

Summary Report

ICWC Training Centre for Water Resources Management

Second Seminar

“International and National Water Law and Policy”

Organized by:



Financed by:



Canadian International
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I. EXECUTIVE SUMMARY

This report follows a successful completion of the ICWC Water Resources Management Training Center's Seminar on "International and national law and policy" that held from November 15-22, 2001 in the ICWC Training Centre in Tashkent, Uzbekistan.

Central Asian countries recognized that water is a key natural resource for future prosperity and stability and it is important to identify mechanisms and instruments to support the use of water as a catalyst for regional cooperation rather than a source of potential conflict. This is especially important since the need for cooperative management of shared water resources will increase significantly with the demands from expanding populations and economic growth.

The new border situation in Central Asia created not only classical clear-cut upstream-downstream situations between different independent countries, but also between a whole series of now politically separated irrigation networks that withdraw water from the same source.

Realizing the importance of the issues involved, countries of the basin have been undertaking all necessary steps towards improving the current situation. One of the important events in recent times was the creation of the regional training centre to train water management personnel. From October 24 to 29, 2001, ICWC Training Centre hosted a long-awaited regional seminar on "International and National Water Law and Policy", which was organized together with University of Dundee, the UK, and SIC ICWC partner McGill University Brace Centre for Water Resources Management, Canada. The program of the seminar included all the relevant core disciplines of international and national water law, world practices and national, regional and international organizations involved in policy regulations related to the management of transboundary water resources.

II. INTRODUCTION

This report follows a successful completion of the ICWC Water Resources Management Training Center's Second Seminar on "International and national law and policy" that held from September 24 to 29, 2001 in the ICWC Training Centre in Tashkent, Uzbekistan.

Central Asian countries realize the importance of improved legal relations concerning equitable sharing and sustainable water resources development of the Aral Sea Basin. A number of Agreements concerning water sharing signed since the 1991 that state that water resources of the Aral Sea basin are subject to common use and countries should cooperate along for rational use of water resources and improve situation in the Aral Sea area. The sea itself included as the sixth user and has its own share. Like in any other regions of the world, the water situation in Central Asia has its own unique characteristics. In general, it concerns water and energy swaps between upstream and downstream countries and environmentally sustainable development. Thousands of years of history unite the people of Central Asia who lived together in the valleys of Amudarya and Syrdarya Rivers. However, these countries are new in terms of political freedom and each of them try to become economically self-sufficient through use of natural resources available in their territories. Disjunctions between regional and national interests and between national priorities complicate the situation.

International law and experiences of other countries that have advanced relations may assist countries of Central Asia in developing legal aspects of natural resources management. With this goal in mind, ICWC Training Centre applied with request to International Water Law Research Institute, University of Dundee, in conducting a series of training workshops intended to train specialists of water management institutions and concerned ministries from all five Central Asian countries with the core principles of international and national water law and policy.

First training seminar was held in September 2001 and it gathered representatives of Ministries of Water Resources of the region. In addition, representatives of Ministries of Foreign Affairs and Justice also were invited since they indirectly involved in formulating the national and international water policies in the region.

One of the important skills in formulating relations between different parties, countries and organizations is to know the principles of negotiation and mediation. To reach a success or in consensus building processes much rely on these skills. ICWC Training Centre has specifically invited the experts of the Israeli Centre for Negotiation and Mediation to conduct a three-day course on negotiation and mediation.

Participants of the seminar expressed their gratitude to the organizers of the seminar and moderators from University of Dundee and the Israel for their excellent work and hoped for future organization of such courses.

III. SEMINAR ACTIVITIES

A. Seminar Objectives

The overall goal of this seminar was to assist the ICWC in developing and implementing a water resources training program which will contribute to political stability, environmental sustainability, sustainable food production, poverty alleviation and improved rural quality of life by strengthening collaboration, consensus advisements in legal issues in the Aral Sea Basin. Contribution of the University of Dundee included preparation and delivery of lectures and written materials to a group of identified local experts from the five Aral Sea Basin States, to

enhance their knowledge in national, regional and international legal issues related to the management of transboundary water resources. The specific goals of the training program are:

1. To train water policy and management experts of the Aral Sea region consistent with the best national and international practices in the following areas:
 - International water law and policy
 - National water law and policy
 - International and national environmental law and policy
 - International institutions and regional models of water resources management
 - Relevant legal and policy issues of the Aral Sea Region
2. To improve expertise and provide tools for local expert instructors to train in-country personnel on legal issues related to the Aral Sea and the international water resources of the region.
3. To improve negotiation and mediation skills of the key people associated in water management.

B. Opening of the Seminar

Prof., Viktor A. Dukhovny, the Director of the SIC ICWC, chaired the opening session of the Seminar. He said that it is a great success and at the same time a pleasure to work with experts from University of Dundee and expressed his gratitude to the sponsors of the seminar for making organization of the seminar possible. Although, he said, per capita consumption of water in CA Countries is higher than the world average, in the future it will always have a decreasing trend and water will be a major constraint in region's development. He thanked all participants of the seminar and said that he hopes the seminar will reach its objectives.

Ambassador of the State of Israel, Mr Noah Gal Gendler, took the next floor. In his speech he said that the Israeli Embassy is committed to develop close relationships with various scientific and research organizations in the region to improve management of natural resources. His Excellency noted that it is just the beginning of cooperation between Israeli institutions such as Centre of Negotiation and Mediation; he will further encourage other organizations and intuitions in Israeli to cooperate in the field of management of water resources.

