



Good Practices and Portfolio Learning in GEF Transboundary Freshwater and Marine Legal and Institutional Frameworks, in partnership with the Canadian Water Research Society and El Colegio de Mexico, GEF, IW:Learn, UNDP, SIWI, Global Water Partnership, and UBC

Workshop Report: Building and Managing Sustainable Transboundary Water Institutions: Review of Tools.	Sweden May 5-10, 2011
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1. Abstract

The workshop **Lessons Learned and Experiences with Governance of International Waters through Experiential Learning** was held in Stockholm, Sweden, between 6 - 10 May, 2011. This workshop was held in order to increase awareness, appreciation and understanding of lessons learned and experiences of governance of global transboundary international waters, through experiential learning.

The first day of the workshop consisted of an introduction to the project and group exercises in cross-cultural communications. This was followed on the second day by discussions regarding international water law (related to freshwater, groundwater and Large Marine Ecosystems), and a simulation activity regarding negotiation skills. On the third day participants learnt more about a successful project in transboundary water management in Costa Rica/Panama, discussed gender-mainstreaming within the context of transboundary water management, and engaged in another negotiation simulation activity. On day four of the workshop participants visited the Stockholm International Water Institute (SIWI) and the Global Water Partnership (GWP) offices, and participated in a group brainstorming session regarding the GWP Strategic Plan. The final day of the workshop consisted of an opportunity to examine the Baltic Sea as a case study in transboundary water governance.

The diverse group of participants provided numerous insightful comments regarding international water governance. Among others, these included:

- Governance of many transboundary resources may become increasingly complex as new technologies emerge that will drive subsequent interest in resource management and ownership
- Negotiating any type of agreement can be complex, particularly in transboundary water agreements involving numerous parties. In the case of the NBI, for example, setting an explicit timeframe and involving a team of facilitators were two techniques chosen that proved effective in reaching an agreement
- Data and information sharing are important for building trust and improving prospects for cooperation. However, participants made note of several major challenges to effective data and information sharing, among them the need to make data “digestible” (i.e. presented in a format that is easily understood by policy makers), the difficulty of obtaining all relevant information, and the enormity of the task of compiling/synthesising information produced by large numbers of actors.
- Care must be taken when determining how to make decisions; effective institutional design must balance political needs and efficacy
- As was noted using the example of cooperation in the Coral Triangle, political will is critical for the success of agreements

Participants also made useful recommendations for the direction of the project for its final year, including¹:

- The need for an overarching business plan/strategy. Participants were in favour of developing focused materials for specific groups of actors that face similar issues in governance. For example, several participants noted the need to greater time in the agenda of future workshops to LME/Regional Seas projects in order to better identify and address their key governance challenges and opportunities, using real life examples.
- Partnering with organizations that specialize in areas such as instructional design, governance, and philanthropy were also seen as potentially beneficial to the project.
- Several participants suggested making the tools into an ongoing courseplan so that workshop participants could practice and improve their skills. Periodically updating the materials was seen as a key measure of making the project sustainable.
- There was a strong desire to create a lasting network amongst the conference participants and other key professionals in the three areas of international freshwater, groundwater and LMEs. This network should be able to facilitate learning in between projects, disseminate strategies and keep members up to date in ongoing developments.

¹ Please see Annex D for a full list of recommendations

2. Introduction

The workshop **Lessons Learned and Experiences with Governance of International Waters through Experiential Learning** was held in Stockholm, Sweden, between 6 - 10 May, 2011. More than 35 participants, representing a range of professions including academics, GEF project managers, and lawyers, travelled from all over the world to contribute to improving the understanding of governance of transboundary waters. (Please see Annex A for the agenda, and Annex C for the participants list).

This workshop was held in order to increase awareness, appreciation and understanding of lessons learned and experiences of governance of global transboundary international waters, through experiential learning. It has been based on the results of three previous regional workshops, which were held in Asia, Latin America, the Caribbean, and Africa.

The specific objectives of the workshop were to:

1. Present Draft International Waters and Governance Reference and Training Manual.
2. Participate in group exercises to develop lessons and skills useful for successful cooperation in transboundary waters.
3. Solicit feedback on the results of the workshop, the experiential learning tools and for the future direction of the project. This includes the clarification of any major training needs in transboundary water management and which learning tools might be most useful to accomplish them, such as through workshops, web material, interactive learning tools, short videos, amongst others.
4. Establish a global network to continue the process of reviewing learning tools and exchanging experiences regarding international waters management.
5. Exchange information about the experiences of setting up and managing frameworks for transboundary waters, with the goal of sharing experiences and recommendations that may be useful for other transboundary water institutions, including those related to international freshwater, groundwater, and large marine ecosystems.

3. Project Overview

The overall goal of the project is to facilitate good governance, more effective decision making and stronger legal / institutional frameworks, with a particular focus on international waters. It

commenced in July 2006, with the project development meeting, which brought together a diverse group of people to discuss what kind of governance project would resonate with a broad constituency. A Project Inception meeting was held in Whistler, Canada in the fall of 2008. Three hemispheric meetings were held between 2009 and 2010, in Mexico (for Latin America and Caribbean), Australia (for Asia), and Uganda (for Africa). A meeting in Panama and Costa Rica in 2011 also provided valuable input for a case study on local community initiatives of transboundary resources. The project is scheduled to finish in July 2012.

The project has three components:

1. Identify lessons learned and experiences with governance of international waters (including through the establishment of South-South peer review groups and regional learning networks)
2. Develop, validate and replicate experiential learning strategies
3. Capacity build and implement

Among the key outcomes of the project thus far have been:

1. The White and Case “International Waters: Review of Legal and Institutional Frameworks” report, an example of a successful private sector collaboration
2. Three ‘hemispheric dialogues’, which established the basis for the current network of professionals and sought input to chart the course of the project to be practical for GEF projects.
3. The detailed case study analyses, which analyze international waters agreements to recover what lessons can be learned, how they were negotiated, and how they have been functioning in practice. Through the detailed case studies the problem of the loss of institutional memory can largely be addressed.
4. Draft synthesis document which includes references to the case studies and the White and Case report.
5. Draft training and reference manual including experiential learning exercises.

