediator
 - Dealing with Difficulty People
 - Dealing with an Angry Public
 - Public Apology: Apologies as a conflict resolution tool

Possible Training Topics III



- **Mutual Gains Approach to Negotiation**
 - 4 Key Phases
 - ✦ Preparation
 - ✦ Creating Value
 - ✦ Distributing Value
 - ✦ Follow-through
 - Mastering the Art of Negotiation: Improvisation and Insight
 - Building Relationships
 - The Role of Power in Negotiations
 - How to Lead a Strategy Clinic

Possible Training Topics IV



- **Technical Tools and MGA**
 - Role of Science in Policy Making
 - Risk Assessment
 - Cost-Benefit Analysis
 - Environmental Impact Assessment
 - Strategic Impact Assessment
 - Social Impact Assessment
 - GIS
 - Etc.

Possible Next Steps



- Participate in next IPMS – June 2015
- Organize a tailored RPMS in this region, focusing on protected area management
- Develop a train-the-trainer course
- SCF faculty work with you one-on-one
- Connect & network with SCF alumni network
 - 150 IPMS (67) & RPMS(83) alums in Eastern & Southern Africa
- Other...

Thank You!