Sergei Vinogradov, University of Dundee, spoke on behalf of Dr Patricia Wouters, who could not come to the seminar. In the letter addressed to the participants of the seminar Dr Wouters hoped that objectives will be met and thanked all the sponsors and organizers of the event. Dr Vinogradov added that without clear understanding of the water legislation in each country it is very difficult to develop a common approaches in the region and therefore integrated regional water policy will play an increasingly vital role in relations among newly independent countries of Central Asia.

Mr. Giniyatullin, a leader of GEF Agency Project in Central Asia, took the next floor. He thanked organizers, sponsors and moderators of the seminar. He said that incorporation of principles of international water law to the relations between Central Asian countries' endeavors in water issues will increase the efficiencies of using the available water resources of the basin. Countries will only benefit from such courses and they will always serve to improve the situation.

C. Seminar Training Manuals

Three volumes of materials were prepared for the seminar. This included a collection of papers related to international water law and international documents:

1. International and national water law and policy – collection of papers:
 - 1.1. Wouters, P., The Role of Water Law in the Development of an Integrated Water Resources Management Strategy.
 - 1.2. Rogers, P., The Value of cooperation in resolving international river basin disputes.
 - 1.3. Hamilton, A., Freshwater as a catalyst for international cooperation: with particular reference to the international Joint Commission and the Great Lakes Quality Agreement.
 - 1.4. Wouters, P., Editor’s Foreword to “International Water Law. Selected Writings of Professor Charles B. Bourne”.
 - 1.5. Kellow, R., Apportionment and Protection of Inter-provincial Waters in Western Canada.
 - 1.6. Samson, P., and Charrier B., International Freshwater Conflict: Issues and Prevention Strategies.
 - 1.7. Priscoli, J., International Conflicts Related to Transboundary Water.
 - 1.8. Legault, L., The Roles of Law and Diplomacy in Dispute Resolution: the IJC as a Possible Model.
 - 1.9. Wolf, A., Transboundary Water Issues: Lessons Learnt.
 - 1.10. Lazerwitz, D., The Flow of International Water Law: The International Law Commission's Law of the Non-Navigational Uses of International Watercourses.
 - 1.11. Caffish, L., Regulation of types of use international watercourses.
 - 1.12. McCafrey, S., UN Convention on the Law of the Non-navigational Uses of International Watercourses: Perspectives and Shortcomings.
2. Training Manual: Volume 1 and 2 (see Attachment E for the Table of Contents of the Manual)

D. Seminar Moderators

Dr Sergei Vinogradov, Centre for Energy, Petroleum, Mineral Law and Policy at the University of Dundee, Scotland, Dr Yona Shamir and Mr Jonathan Mark Kowarsky from Israeli Centre for Negotiation and Mediation, Prof., Nariman Kipshakbaev, Director of the Kazakh Branch of the SIC ICWC, and Arslan Berdyev, expert of the Executive Committee of the International Fund for saving the Aral Sea, coordinated all seminar activities. The role of the moderator can be summarized as follows:

- To identify the important issues (subjects) to discuss.
- To keep the discussions focused on the issues (subjects) identified.
- To be sure that all participants have an equal input during the discussion periods.
- To organize the discussion periods such that:
 - Items (subjects) are clearly identified.
 - Each item (subject) is debated separately.
 - Conclusions are made.

E. Seminar Participants

Participants (trainees) of the seminar included members of the ICWC, representatives from Ministries of water resources management and agriculture, Ministry of Foreign Affairs, Ministry of Justice, SIC ICWC staff. See full list of participants in Appendix B.

F. Presentations

All of the presentations delivered during the seminar were in Power Point Format. See Attachment A for seminar program. After each presented topic the same amount of time was allocated for discussion of the topic.

G. Gender Participation

McGill University and SIC ICWC are committed to the policy with respect to gender equality. Although the issues related to gender equality were not specifically addressed in this Seminar, the active participation of women was encouraged. SIC ICWC has been open to McGill's suggestions regarding the participation of women in all aspects of this project. Women were involved in all of the Seminar activities, and at varying capacities including:

- Seminar participants (presented paper, active during question period).
- Planning and logistics.
- Translations (Seminar documents and simultaneous translation of presentations)
- Assisted in the preparation of presentations.
- Accounting.
- Secretary services.

Table I illustrates the participatory role of women in the Seminar.

**TABLE I
WOMEN PARTICIPANTS**

No	Name	Title	Participation
1	Damira Sydykova	Advanced Specialist, Department of Water Resources of the Kyrgyz Republic	Actively participated in discussions.
2	Irina Juravleva	Assistant to Director SIC ICWC	Actively participated during organization
3	Larisa Averina	SIC ICWC Specialist	Participated during discussions
4	Ludmila Muhina	Head Bookkeeper	Actively participated during organization

H. Questionnaire results

The participants were encouraged to provide feedback to the ICWC Training Centre staff with respect to the overall organization and management of the Seminar. Information was obtained from informal discussions with the participants, and through the use of a questionnaire. The questionnaire was developed by ICWC Training Centre staff, and distributed after the completion of the Seminar activities.

Table II is a summary of the questionnaire results.