A unique feature of the project is that it focuses on international freshwater cooperation, management of international groundwater and large marine ecosystems. In so doing, lessons from each of these distinct areas are shared and can be instructive for similar situations and processes experienced in the other two contexts.

4. Overview of Sessions

6 May 2011

The session began with a brief introduction of the participants, wherein conference participants were instructed to introduce their neighbours, and what they hoped to get out

of the conference. Following introductions, Project Director Richard Paisley reviewed the status of the project and introduced the draft reference and training materials. Involvement with a variety of institutional partners, members of the private sector, and academic institutions was identified as a key factor in the success of the project. Having reviewed the project partners, Richard Paisley provided a brief timeline of the project. He then discussed the White and Case report in greater detail, reviewing its regional focus and criteria, and introduced the draft reference training manual.

Richard Paisley, Susan Bazilli, and Hilary Norris then briefly discussed the detailed case study analyses, which document and analyse the political process of negotiating various transboundary water agreements. Along with contributing to this particular project, the detailed case studies are also able to address a common problem of “short” institutional memory (due to the project manager turnover), thanks to the involvement of those personally involved in the negotiating of these agreements. In the discussion that followed, the participants drew attention to:

- The Columbia River as an example of a downstream state providing monetary compensation for an upstream country’s development of the river.
- The importance of reciprocity and benefit sharing in negotiating transboundary agreements. Of key importance here is understanding benefits, for instance in international river agreements in an upstream-downstream context, or groundwater situations, mutual benefits are often difficult to clarify.
- The role of non-legally binding agreements in international water management, and their capacity to encourage greater cooperation and contribute to good governance of transboundary waters. This is particularly important in the South China Sea, and was instrumental in developing a framework agreement for the Caspian Sea.
- The significance of capacity as a determining factor in evaluating good governance.
- The issue of how to make the sizable and detailed Draft Manual more accessible.

Richard Paisley then discussed the synthesis document in greater depth, which focuses on six aspects of good governance: Information and data exchange, dispute resolution, benefit sharing, sustainable financing, institutional design and adaptability or flexibility (for climate change amongst others). He explained that these factors were identified as priority areas largely based on the feedback they had received in the hemispheric dialogues, the expertise and background of those directly involved, and the work of other institutions. Participants emphasized the importance of including public participation as another key attribute in the synthesis document.

Cuauhtémoc Leon led group exercise on Cross cultural communication skills. He instructed conference participants to gather in the centre of the room and showed a series of optical illusion exercises to demonstrate the notion that perspectives of the same object can be vastly different depending on one's point of view. This was followed by a series of questions and facts demonstrating commonly held cultural misunderstandings. Finally, participants assembled into small group discussions to share personal experiences of a cultural misunderstanding or faux pas. The best stories of each group were then shared in the plenary at the end of the session.

Lessons learned from the cross cultural communication workshop included:

- The role of symbols in cross cultural communication
- The significance of cultural sensitivity in effective negotiations
- The importance of trust for effective mediation and negotiation. Trust is earned through long-term communication.
- The importance of preparation before meeting new communities, in order to avoid misunderstandings.
- The necessity of flexibility in negotiations – sometimes it is effective to bring those with opposing views together so that they may change their minds.

Day 2: 7 May 2011

With the goal of ensuring the group had a common understanding of international water law, Dr Paisley opened the day with a lecture on its current status, followed by a lecture by Kristen Mechlem regarding international aquifer law. Following these lectures, various experts in international marine cooperation led discussion of international law and LMEs (for more detailed information, please refer to the slides posted on the projects website).

International Water Law

The main principles of international water law are equitable and reasonable utilization, equitable share of the beneficial uses of water, and the no harm principle. The UN Watercourses Convention, though not yet in effect, is still considered the “state of the art” for international water law, and provides a basis for the draft ILC articles on international aquifer law. Key points to note are:

- The major turning point in transboundary water use was the shift from non-consumptive uses of water to agreements that would change the dynamics of the river flow.
- UN Watercourses Convention requires more ratifications to become law, but remains a powerful tool for informing customary and ‘soft’ law.
- Use of a water course in an equitable and reasonable manner has become the cornerstone of transboundary water law as written in Article 5 of the UN Watercourses

Convention. It basically means that the use of the water should be equitable and reasonable, though this requires defining.

- Article 5 of the UN Watercourses convention has evolved from the principle that States have a right to a reasonable & equitable share of the beneficial uses of water (which stems from Helsinki Rules 1966 and US law) .
- The “no harm” principle is not always clear, as it is usually qualified by “no significant harm”, and the definition of “significant” can be elusive.
- Other procedural rules include a duty to cooperate and to inform other states of activities that may impact them.
- The World Bank was interested in improving environmental regulations - partly because of public pressure on the Bank, and partly because of pressure on the Bank from multilateral donors

International Groundwater

Kerstin Mechlem discussed the implications of the ILC draft articles, which incorporate the principle of state sovereignty (though provisions on sovereignty within the draft articles are likely to be altered should the draft articles be made permanent). The examples of the Genevese, Nubian Sandstone, North Western Sahara, Illumenden and Guarani Aquifers were analyzed and the importance of the development of an international groundwater convention was debated considering the presence of the UN Watercourses Convention within which groundwater is mentioned. Main points included:

- Though current estimates of transboundary aquifer estimates are at 273 (with more likely to be found in the future), international groundwater law is in an embryonic stage of development. In terms of customary law, there are currently seven agreements for five transboundary aquifers, as well as some mention of groundwater in a few freshwater treaties. There are also a few informal cooperative agreements, but there is still question as to how informal agreements should be considered in law.
- While the UN Watercourses Convention does mention groundwater, it is very broad and doesn't explicitly address aquifers. Additionally, there are other types of aquifers that do not fit into its definition.
- The International Law Commission drafted articles on the Law of Transboundary Aquifers and adopted the draft in 2008. While it is nonbinding at the moment, it may provide the basis for a future convention. It models the UN Watercourses Convention in many of its principles, but with the rules applied to aquifers, and taking into account their different characteristics
- There are four main principles of the Law of Transboundary Aquifers: sovereignty, equitable utilization, no significant harm and cooperation. The principle of equitable utilization applied to groundwater and is spelled out in four obligations, including on equitable and reasonable accrual of benefits and on maximizing long-term benefits. The obligation not to cause significant is broadened compared with the UN Watercourses

Convention, as also harm caused through other activities than utilizing a transboundary aquifer covered

- Though there are fundamental physical and monetary impediments to gaining true knowledge of aquifers - much of the information is based on modelling, which is often not accurate (even in highly developed, wealthy countries), it is better to have some guide on the management of aquifers, even if it isn't perfect
- Though law regarding aquifers is far less developed than surface waters, and very much at the early stages of development, there are lessons to be learned from these agreements.

Large Marine Ecosystems

Following a group discussion on the status of international Large Marine Ecosystem law, it was clear that while the legal regimes for international water law, and especially international groundwater law, are still in the early stages of development no such regime has developed for international LME law. Some points to consider include:

- While there is no specific law regarding LMEs, management of LMEs is related to both UNCLOS and the Straddling Stocks Convention. However, no international law addresses fisheries resources beyond the limits of country EEZs (Exclusive Economic Zone) - i.e., there is no law regarding fisheries in the high seas, other than specific conventions which target species such as tuna in the Pacific or pollock in the Bering Sea
- There is debate over the possibility of needing another institution to deal specifically with LMEs. Currently several commissions indirectly address LMEs, but through soft law. The question is whether countries will benefit from another commission, or would alternative models for cooperation be more appropriate (e.g. alliances, corporations). Political demand for another commission is seen as lacking.

Participants also discussed the challenges to governance of LMEs, which included (in no particular order):

- The need for appropriate institutional design and framework to effectively govern LMEs.
- Insufficiency of the UNCLOS as a legal framework to govern international LMEs – There are areas of some LMEs which may fall in the high seas and thus are not covered under UNCLOS. An example is the Bering Sea Agreement regarding pollock.
- Mixed political commitment to the major transboundary issues of LMEs
- High numbers of actors involved in LME management projects, including NGOs (often a key, if not the primary actor in driving action in LMEs) and other non-government actors
- A major challenge of LME management is the difficulty of obtaining solid data. For example, in the case of tuna fishing in the Indian Ocean, 50% of Indian Ocean tuna fishing is artisanal, and the other 50% is industrial. Artisanal fishing poses considerable challenges to obtaining accurate data, and is more difficult to manage due to the high number of small actors involved.

- The enormity of the task of compiling and synthesizing huge quantities of data and information, particularly in the context of varying country capacity and resources to compile reliable and sufficient information.
- Varying country capacity and political will to implement agreements effectively
- The challenge of coordination not only amongst countries but also within them (i.e. inter-ministry coordination)

Negotiation

Following the discussion of LME governance, Richard Paisley gave a basic overview of negotiation strategies, which included explaining the differences between position and interest based negotiating using the “Orange” example. The first negotiation simulation activity was then introduced. Entitled “Vancouver River Part II”, the objectives of the exercise were to enable participants to learn more about international water law for upstream and downstream states, and to demonstrate some of the advantages of negotiating using an interests-based approach.

During the debrief the participants shared general comments and observations, as well as their negotiation strategies. Some participants felt that there was too much information, while others would have preferred more. While all group strategies differed in some way, most participants observed that reaching an agreement on procedural rules facilitated the negotiation of the agreement itself. Several participants remarked that an internal conflict among different sectors rather than in between ministers would provide for a more realistic and workable scenario. In closing, Richard Paisley noted that role-playing can be simple and complex, and given the diversity of the group itself, it was not easy to provide the right amount of information/time to tackle the simulation. However, a central purpose of the activity was for participants to learn through the experience of negotiation. Many participants noted that in future, more time might be needed in order to fully share experiences and discover the lessons learned. Video highlights of the negotiators to be used in the debriefing session as an evaluating tool was seen as a potentially useful addition for future workshops.

Day 3: 8 May 2011

Dr Hans Hartmann opened the day with his presentation on “Develop Universal Tools for Coastal Transboundary Water Management”. Focusing on fish as a coastal water resource, he noted that while artisanal fishery is an important export industry, it is poorly assessed, unevenly documented and often of poor quality. The project sought to develop tools for coastal and transboundary water resource management under conditions in Central Latin America (Costa Rica/Panama) and the Sulu-Sulawesi Marine Eco-Region (Indonesia, Malaysia and the

Philippines). They focused on developing tools in the local context that may be applied in a national and transboundary context.

Dr Hartmann also reviewed the results of a transboundary workshop on adequate practices for advancing initiatives towards participative coastal resource management, which was held in the border areas of Panama and Costa Rica. The objectives of the workshop were to bring together users, institutional agents, and investigators of fish and fisheries, in order to allow participants to share, compare and analyze experiences, and eventually to jointly develop and propose regional co-management practices and an action plan. Thanks to strong methodology and detailed planning, the results of the workshop were impressive.

Following a discussion of Dr Hartmann's presentation, Susan Bazilli presented a brief lecture and discussion on "Good Governance and Gender Mainstreaming of Transboundary Waters". She noted that to date no work has been done on gender and transboundary waters. Having reviewed GEF's projects and their inclusion of gender mainstreaming, she noted that the small grants projects of the GEF have done significant work on gender. However, while the GEF has a gender mainstreaming policy, a lack of sufficient funding as well as the absence of clear indicators have meant that the majority of GEF projects have not implemented gender mainstreaming. She noted that the current challenge is to scale up the success of the small grants projects to the transboundary level, and suggested that focusing on gender mainstreaming through public participation may be a solution to this issue. In particular:

- Gender is not just about women; it is a socially constructed role, and not a biologically determined position
- Gender issues can be framed in terms of diversity - by not including women, you miss >50% of population, which has implications for diversity
- Gender issues can also be framed in terms of economic issues. If women are not included in the economy its diversity is weak, and the economy may suffer (since profit is directly improved by diversity).
- Tools to address gender issues include gender-responsive budgeting (GRB).
- As seen in the Rio Declaration and the Millenium Development Goals, involving women in development initiatives is widely acknowledged, but less so in transboundary water management.
- There are lots of studies, training manuals and trainers that address gender differences in water, but there are no studies to determine if this is actually effective (there are no indicators, research, or data to use).
- A challenge of gender mainstreaming is the perception that it is "scary". It is often imposed upon and by people who have little understanding of it or how it can be achieved. Often it is called for but with no money committed to it.
- The small grants projects of GEF does significant work on gender. There are documented case studies on good practices for women at the local level and while this success in the

GEF family is commendable, the challenge is how to scale up these small projects to the transboundary level.