№	QUESTIONS	Yes	No	COMMENTS / SUGGESTIONS / RECOMMENDATIONS
1.	Has the seminar come up to your expectations?	15	0	<ul style="list-style-type: none"> ▪ There was no enough time, it is necessary to organize additional course ▪ Sunday – day off
2	Did the seminar fulfilled its training objectives?	15	0	
3	Are you satisfied with the contents of the lectures and exercises?	14	1	<ul style="list-style-type: none"> ▪ More practical lessons ▪ I liked the lectures in the form of games
4	Are you satisfied with the contents of the given materials?	15	0	
5	Are you satisfied with trainers & presenters?	15	0	<ul style="list-style-type: none"> ▪ There is no enough light in the hall ▪ The capping on the floor hinder unpleasantly passage
6	Are you satisfied with the equipping of the Training Center?	15	0	

8	Are you satisfied with the duration of the workshop?	15	0	<ul style="list-style-type: none"> ▪ I think it is necessary to involve water users themselves
9	Are you satisfied with the agenda of training?	15	0	<ul style="list-style-type: none"> ▪ Preferably not more than 5 days ▪ Extend the duration
10	Are you satisfied with your accommodation during the workshop?	14	1	<ul style="list-style-type: none"> ▪ It would be better if participants would live close to each other to exchange opinions even after the class
11	Are you satisfied with meals during the workshop?	15	0	
12	Are you satisfied with the administrative personal of the Training Center?	14	1	
13	Are the training/supporting materials you received sufficient?	15	0	
14	What topics would you recommend to include in the follow-up training program?			<ul style="list-style-type: none"> ▪ Increase the hours for water law in general and water problems related to republics of the former USSR, and international water law for Central Asian region ▪ Implementation and controlling procedures of water limits. ▪ National comments and writings of interstate agreements. ▪ Procedures for in-country project coordination ▪ Implementation of national water law in practice ▪ Interconnection of water law with other legal documents ▪ Equitable and reasonable utilization – detailed view ▪ Details on interstate relations in Central Asia
15	What topics are uninteresting for you, and you would suggest deleting them?			<ul style="list-style-type: none"> ▪ Some obvious facts were too long explained ▪ All the presentations were interesting
16	What training is required for your organization and staff?			<ul style="list-style-type: none"> ▪ International Law and Water Law ▪ Negotiation and Mediation ▪ Water accounting. Water quality analysis ▪ Role of communication in International legal negotiations

MINUTES
SIC ICWC, University of Dundee (the UK) and
the Israeli Centre for Negotiation and Mediation
ICWC Training Centre Seminar on
“International and National Water Law and Policy”

Tashkent

November 20, 2001

Between November 15 and 20, 2001, participants of the above-entitled seminar received the training on “International and National Water Law and Policy”. According to the earlier approved program they got acquainted with a course of lectures and conducted active discussions related to international, regional and national aspects of water law where emphasis was given to theory and practice of negotiation and mediation. As a result, participants developed practical recommendations to improve cooperation in the field of water resources management on the various levels. In this connection, they underlined the necessity of rigorous consideration of national interests and regional trends, which in turn must be interconnected, with the norms of international law. It was noted that public participation should be encouraged and included as an integral part of any development and decision making process in regional cooperation and management of transboundary water resources of the Aral Sea Basin.

Participants of the training included employees of the regional organizations (EC IFAS, SIC ICWC, BWO Amudarya and Syrdarya), governmental water management organizations, and representatives of ministries of foreign affairs of Central Asian countries (see Attachment 1 for full list of participants).

Moderators of the seminar were Prof. N. K. Kipshakbaev – Director of the Kazakh branch of SIC ICWC, A. Berdyev - expert from the Executive Committee of the International Fund for saving the Aral Sea (EC IFAS), Prof., Sergei Vinogradov – the University of Dundee, the UK, Dr. Yona Shamir and Jonathan Mark Kowarsky – the Israeli Centre for Negotiation and Mediation. The workshop agenda and copies of the reports had been distributed among the participants in advance for preliminary review and comprehension, thus facilitating moderators in arranging further discussions. Report presentations were combined with visual aids based on modern equipment and technologies.

The Ambassador of the State of Israel in Uzbekistan, Mr. Noah Gal Gendler, Head of the Environmental Protection Department of the USA Embassy in Uzbekistan, Mr. Robert Watts, and leader of the GEF Agency project in Central Asia, Mr. Rim Giniyatullin, participated in the opening session of the seminar and speak out addressing the trainees with comprehensive statements concerning the subject matter of discussions.

The participants noted that the workshop topics included a wide range of the issues of water resources management that are oriented to understanding the current world and national practical approaches, principles and methods of regulation of use, protection and management of water resources. This approach enables to analyze whole totality of water relations from the farmer level to regional and global law issues. This helped participants to see not only the causes of problems and tensions but also most effective ways of their resolutions.

The trainees emphasized the historical and geographical unity of Central Asian States, united by common rivers – the Amudarya and Syrdarya Rivers of the Aral Sea Basin. They said about the necessity to develop regional cooperation, and gave a positive assessment to the measures taken in the region aimed at development of cooperation between regional organizations. Although five Central Asian countries are strenuously cooperating in this direction, which is in whole

based on the cultural traditions of the people of the region, there is a great necessity for further development of water law because the countries are in transitional period from centralized to democratic and market relations. Participants also pointed out that there is a significant growth of intellectual capacity of the specialists of water management in negotiation, and in readiness for searching consensus, in development of water law and interstate agreements.

With a great gratitude participants noted the efforts and high qualifications of the trainers from the University of Dundee, Prof., Sergei Vinogradov and from the Institute of Law, Russian Federation, Dr. Taras Kalinichenko, and excellent methodological materials of Prof., Patricia Wouters, which gave participants an excellent introduction to the international legal systems and international water law.

Participants pointed out that for the best interests of all five countries of the region for equitable and reasonable utilization of water resources, it is wise to develop measures on closing in the national laws and interstate agreements. Strengthening the principles of parity in water relations and demand for development of strict regulations of processes and procedures are noted as key elements of the system.