One way to do this is to look at the governance instruments that can be used to bring this up to national level

- In general, the GEF has a mainstreaming gender policy, but it has not been implemented by the majority of projects. While many GEF projects have a gender policy, none have the money for implementation, and there are no indicators to determine success
- Another angle by which gender issues might be framed and successfully addressed is in terms of public participation, which often includes community involvement.
- As demonstrated by the SADC Protocol on Gender & Development, Water Treaty, and various GEF projects, there is regional interest to coordinate and have GEF projects as pilot projects for gender mainstreaming. The focus is bringing gender mainstreaming into the government level, without losing the connection to the grassroots level, as is common when we focus on water negotiations.

The next activity was the Chelsea-Arsenal Negotiation Simulation, which focused on developing a data and information sharing agreement on a transboundary aquifer and involved both intra-delegation and inter-delegation negotiations. During the debrief participants shared negotiation procedures and strategies. Richard Paisley, Emmanuel Olet, and Alex Grzybowski then shared their experiences in facilitating data and information sharing negotiations for the Nile Basin and/or the Mekong River. This was followed by a general discussion in which participants noted the importance of and challenges posed by geographical scope, sustainability, buy-in from riparian states, education, riparian government values, and implementation.

In closing the day, the participants were asked to offer their feedback on the project materials to date and advice for the final phase of the project. All comments and suggestions were gratefully received for their insight.

Governance Issues

General observations

The governance of many transboundary resources may become increasingly complex as new technologies emerge that will drive subsequent interest in resource management and ownership. An example is that many states are now asking for the extension of the 200 km limit of their Exclusive Economic Zone, because deep sea mining is a reality that will occur much sooner than was anticipated.

Creative solutions can be the most effective; an example a solution to the problem of dealing with garbage in the ocean is being undertaken in Europe by paying fishermen to retrieve it as an environmental service.

Negotiation

Negotiating an agreement of any type can be difficult, particularly in the Nile where there are a number of different parties. It was noted during the workshop that having an explicit timeframe helped reach a successful agreement for the NBI.

For the NBI agreement, having a team of facilitators was very effective. Neutral parties can help move discourse and provide a sense of objectivity. External facilitators were also used in the Mekong, and now the ministers and negotiators are applying many elements of 'interest based' discourse without external assistance.

Data and Information Exchange

Data & information sharing bodies are key in GEF projects – the practice of sharing data and information is a means of building trust and improving the likelihood for effective cooperation. There are numerous examples of where data and information have been used as a confidence building measure, including the South China Sea and the Nile basin. Two recent and successful examples of GEF intervention with data and information sharing are the Caspian Sea programme, as well as the work on the Iullemeden Aquifer System in West Africa.

However, there are several challenges to effective data and information sharing. One problem is data synthesis – data must be made “digestible” and disseminated in a format that it makes sense to policy makers. Another issue for consideration with the enormous number of NGOs and other non-government actors doing a wide variety of projects and activities related to transboundary waters, it is almost impossible for a political structure to understand all of the information that concerns effective transboundary water governance. Finally, in some cases data is not forthcoming, for various reasons (lack of capacity, lack of priority or will). For example, the Indian Ocean Tuna Commission wanted to improve data and information exchange but the member countries would not adopt the recommendations – was it against their interests to do so?

Institutional Design

Care must be taken when determining how to make decisions; it is a balance between political needs and efficacy. In the Indian Ocean, for example, issues surrounding tuna are determined through consensus. But this is an imperfect democracy - there was a call for better data and information exchange but certain countries rejected it.

In general, inter-ministerial committees for GEF projects and as Authorities (be they river basin authorities, or for ocean management) are difficult to coordinate, but are crucial for success of these transboundary programmes.

The example of Costa Rican and Panama cooperation over local fisheries shows that while there can be agreement at the local level, national agencies will ultimately have to be responsible when it comes to enforcement.

Finally, there are advantages and disadvantages to ensuring inclusivity through treaties and texts in multiple languages. The NBI is bilingual - whatever text is adopted in English is somewhat different in French – which adds another complexity to cooperation.

Stakeholder participation

While stakeholders are generally considered as local community groups, they can be governments and parties concerned, governments outside the geographic area, international organisations, NGOs (local and international), and communities that have a stake in what is being discussed.

Developing political will is critical for the success of agreements. Often initiatives are driven by those outside of government, but ultimately they must have government approval in order to be successful - governments do not want to be “forced” into agreements or into action. An example is the Coral Triangle area of South East Asia,² where most of the attention is from outside the actual area. As a result, governments feel pushed along from outside pressure to agree to something that they may not want or have the capacity to implement. Another complication in reaching an agreement is the real differences in the relative capacities of the six countries. Illegal fishing is also a major issue that is not being addressed despite the Memorandum of Understanding. Though the means exist, the political will to enforce an agreement does not.

Benefit sharing

Water, energy, and agricultural issues are often found inextricably linked in the more than 260 international watercourses in the world. International water law provides an important foundation from which agreements regarding the conservation and management of international watercourses can be successfully negotiated. A mutual gains approach towards successfully negotiating agreements for international watercourses is presented and illustrated by various examples. The approach is a process model, based on experimental findings and

² The Coral Triangle Initiative members are Philippines, Malaysia, Indonesia, Timor Leste, Papua New Guinea and the Solomon Islands.

hundreds of real-world cases, that facilitates negotiating better outcomes while protecting relationships and reputation. A central tenet of the approach, and the robust theory that underlies it, is that a vast majority of negotiations in the real world involve parties who have more than one goal or concern in mind and more than one issue that can be addressed in the agreement they reach. The approach allows parties to improve their chances of creating an agreement superior to existing alternatives. Application of the approach in an international watercourse context moves beyond merely meeting international legal rights and obligations

Additional Lessons Learned

It is important to develop functional agreements when needed rather than relying on large conventions or agreements to pave the way. A case in point is in transboundary marine management, where there are seascapes and marine eco-regions where agreements exist due to functional needs (e.g. Eastern Tropical Pacific Seascape - Ecuador, Colombia, Panama, and Costa Rica). There are geographic and functional reasons for these agreements, and they may address issues such as migratory species, protected species, or artisanal fisheries (real knowledge of how much is extracted through artisanal fisheries is totally insufficient on a global level).

Bottom-up political engagement can be an effective way to engage in transboundary water management. In the case of Panama and Costa Rica, NGOs took leadership, pointing out that a system for cooperation already existed, and started conservation actions. However, they soon realized that local conservation actions this were not sufficient, but that they were years ahead of the formal legal agreements.

Training tools

Several participants called for greater clarity in terms of objectives and a target audience and set of competence measures to group participants with similar levels of negotiating experience. There was a widely held desire for specific evaluating criteria to better assist participants going forward on what areas they should aim to improve. There were also many thought-provoking suggestions for how to adapt the project and to promote a longer term impact. Others discussed how to increase the accessibility of the lessons of the project by making it more interactive through the use of multimedia (potentially integrate with IWLEARN), or through a simple overview (with links to more comprehensive information). The comparative examples of real world experiences was generally found to be one of the most beneficial aspects of the training and having participants share their governance issues was seen as a laudable goal for future workshops.

The Vancouver River scenario could be strengthened by creating the need to include the indirect reciprocity in the agreement (maybe economic relations, acceptance of a country into the international community)

5. Conclusion

The 3 day training workshop was well accepted by all participants. With respect to the future of the project, there was a strong perceived need for an overarching business plan/strategy.

Participants were in favour of developing focused materials for specific groups of actors that face similar issues in governance. A need for more time dedicated to exploring governance of Large Marine Ecosystems projects, perhaps using real-life examples, was also expressed. Partnering with organizations that specialize in areas such as instructional design, governance, and philanthropy were seen as potentially beneficial to the project.

Several participants suggested making the tools into an ongoing courseplan so that workshop participants could practice and improve their skills. Periodically updating the materials was seen as a key measure of making the project sustainable. Perhaps most importantly was the strong desire to create a lasting network amongst the conference participants and other key professionals in the three areas of international freshwater, groundwater and LMEs. This network should be able to facilitate learning in between projects, disseminate strategies and keep members up to date in ongoing developments.

6. Results from visit to GWP on 9 May

Developing an operational strategy for facilitating transboundary cooperation with the Global Water Partnership

Workshop discussions on 9 May were held in the offices of the Global Water Partnership (GWP) and Stockholm International Water Institute (SIWI). The main objective was to contribute the collective knowledge and lessons-learned from the workshop participants to the development of an operational strategy for the GWP and its Network to enable it to better and more coherently applying its strengths to global and regional opportunities for facilitating transboundary cooperation.

The GWP 2009 2013 Strategy³ commits to ‘facilitating transboundary cooperation’ noting:

“Surface and underground water do not respect political boundaries. This means that states must cooperate to manage water. They must share responsibilities for managing

³ http://www.gwp.org/Global/About%20GWP/Strategic%20documents/GWP_Strategy_2009-2013_final.pdf

water, protecting water quality, managing environmental flows and promoting harmony among states. In some cases, river basin organisations provide an institutional structure for functions such as coordinating decision making, establishing water allocation mechanisms, reducing water pollution, and handling floods and droughts. Good national policies and plans are prerequisites for serious cooperation in transboundary waters, including shared aquifers that are often neglected. Taking the shared benefits approach, *GWP will support regional processes and work with regional organisations and initiatives, such as ASEAN, SADC and ECOWAS. GWP will also work with other partners such as UN-Water, including the GEF to contribute to existing initiatives in all regions, extending from the Yellow River to the Nile Basin, in support of cooperative processes to make shared waters become a force for regional economic development*”

GWP is uniquely positioned to strengthen transboundary water cooperation by combining its internationally recognised leading-edge think-tank capacity (e.g. in the GWP Technical Committee), with a network of over 2400 partner organisations, 13 Regional Water Partnerships and 77 Country Water Partnerships. In addition, GWP’s core values (inclusiveness, openness, transparency, accountability, respect, gender-sensitivity and solidarity) provide an internationally-respected neutral platform which should enable opportunities for facilitating transboundary cooperation, considered within the core mission of the GWP. GWP is already active in one way or the other in addressing transboundary water management issues in the Nile, Mekong, Danube, Central Asia, the Balkans, Western and Southern Africa and China, among others.

The workshop discussions were held in 2 sessions:

1. Morning meetings involved approximately 40 workshop representatives from the GEF Transboundary waters workshop in a discussion of how the GWP could increase its effectiveness in supporting transboundary dialogue.
 - In the first 1 hour session the GWP and SIWI explained their organizations to the participants, only a few of whom were familiar with either organization. In addition, the overall GWP strategy for the period 2009-2013 was presented in overview with organization’s intention to develop a more effective approach to facilitating the resolution of transboundary water issues highlighted as the focus for the next discussion.
 - During the next 1.5 hours participants broke into geographically defined breakout groups – Africa, Asia, Americas, other areas – to consider how the GWP could become a more effective supporter of transboundary water issue resolution. A draft discussion document on this topic was available for reference.

2. Afternoon meetings involved facilitated discussions with GWP staff on how to move the GWP Transboundary strategy development process forward. The main outcome of this was the development of an adaptive management framework to enable flexibility and continuous learning/improvement.