Participants of the seminar showed their great interests for lectures and practical courses on forming the negotiation and mediation processes in the field of water relations. Experts of the Israeli Centre for Negotiation and Mediation using visual aids demonstrated practical significance of negotiation in all steps of their preparation and implementation.

Participants of the seminar worked out a series of comments on the overall workshop organization and the balance of the work. In addition, they have proposed the following recommendations for future considerations in development of water laws in Central Asian countries on the national and regional levels:

On the National Level

- Water legislative documents of Central Asian countries are in need for update, taking into account democratization processes and transfer of economies to the market relations. With adoption of legislative acts in other sectors of the economy, there are many contradictions between these norms that regulate water use for the interests of various management purposes. Especially there exists a strong necessity for integration of land and water laws, and for readjustment of rights for water in irrigated agriculture.
- With a growing demand for water resources, it is wise to look for more effective legal controlling ways that would in turn strengthen water saving, especially in irrigated agriculture. It is also recommended further to combine them with development of technical facilitation of water management, which is oriented to rational use of water resources such as block-structured systems of payment for operation and maintenance (O&M), for over use of water including payment for over use that is equal to the costs of recourse formation.
- Structural changes of socio-economic character, induced with transfer to market relations, put forward new requirements to legislatively strengthen the boundaries of duties, jurisdictions and responsibilities (government organizations) for on-time and sufficient water supply to the water users. It is particularly important practical implementation of the responsibility for failure of water supply with respect to secondary users. Rights of individual water user for water, in

compliance to the quantity and quality norms, are in need for protection. Here there is a wide field of scientific research for all five countries of Central Asia.

- There is a growing role of economic levers that regulate water use. Those who save water in irrigation below the fixed limits should win the right to be free from taxation and vice versa for those who exceed the limits. In sectors, where in industrial process water is used, as a result of which, there is a profit obtained, the law should specify introduction of payments for water. There is a need for reviewing the return flows, both in strengthening the legislative acts for more active use of these waters in irrigation and in limiting the discharges of these waters into the rivers.
- In strengthening controls of legal and economic regulation of water relations, governments should play a leading role. There is a need for government support for the development of insurance and compensation systems. At present, the government tax is raised “per hectare”, but it does not consider the actual economic returns of irrigated agriculture in particular territory, which in turn requires its fair review in favor of producers of agricultural productions.
- To fix in legislative acts mandatory introduction of water measurements for all water users and water consumers at their expense. To stipulate penalty sanctions in case of absence of water measuring devices stimulating water users to insure universal application of water accounting. Certain disciplinary role could play creation of “Water Police Service”, having appropriate functions for monitoring quantity and quality parameters authorized to assign penalty sanctions.

On the regional level.

- To augment the knowledge of jurisprudence in the field of international water law application to interstate water relations. To intensify participation of national law groups in development of regional cooperation through speeding up signature of already developed and considered Agreements on information exchange, institutional structure of interstate organizations, water use management in the basin and other documents.
- To facilitate making decisions which contribute to participation of Central Asian states in international conventions, devoted to regulating water relations with the purpose of their provisions and principles application to specific conditions of Central Asian region. To initiate development and adoption of “Central Asian Convention”, reflecting vital needs of efficient use of transboundary water resources proceeding on mutual historical traditions and spiritual-cultural values of the peoples of the five countries.
- To promote intensifying the process of harmonizing newly adopted and revised legislative acts of the five countries between them in the sphere of water law. In every way to ensure elimination of contradictions between acting norms of national water law and existing and suggested for consideration interstate agreements and treaties.
- To assert, consistently and on principle, perceptions of water as natural resource that is not a pure commodity or subject for commodity-money relations, but only material substance, which may acquire the form of commodity, having at that social and ecological value.
- To take measures ensuring legislative fixation of mandatory sanitary releases in order to strengthen the statue of water in the capacity of Nature element. The right

of water bodies for their natural existence must be insured. To study expediency of implementing the proposal put forward in the course of the workshop about introducing such category of water relations participant as “The Aral Sea Commissar” nominated by coordinated decision of the five countries authorized to act as a representative enjoying equal rights with other participants of the “5+1” process.

3. In national as well as in regional water law the following current trends in world wide practice of water management and relations should be reflected:

- Transition to integrated water resources management implies coordination of plans and actions between sectors of economy, rejection of the territorial method in favor of the hydrographic one, wide scale water users participation not only in management, but in funding as well.
- Introduction of market mechanisms implies privatization, water concessions, transfer and selling rights for water and other issues that should be reflected in legislation of the five countries.
- There is a necessity of appropriate restructuring that could secure intact such principal spheres of state responsibility as water resources management, their protection and use, transfer of maximum responsibility for management at local level to direct water users.
- Increase in transparency and information distribution for all participants of water use and management.
- Strict separation of responsibilities for infrastructure maintenance and improvement in general and hydrometeorological services in particular.
- Legislative fixation of responsibility for water over use and caused damage.

Easy and comprehensible form of delivering the complex and thorough training materials in combination with friendly environment, openness and creativity, made it possible to cope with new knowledge and ideas for relatively short period of time.

The workshop participants emphasized the necessity to develop more close cooperation with the ICWC Training Center and accelerate the establishment of its local branches.

The workshop participants express their gratitude to the sponsors of the seminar – among them CIDA, DFID, University of Dundee, University of McGill, USAID, NRMP, as well as to employees of the ICWC Training Center, all lecturers and moderators, and SIC ICWC and also to BVO Syrdarya, who substantially contributed to the arrangement of training. Participants stated the necessity of further organization of similar courses.