Following is a preliminary list of potential activities that continue to be considered under this framework. Once developed, those activities that merit inclusion in the operational strategy can be articulated in an adaptive management framework with explicit objectives, actions, indicators, monitoring, and evaluation and adaptation procedures. This will help to ensure the operational strategy is responsive to the results of implementation and can be seen to be done (or not). The operational strategy also needs to be accessible at the local and regional levels with obvious opportunities for GWP members to engage in its implementation and evolution. The aim is to provide a SMART framework for devising and delivering the GWP strategy on facilitating TB cooperation, in accordance with its overall aim of achieving a water secure world. Possible approaches, indicative only, include:

- GWP articulates a strategy that builds upon the three-pronged approach being developed by GWP TEC with inputs under the headings of (i) substantive; (ii) procedural and (iii) Knowledge Chain (KC).
- GWP members and partnerships can deliver knowledge products (TEC + regional expertise from across the network) and training programs for representatives of co-riparian states to promote IWRM and foster the relationships and trust that underpin effective cooperation and collaboration
- GWP members of co-riparian states can engage in and promote “Track-Two” Talks to help develop solutions to transboundary water issues. GWP’s regional partners could provide alternative venues and neutral platforms – e.g. “Chatham House”-type independent discussions
- GWP members of co-riparian states can work together to strengthening information bases and accessibility
- GWP members of co-riparian states can undertake joint projects involving co-riparian states
- GWP members can disseminate and promote solution models from other jurisdictions that could contribute to solving local issues
- GWP members of co-riparian states provide leading-edge technical and background papers and discussions on new and emerging approaches

7. Baltic Sea Case Study

The Baltic Sea is one of the world's largest brackish water bodies, with a composition that is neither ocean nor freshwater. Freshwater flows into the sea from approximately 200 rivers in the basin, contributing to the sea's generally low salinity. This makes the sea highly vulnerable to land-based activities in the countries surrounding it. Runoff from human settlements and from agriculture in the littoral states contributes to nutrient build-up in the sea, with attendant problems related to eutrophication and algal blooms.

The sea has a long history of management institutions formed to promote its sustainable development and ecosystem restoration. During the Cold War era (up to 1991) the sea was effectively cut in half by the Iron Curtain. The western European basin states had very little contact with the eastern European states and the USSR. This period coincided with the rapid industrialisation and economic development of the western states, leading to great wealth in those areas as well as attendant pollutants. In 1974 the littoral states entered into the Helsinki Convention on the Protection of the Marine Environment of the Baltic Sea Area, forming HELCOM. This provided a forum for states to discuss issues related to the management of the sea and promote measures to improve its ecological status.

Since the end of the Cold War there has been rapid agricultural development of some of the eastern states, again contributing to pressure on the ecosystem of the sea. Countries have thus renewed their efforts at cooperation. With the exception of Russia all the states surrounding the sea are EU members, and are thus bound by the recently formed EU Baltic Regional Strategy – committing them to minimum environmental standards. With the long duration time of water in the sea (up to 30 years), many years of reduced pollutant levels are needed before tangible improvements in the sea's ecosystem will be manifest.

The seminar participants spent the day on a cruise ship in the Stockholm Archipelago, travelling to the Abö Islands in Finnish waters. During the cruise there were presentations about various aspects of the Baltic Sea. Mr Jakob Granit of the Stockholm International Water Institute (SIWI) spoke about the long-term socio-economic and environmental pressures in the region, charting the development of cooperation until the present-day EU strategy. Dr Tapani Kohonen (a former Executive Secretary of HELCOM) provided an in-depth insight into the practicalities of cooperation – covering the functioning of HELCOM and the various challenges associated with transboundary collaboration. Lennart Gladh of WWF-Sweden ended with an overview of the ecosystem services provided by the sea – and how these are being threatened by the continued release of nutrients and pollutants into the sea – both fresh as well as those stirred up from sediments.

The day provided a fascinating insight into the practicalities of cooperating at the transboundary scale. Seemingly benign issues such as different languages and cultures can be difficult to overcome – with examples of how this was done being highly relevant to the situation of many of the participants. The overarching message of the day is that cooperation is a long-term process and that even in this, one of the wealthiest regions of the world, the disparities in income make effective cooperation a challenge.

Annex A: Agenda

<p>The Global Environment Facility, University of British Columbia and El Colegio de Mexico in association with many key partners including: the UNDP, Canadian Water Research Society, Global Water Partnership, Stockholm International Water Institute, and White & Case: Lessons Learned and Experiences with Governance of International Waters through Experiential Learning Stockholm, Sweden 06 to 10 May 2011</p>		
<p>Objective:</p> <p>Towards increased awareness, appreciation and understanding of lessons learned and experiences with governance of global transboundary international waters, through experiential learning</p>		
<p>Day 1: Friday 06 May 2011</p>		
08:30-09:00	Registration	Norris & Weiler
09:00-10:00	Objectives Overview Introduction of Resource Persons and Participants	Paisley
10:00- 10:30	Coffee Break	
10:30-12:30	<p>Presentation of draft reference / training materials, including:</p> <ul style="list-style-type: none"> · White & Case Treatise - RKP · Hemispheric Dialogues – SB / CL / RKP · Detailed Case Studies - HN · Synthesis of Lessons Learned and Experiences with Governance of International Waters - RKP · Draft Reference /Training Manual -RKP 	<p>Leon Mechlem Norris Paisley</p>
12:30-14:00	Lunch	
14:00-16:00	Communication and Cross Cultural Communication	Leon
16:00-16:15	Debrief and Summary	Weiler and Weiler
19:00-21:00	Dinner on site	

Day 2: Saturday 07 May 2011		
09:00 - 09:15	Summary from Previous Day	Weiler and Weiler
09:15 - 10:30	International Law including International Drainage Basin Law, International Groundwater Law and International LME Law	Mechlem Paisley
10:30 – 11:00	Coffee Break	
11:00 - 12:30	Negotiation and related skills (including tree, positions v. interests , prisoners dilemma, Vancouver river parts 1 and 2)	Leon Mechlem Paisley
12:30-14:00	Lunch	
14:00-15:15	Role play negotiation simulation (Vancouver river part 2)	Leon Mechlem Paisley
1515 - 1600	Gender	Bazilli
16:00-16:15	Debrief and Summary	Weiler and Weiler
19:00-21:00	Dinner on site	

Day 3: Sunday 08 May 2011		
09:00 - 09:15	Summary from Previous Day	Weiler and Weiler
09:15-11:00	Role play negotiation simulation (benefit sharing, int'l groundwater)	Leon Grzybowski Mechlem Paisley
11:00 - 11:30	Coffee Break	
11:30 - 12:30	Special Session: Global Transboundary International Marine Issues, including Costa Rica / Panama	Hartmann
12:30-14:00	Lunch	
14:00-16:00	Brainstorming Evaluation and Feedback	Cuauhtemoc Grzybowski Mechlem Paisley Weiler and Weiler
1600	Free time and dinner on your own	

Day 4: Monday 09 May 2011		
08:00-09:00	Travel from hotel to GWP / SIWI offices by public transit	
09:00-10:30	GWP Strategy to support resolution of transboundary water issues: Introductory presentation: Overview of Strategic Plan and how this TBW strategy fits into it; results of preliminary SWOT analysis and proposals Joint SWOT Analysis	Grzybowski Wouters
10:30 – 11:00	Coffee Break	
11:00 - 1230	GWP Strategy continued: Discussion of proposed approaches Next Steps in development of strategy	Grzybowski Wouters
	Free Time	
17:00 – 19:30	Canadian Embassy Public Roundtable and Special Reception, Canadian Embassy, Stockholm, Sweden	Canadian Embassy, Stockholm

Day 5: Tuesday 10 May 2011 – Baltic Sea Case Study Boat Cruise – 7:30 – 19:00		
06:00	Departure for boat trip by bus	
	Case study of Baltic Sea and SIWI initiatives in water governance.	
19:00	Boat trip returns – free time in Stockholm and travel back by public transit	

Annex B : Comments on Vancouver River Scenario

- There is an imbalance of reciprocity in water negotiations - need to include the indirect reciprocity in the agreement (maybe economic relations, acceptance of a country into the international community)
- Should make the roles more adversarial (at least for upstream) - were not that distant apart from our objectives - in real life our interests were much more apart
- In the real world there is a blockage - upstream didn't necessarily need to cooperate if they didn't want to, whereas downstream really needed to negotiate if they didn't want to
- Not being lawyers, they see a different window. There was also a lack of facts in the problem. Wanted to know more information about the opponent, and overall data to anchor positions
- Good structure. Tradeoff = can add more detail, but then need to add a lot more time. Have to then be careful about the lesson you want to be learnt from the negotiation. If you make the negotiation a lot more real, then you might not reach an agreement
- For the first 40 minutes I felt like I had to say no, and then for the last 20 I was expected to say yes
- We drew a map, which allowed us to come to a different set of solutions
- Concern - should not reduce the exercise to these questions - strategies need to be included in the discussion.
- Suggestion - make professionals represent their professions, because it will make it more lifelike - easier to act in character when you represent the character
- The idea about internal conflict didn't necessarily work - environmental deputy minister is the weakest position anyway - cannot really compete with the foreign minister, so the tension implied in the issue could not be real. In the real world, the minister of foreign affairs in the real world would always be able to veto the deputies
- The conflict should be between the sectors (environment, fisheries), not departments
- The information presented makes for a premeditated position - maybe we need less information in order to come to our own conclusions
- 4x/year we meet with Russians for Dnieper River - have a similar situation in real life. Background information is very limited. Good for the first round of negotiations. It is impossible to reach an agreement based on this information. Suggestion: including in the materials "in the first/second/third round of negotiations this was reached, but now we need to decide on ..."
- Why is this built with the assumption that there is internal conflict?
- Different sectors have different goals/priorities - already there is conflict internally, but when you make it transboundary you x 2
- Will states actually want to use military force when negotiating international water agreements? It should never get to this point

- Strategy = know first her position. She was highly aware of the threat of the environmental minister who wanted her job. Made a compromise - convinced her threat to agree to her first & second & third priorities. Fortunately the army issue never came up. Came with three points as their package. Felt like a goal keeper. Not clever enough to get into the centre, let her rival go to number 1 spot, but regained her spot as number 1 when the group had a break. Because opponents were talking to their threat but not her. Lesson: even though #1 in the group, she was still negotiating in her team. Other group kept offering her suggestions without asking her what she needed.
- We all negotiate in our lives and in our jobs. She felt like she was working with the enemy, he was proposing things that were unacceptable. They were biased because they were all environment people. She did not trust her teammate, because he was very insistent to push his ideas. Strategy: conflict prevention - proposed in advance some solutions of what they could offer without losing. This was after hard internal negotiations. This put the team in a winning position because what they wanted was in some way what they offered. Her personal strategy: as leader, she did not ask for permission, and sat in the middle. Empowered her teammate in order to ensure he was supporting her. Thought this conflict prevention strategy was not bad. From the starting point they knew what the ceiling of what they could accept was, while making a few concessions and receive a few unexpected benefits.

Annex C: List of Participants

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Annex D

1. Comments/Suggestions on Process and Substance

- Didn't see a hybrid of the two: is there an assessment? So what ARE the best practices of GEF practices?
- The course itself - everything needs to be digested into smaller, more manageable, organized stages. Something that could be put online, and given as a diploma - like UNEP, FAO
 - Draft material need to be shorter - more people will have a better chance to analyse it if they were given it earlier in advance - material should have been sent out earlier
 - The training materials need to be organized into smaller, more digestible pieces. Perhaps reorganized into modules with brief descriptions of each one before the module in full. Should be organized - have summaries in each chapter - too much to navigate a 300 pg document
- Sharing experiences is valuable
- Clarity in objectives of learning
- Experience is a good tool for learning
- Making it more targeted in terms of objectives, more adaptive, takes advantage of new media. Building and adaptive management into the materials
- Really good content, instructional design to be done. Can be done. Exercise of mixed feedback, but think that there is essential theory provided, different kinds of negotiating technique. There's going to be people of different negotiation skills. Need a set of fairly specific competence measures. Standard assessment of skills, checklist, need with each of the work sessions, reflect for themselves if they reflected. Allow people to self assess and where to go for areas that they are not strong at. Observers need more specific, have I seen this, checklist can then give more meaningful feedback. Good to be able to reference what the patterns were from other groups. Number of areas to pick up wherein, some stages through the process of successes and failures, need to be brought up more clearly. Great to have the experience of the participants.
- With the product itself, combining instruments such as video and text, bringing it more to life, make it more interactive, training materials allow for more accelerated involvement for those that are receiving the materials. Prompter results from the process itself, improve the way to record tips along the way, reveals in the process which in itself is long, takes time to be developed. How to create along the process itself, more capacity building, when we get to the product, evolving as you get there. Further widespread communication of the activities involved, generally so that potential future users of the product. Ongoing process, options for negotiation skills. Working throughout the process, for the synthesis document as the lessons learned. What has been found that resulted in successful and prompt international agreements. Incorporate into the workshop more of the themes, how do they cut across and tie together, needs to be more clear.