V. CONCLUSIONS

The objectives of the “International and National Water Law and Policy” was to complete the following tasks:

1. To train water policy and management experts of the Aral Sea region consistent with the best national and international practices in the following areas:
 - a. International water law and policy
 - b. National water law and policy
 - c. International and national environmental law and policy
 - d. International institutions and regional models of water resources management

- e. Relevant legal and policy issues of the Aral Sea Region
2. To improve expertise and provide tools for local expert instructors to train in-country personnel on legal issues related to the Aral Sea and the international water resources of the region.
3. Select the future trainers.
4. Agree on schedule of training for next two follow-up training seminars on the same topic.
5. Assemble technical materials.
6. Evaluate the papers, training manuals, training exercises; utilize comments received for the formulation of future workshops.

Items 1 through 5 were completed and included within this report. Local trainers were selected among participants to take the role of trainers in the future training workshops. These are Prof., Kipshakbaev N. K., from Kazakhstan, director of the Kazakh Branch of the SIC ICWC, former minister of water resources of Kazakhstan, Mr. Djaillobaev A. Sh., head of the Legal Office of the Department of Water Resources of the Kyrgyz Republic, Nosirov N. K., director of the Tajik Branch of the SIC ICWC, and Berdyev A., and Ovezov A., from Turkmenistan, both from Executive Committee of the International Fund for saving the Aral Sea. The second and third follow-up seminars were agreed to organize in November 2001 and January 2002, respectively. Items 5 and 6 were intended as assignments for the selected future trainers to have it ready for the future seminars. University of Dundee staff and with SIC ICWC will work on these tasks in order to complete them.

The success of the seminar on “International and National Water Law and Policy” was in large part due to the participants themselves. All participants were actively involved and contributed to a lively and rewarding seminar. The successful completion of this seminar marks the first, and most important, step required in order to achieve the long-term objectives in water resources management of the Aral Sea basin.

DAY 1: THURSDAY, NOVEMBER 15, 2001
ICWC Training Centre Future Trainers Seminar
“International and National Water Law and Policy”

ICWC Training Center
BWO Syrdarya, 4th floor, Karasu-4/11, Tashkent, 700187

10:00 – 10:40	<u>Opening Session</u> GREETINGS FROM: Professor Victor A Dukhovny , Director, Scientific Information Centre of the Interstate Commission for Water Coordination of Central Asia Christopher Ingham , Ambassador of the United Kingdom to Uzbekistan, Tashkent Noah Gal Gendler , Ambassador of the State of Israel to Uzbekistan Rim A. Giniyatullin , Head, GEF Agency Project in Central Asia, Tashkent Sergei Vinogradov , Centre for Energy, Petroleum, Mineral Law and Policy, University of Dundee, Scotland, the UK
10:40 - 10:50	Introduction of Workshop Participants
10:50 – 11:45	International Legal System: Introduction - Moderators, University of Dundee (UoD) , Dundee, Scotland, the UK
11:45 – 12:00	Coffee Break
12:00 – 13:00	Key Issues of Water Management in the Aral Sea Basin in the Light of International Water Law – Victor A. Dukhovny , Scientific Information Centre of Interstate Commission for Water Coordination (SIC ICWC) of the Central Asia
13:00 – 14:30	Lunch
14:30 – 15:15	International Law of Water Resources: Overview and Evolution – Moderators, UOD
15:15 – 16:00	Questions & Group Discussions
16:00 – 16:15	Coffee Break
16:15 – 17:00	International Law of Water Resources: International Treaties – Moderators, UoD
17:00 – 17:30	Questions & Group Discussions

DAY 2: FRIDAY, NOVEMBER 16, 2001
ICWC Training Centre Future Trainers Seminar
“International and National Water Law and Policy”

ICWC Training Center
BWO Syrdarya, 4th floor, Karasu-4/11, Tashkent, 700187

9:30 – 10:30	International Water Law: Substantive Rules – Moderators, UoD
10:30 – 11:00	Questions & Group Discussions
11:00 – 11:15	Coffee Break
11:15 – 12:15	International Water Law: Procedural Rules – Moderators, UoD
12:15 – 13:00	Questions & Group Discussions
13:00 – 14:30	Lunch
14:30 – 15:15	Resolution of International Disputes on Transboundary Water Resources – Moderators, UoD
15:15 – 15:30	Questions & Group Discussions
15:30 – 15:45	Coffee Break
15:45 – 16:45	Case Study: The Columbia River-- Operationalising Equitable and Reasonable Utilization – Moderators, UoD
16:45 – 17:30	Questions & Group Discussions

DAY 3: SATURDAY, NOVEMBER 17, 2001
ICWC Training Centre Future Trainers Seminar
“International and National Water Law and Policy”

ICWC Training Center
BWO Syrdarya, 4th floor, Karasu-4/11, Tashkent, 700187

9:30 – 10:30	New Water Policy for Europe - Moderators, UoD
10:30 – 11:00	Questions & Group Discussions
11:00 – 11:15	Coffee Break
11:15 – 12:15	International Legal Drafting: Principles and Practice – Moderators, UoD
12:15 – 13:00	Questions & Group Discussions
13:00 – 14:30	Lunch
14:30 – 15:15	Moderators, University of Dundee
15:15 – 15:30	Questions & Group Discussions
15:30 – 15:45	Coffee Break
15:45 – 16:45	Moderators, University of Dundee
16:45 – 17:30	Questions & Group Discussions

DAY 4: SUNDAY, NOVEMBER 18, 2001
ICWC Training Centre Future Trainers Seminar
“International and National Water Law and Policy”

ICWC Training Center
BVO Syrdarya, 4th floor, Karasu-4/11, Tashkent, 700187

9:30 – 10:30	Interest Based Negotiation. The Negotiator as a Problem Solver. Simulation – Oil Pricing The Israeli Center for Negotiation and Mediation
10:30 – 11:00	Oil Pricing-Continuation
11:00 – 11:15	Coffee Break
11:15 – 12:15	Simulation debrief and discussion The Israeli Center for Negotiation and Mediation
12:15 – 13:00	Questions & Group Discussions
13:00 – 14:30	Lunch
14:30 – 15:15	The seven elements of the model. Simulation – Natasha Soprano The Israeli Center for Negotiation and Mediation
15:15 – 15:30	Debrief and Discussions
15:30 – 15:45	Coffee Break
15:45 – 16:45	The seven elements as a check list for preparing for negotiation The Israeli Center for Negotiation and Mediation
16:45 – 17:30	Questions & Group Discussions

DAY 5: MONDAY, NOVEMBER 19, 2001
ICWC Training Centre Future Trainers Seminar
“International and National Water Law and Policy”

ICWC Training Center

BVO Syrdarya, 4th floor, Karasu-4/11, Tashkent, 700187

9:30 – 10:30	<i>Simulation - Big River</i> The Israeli Center for Negotiation and Mediation
10:30 – 11:00	Questions & Group Discussions
11:00 – 11:15	Coffee Break
11:15 – 12:15	Partisan Perception The Israeli Center for Negotiation and Mediation
12:15 – 13:00	Active listening The Israeli Center for Negotiation and Mediation
13:00 – 14:30	Lunch
14:30 – 15:30	<i>Mediation and the ADR Spectrum</i> The Contribution of the Mediator to the Negotiation Process Simulation – the Burning Sailboat The Israeli Center for Negotiation and Mediation
15:30 – 16:00	Debrief and Discussions
16:00 – 16:15	Coffee Break
16:15 – 17:00	A. The Mediation Model Advantages of Mediation The Israeli Center for Negotiation and Mediation
17:00 – 17:30	Questions & Group Discussions

DAY 6: TUESDAY, NOVEMBER 20, 2001
ICWC Training Centre Future Trainers Seminar
“International and National Water Law and Policy”

ICWC Training Center
BVO Syrdarya, 4th floor, Karasu-4/11, Tashkent, 700187

9:30 – 10:30	Skills and tools of the mediator The Israeli Center for Negotiation and Mediation
10:30 – 11:00	Questions & Group Discussions
11:00 – 11:15	Coffee Break
11:15 – 12:15	Consensus Building in Multi-party Projects Basic steps in consensus The Israeli Center for Negotiation and Mediation
12:15 – 13:00	Questions & Group Discussions
13:00 – 14:30	Lunch
14:30 – 15:15	National Water Law Reports – ICWC Members
15:15 – 15:30	Questions & Group Discussions
15:30 – 15:45	Coffee Break
15:45 – 16:30	National Water Law Reports – ICWC Members
16:30 – 16:45	Questions & Group Discussions
16:45 – 17:30	Closing Session: Adoption of the Final Document – Certificate Awarding

Appendix B: List of Participants

Kazakhstan

1. Nariman Kipshakbaev
Kazakh National Branch of the SIC ICWC
2. Yerlan Badashev
Committee for Water Resources
3. Aliaydar Jaksylykov
Aral-Syrdarya Basin Water Management Organization
4. Janet Tursunov
Embassy of Kazakhstan in Uzbekistan
5. Amangeldy Ismanov
State Organization YugVodHoz

Kyrgyz Republic

6. Damira Sydykova
Department of Water Resources
7. Ibragim Ibragimov
Osh Water Management Organization
8. Askar Kidikeev
Osh Water Management Organization

Tajikistan

9. Khalim Khodjiev
Sogdiyana Water Management Organization

Turkmenistan

10. Arslan Berdyev
EC IFAS

Uzbekistan

11. Rustam Umarov
Ministry of Foreign Affairs
12. Sagit Kurbanbaev
GEF Agency Project "Sudache Lake"
13. Marimboy Saparbaev
Basin Water organization Amudarya
14. Eldor Elmuradov
University of World Economy and Diplomacy
15. Abduvokhid Azizov
Ministry of Agriculture and Water Resources
16. Zair Djurabekov
Zarafshan River Basin Management

SIC ICWC

17. Larisa Averina
18. Makhmud Ruziev
19. Valeriy Prikhodko
20. Denis Nagibin

Exercise 1: The Big River Development Commission

General information

The Big River Development Commission (BRDC), is made up of representatives from the two riparian countries of Big River, Upstream and Downstream. The commission was created by a treaty signed in 1975. The 1975 treaty is unusual in that the chief Commissioner from each country has the authority to make commitments on behalf of his country. This has worked so far in practice, because the governments of both countries, each of which has been dominated by a single, stable political party for the last decade and a half, have appointed major political figures as chief commissioners. So far the commissioners have made a habit of working out explicit negotiating instructions that have consensus support at home.

Currently the BRDC is in the final stages of negotiating a proposal for a multipurpose hydroelectric – flood control dam called the New-Dam. The commissioners have negotiated for many months over specific elements of the project, and among other things, they have agreed on the total capacity of the dam and that each country should be allocate 50% of the electricity generated. There are two remaining unresolved issues, the price of the electricity sales between countries, and the percentage of the dam’s capacity to be allocated to flood control.

Upstream is a smaller, poorer, and much less developed than Downstream. Therefore, in addition to the major joint loans that the commission has conditionally secured, Upstream will have to take out a further individual foreign loan to finance its share of initial capitalization.