- Objective of the meeting is not clear, did not really realize before what people are coming here for. Though it was useful. Who are the targets of the training? Simulation would result better for any target group if it is compared to real happenings if they get a chance to hear what happened in other scenarios. Feel that there was not enough time for Susan. Lack of connectivity between the days.
- Easy overview of all the materials lacking, need to know what we are here for. Would have been nice to have each project present their governance issues. Short overview assessable of what is working, why etc (synthesis). Not easy for everybody to understand because of the language and legal language.
- Process: how can we improve it?
 - The only way to get everyone's attention is to lock them into the same room for a set period of time.
 - This is fine for people who are in the process - but not for the people who are not involved - how to overcome this? Need to define interest groups. Created a database (multilayer) then allow access of various interest groups to each layer.
 - One simulation is enough. The problem today was too much. Can't think through the role properly before you play out role. But then the information balance is difficult. We didn't have a debrief of intended lessons learnt. The first one was more straightforward. Didn't learn as much as in the first one. There needs to be more of a clear objective. Simulations need to have specific skills/tools incorporated.
 - The best part today was when people talked about their actual projects - process - the stories that people tell are just as important, or perhaps more valuable. Sharing experiences. Training you how to be a negotiator would be useful.
 - DSCs - have a brief abstract that will tell you the "three main things" to learn.
 - Cross cultural communication was good? Missing "these are the 5 things", the "lessons learned"
 - Coming here I was expecting more training, but experiences instead.
 - More structure would be good.
- Suggestion:
 - More on how to adapt to specific situations - as a project manager: limited by project - the idea is often killed by a framework of standards - have to follow GEF standards, have to follow UN standards, etc, etc. The outcome of each project is different - if you work with a country they care more about the results as opposed to process. Countries do not understand high ideas - when economies in transition they don't care. One modality - doesn't work for the whole world - one size does not fit all
 - As a project manager I liked the way the sessions were held - the experiential learning was useful

- If it's possible to divide the world river basins into groups - based on different contexts - countries have different priorities - eg in central asia the water is secondary to other priorities (economic development).
 - Identify the expectations of the participants better - Need to know the language that your participants are operating in – the goal is greater accessibility
 - It would have been nice for the participants to present their own governance issues
2. How to best use the network for the project, how to best take advantage of it?
- Need a business plan and a strategy, a few elements in it. Conceptually need to separate the instructional design from the application problems. Have the ability to create a generic skills needed to negotiate. Separate areas like marine and biodiversity. Possibility of getting group, Bangladesh India China, common understanding. Argue own issues and get up to speed on them. Things emerging with groundwater, underdeveloped areas that are changing, note this. Strategies for doing this. Three types of collaboration – GEF as the core is problematic, more potential than that, partners with governance, instructional partnerships, for instructional design, other sources of finance, maybe philanthropic associations.
 - Communication on a periodic basis for teams, more communication, when role playing is taken into account, refer to background for roles they have played in the past and ones they have not played in the past. Concrete example of the product. Can the treaty be drafted maybe. Using the tools for practice. Train themselves repetitively so that it is a tool, has to become periodic tools, guaranteeing the sustainability. Process of periodic reviews, and continue to update through experiential learning.
 - Good opportunities for this to be developed in other regions. GEF has good practices to experience NODE, people that are going to contribute to this talk about real experiences. Toolkit training, if it is possible for UN languages, better chance of distribution, dissemination for different regions. Even at national level tool is useful. IWLEARN to have a checkbox, need a greater chance of hearing each other's stories. IWLEARN has a checkbox, hope to connect from this.
 - How to best take advantage of the materials that are developed, make it into courses. Maybe one day, two day, etc. Train a roster of resource persons so that people know who to contact, experts in LME governance problems. Dissemination strategy. Learning between projects, structures sharing. Desire to keep contact.
 - New technology - Portfolio visualizations - google earth - IW learn is developing this as a tool - can we integrate this project into that, and how?
 - Regional workshops?
 - Modules - interviews? Make that part of the course
 - Community practice - online - social networking - regional iw learn workshops - associations of water communications

How to lay it out in a more succinct way?

- There is a delicate balance between too much information and not enough
- Need to be able to summarize the information - 50 pages or less for the training.
- River basin mgmt - “getting” the concepts take time.
- Provide essential theory
- Standard checklist of skills
- With each work sessions give people the opportunity for people to reflect on their skills - give information for people to
- Observers need much more specific preparation/checklist - so that they can give more meaningful feedback
- Try to establish patterns from multiple workshops, to develop learning between projects
- Lots of good information on successes/failures - include your own knowledge and judgement, even if only for sake of discussion
- Dissemination strategy
- Translate the material into the 7 languages of the UN

What next? Need a business plan and a strategy

- Conceptually you need to separate the instructional design from the application problems - you can probably create a generic set of qualities, with separate modules for “marine”, freshwater, groundwater - or geographic regions - could include pollution issues. Transboundary biodiversity is even more underdeveloped you could work on that
- Strategies - 3 types of collaboration you should be doing
 - Don’t focus on GEF as the core of your strategy - the product has more potential - which organizations have better governance
 - Instructional partnerships - align with professional agencies
 - Philanthropic organizations?