Also Upstream will not have a near-term demand for all its allocated electricity supply. It hopes to sell its surplus supply to Downstream to cover its additional debt service requirement, and bring in some needed foreign currency. His is fine with Downstream, since it expects to have additional unmet demand for electricity even after New Dam is built. The two countries have yet to agree on the price at which Upstream will sell its electricity to Downstream. This is one remaining issue.

There is a fairly recent precedent where Leftbank and Rightbank, in a similar development project, agreed three years ago to a sale price of 50 cents/kw-yr. While the technology and the costs of operating New Dam are expected to be similar to those in the Rightbank-Leftbank project, it has been accepted in principle in BRDC sessions to date, that the reality of generally escalating fossil fuel and nuclear electricity prices worldwide is a valid consideration to include in price discussion.

The second remaining issue is that the Commissioners have not yet agreed on the amount of the Dam’s capacity that should be allocated for flood control. Recent years have seen increasing seasonal variability in Big River’s downstream flow, and increasing flood problems. Last year flooding resulted in a loss of 30% of expected agricultural output in Downstream’s portion of the river basin. It was the worst flooding in 40 years. Downstream believes that a major cause of the increased flood problems is the deforestation, which takes place in Upstream, in association with national development projects in the basin. Large agricultural production areas (current and potential) in the flood plain in Downstream are particularly vulnerable. However, the lower the water level in the dam in the interest of flood control, the less electricity will be generated. For Downstream, within a certain range, the loss in generating capacity is more than offset by the benefits of flood control. For Upstream, however, there would be no immediate compensation benefit to offset the loss in expected revenues due to decreased generating capacity.

The World Bank has agreed to subsidize a significant portion of the construction costs. The region has valuable agricultural, forestry, and mineral resources, the potential of which will be significantly enhanced by improved water resources management, cheap electricity, and an improved local infrastructure. Moreover, the region has been politically stable for the last fifteen years despite historical antagonism between Upstream and Downstream, going back several centuries. However, the World Bank financing is conditional upon the completion of a final agreement between Upstream and Downstream before the end of the Bank's funding cycle for this year.

Both countries very much want the New Dam project to proceed, and the Commissioners are eager to construct an agreement for what will be a joint undertaking of unprecedented size. However, each is cognizant of the other's concerns about how different agreements would be perceived back home. It is important to the Commissioner from Upstream, historically the weaker country, and now aspiring to a more equal status in regional politics, that the citizens in Upstream will not perceive the terms of a final agreement as having been "dictated" by the more powerful and populous Downstream. Similarly, while Downstream is willing to see Upstream participate more in regional development (as for example in the New Dam project), it does not consider Upstream an equal power by any means, and the political influential people in Downstream expect the differences in status to be reflected in a final agreement on New Dam. Rather than risk political disruption at home over this issue, both sides are willing to contemplate terminating the session if need be, despite the clear blow a delay in basin development would deal to economic growth plans for both countries, and the financing arrangements with the World Bank.

The two Commission delegations are scheduled to meet one last time before submitting a completed proposal to the World Bank within its deadline for the current funding cycle. Each delegation is led by its chief Commissioner, who, given the 1975 treaty and the procedural norms that have been developed since, will be the sole spokesman for his country.

The Prime Minister's Residence Downstream

To: Chief Commissioner
From: The Prime Minister
Re: New Dam negotiation

As you know, this dam project is extremely important to Downstream. This will provide us with much needed electricity for our growing industrial sector. More importantly, it will provide the flood control we desperately need to protect and expand our agricultural export crops. Allocating 40% of New Dam's capacity is simply the most economical way to provide flood control in the river basin; local options such as levees, canals, and dredging, and pumping facilities are far more expensive. A 40% allocation to flood control will be resisted by Upstream, but you will remember that our Foreign Affairs Ministry has estimated that even with 40% of capacity allocated to flood control, the benefits of the project to Upstream will still outweigh the expected costs. Moreover, the fact that deforestation from Upstream development projects has increased run-off in the river basin, obligates Upstream to agree to a major allocation of New Dam capacity to flood control. We recognize that last year was a particularly wet year, but rainfall was only about 5% above normal, not the 10% asserted by Upstream. Upstream's attribution of the major flooding problems totally to the increased rainfall, is clearly incorrect. Moreover, deforestation is continuing, and the problem will only get worse.

On the sale price of electricity, we have some flexibility, and can of course agree to a higher price, conditional upon a greater allocation of capacity to flood control. As you know, the Ministry of Energy, has determined that the next cheapest future alternative source of electricity, has an expected cost a little over 80 cents/Kw-Yr. Thus, any price greater than 80 cents/Kw-Yr is categorically unacceptable. The Foreign Ministry's analysis of Upstream's situation has come to the conclusion that any price below 50 cents Kw/Yr will make the project financially very difficult for Upstream. We would like to depart as little as possible from the Rightbank-Leftbank precedent of tying price to production cost, rather than to tying it to the cost of the next cheapest source. Nonetheless, with the escalating costs in our nuclear program, and the increasing worldwide cost of fossil fuels, hydroelectricity is still the preferred future source, and assuring an adequate electricity supply, is ultimately more important than maintaining the Rightbank-Leftbank precedent.

Attached is the scoring system, you and the other members of the Cabinet prepared for my review. I have studied it carefully, and I now give it my full approval, as a basis for your forthcoming negotiating session. In this format each cell shows the score that should be used to evaluate the potential agreement represented by the electricity price at the top of the cell's column, and the capacity assigned to flood control shown at the left of the cell's row. The higher the score, the better the agreement.

I have discussed the political situation further with my staff. The conclusion is that under no circumstances, would an agreement rating less than 30 points be domestically acceptable. Given Upstream's pressing need for cheap electricity and foreign currency, we expect that an agreement much better than the 30 – point lower limit can be easily reached. But should Upstream prove less reasonable than we expect, let me again stress that in the final analysis, terminating this session is preferable to an agreement rating less than 30 points.

**DOWNSTREAM
Electricity Price
(Cents/KwYr)**

	50 cents	55 cents	60 cents	65 cents	70 cents	75 cents	80 cents
5%	25	10	-5	-20	-35	-50	-65
6%	30	15	0	-15	-30	-45	-60
7%	35	20	5	-10	-25	-40	-55
8%	40	25	10	-5	-20	-35	-50
9%	45	30	15	0	-15	-30	-45
10%	50	35	20	5	-10	-25	-40
11%	55	40	25	10	-5	-20	-35
12%	60	45	30	15	0	-15	-30
13%	65	50	35	20	5	-10	-25
14%	70	55	40	25	10	-5	-20
15%	75	60	45	30	15	0	-15
16%	80	65	50	35	20	5	-10
17%	85	70	55	40	25	10	-5
18%	90	75	60	45	30	15	0
19%	95	80	65	50	35	20	5
20%	100	85	70	55	40	25	10
21%	105	90	75	60	45	30	15
22%	110	95	80	65	50	35	20
23%	115	100	85	70	55	40	25

24%	120	105	90	75	60	45	30
25%	125	110	95	80	65	50	35
26%	130	115	100	85	70	55	40
27%	135	120	105	90	75	60	45
28%	140	125	110	95	80	65	50
29%	145	130	115	100	85	70	55
30%	150	135	120	105	90	75	60
31%	155	140	125	110	95	80	65
32%	160	145	130	115	100	85	70
33%	165	150	135	120	105	90	75
34%	170	155	140	125	110	95	80
35%	175	160	145	130	115	100	85
36%	180	165	150	135	120	105	90
37%	185	170	155	140	125	110	95
38%	190	175	160	145	130	115	100
39%	195	180	165	150	135	120	105
40%	200	185	170	155	140	125	110

**The Presidential Palace
Upstream**

**FROM: THE PRESIDENT
TO: CHIEF COMMISSIONER**

RE: NEW DAM NEGOTIATION

As you know, Big River is our most significant natural resource, and we must be very strategic about its development. Downstream, though currently more economically powerful, cannot develop the full potential of the river without us. However, neither can we develop its full potential without Downstream. Our greatest priority at the forthcoming negotiating session is to get as high a price as possible for the sale of our excess electricity.

This has the potential to be our best source of national income, and since we are required to sell all of this to Downstream, we have to get the best price possible.

As you know from the cabinet discussions, the Ministry of Energy, given escalating fuel prices worldwide and our understanding of Downstream’s nuclear development program, calculates that should the sale price for our electricity to Downstream exceed 100 cents/kw – yr, Downstream would be able to meet its anticipated unmet demands more cheaply from other sources. Thus 100 cents/kw – ye, is the maximum price that we expect is realistic for Downstream, and it is the price that we should press for.

We can expect Downstream to cite the Rightbank-Leftbank precedent of 50 cents/kw-yr. However, it would be impossible for us to accept that precedent after the strong arguments we have made for tying the price to those alternative sources of electricity. Your counterpart from Downstream is undoubtedly aware that for us to accept that precedent would be regarded here in Upstream as “caving in” to a bigger, more powerful neighbor.

As for flood control, there is no disagreement that 5% of the New Dam’s capacity should be allocated for flood control. But as the Ministry of Finance and Development has stressed, every additional percentage point of capacity allocated to flood control, represents a significant additional financial burden on the economy, in the form of lost foreign currency revenues, and ultimately scaling down our mining, forestry, and settlement plans for the region. Moreover, above the 33% allocation to flood control, the expected lost revenues increase even more

quickly, and become entirely unacceptable, no matter what the price agreed for the electricity sales will be. We are well aware of last year's flooding in Downstream, but the attribution of these problems, to our forestry development, and settlement programs, is mistaken. Our Agricultural Development Service indicates that rainfall was 10% above average last year, and Downstream has in fact been allowing unprotected development of the flood plain, in the expectation that we will end up paying, through a large flood control capacity at the New Dam, for what they should have already done locally in the form of levees, canals, dredging, and pumping facilities.

Attached is the scoring system, you and the other members of the Cabinet prepared for my review. I have studied it carefully, and I now give it my full approval, as a basis for your forthcoming negotiating session. In this format each cell shows the score that should be used to evaluate the potential agreement represented by the electricity price at the top of the cell's column, and the capacity assigned to flood control shown at the left of the cell's row. The higher the score, the better the agreement.

I have discussed the political situation further with my staff. The conclusion is that under no circumstances, would an agreement rating less than 45 points be domestically acceptable.

Given Downstream's expected shortage of electricity over the next decades, and the recent escalation of nuclear power plant costs, we expect that an agreement much better than the 45 – point lower limit can be easily reached. But should Downstream prove less reasonable than we expect, let me again stress that in the final analysis, terminating this session is preferable to an agreement rating less than 45 points.

**UPSTREAM
Electricity Price
(Cents/KwYr)**

	50 cent	55 cent	60 cent	65 cent	70 cent	75 cent	80 cent	85 cent	90 cent	95 cent	100 cent
5%	0	25	50	75	100	125	150	175	200	225	250
6%	-3	22	47	72	97	122	147	172	197	222	247
7%	-6	19	44	69	94	119	144	169	194	219	244
8%	-9	16	41	66	91	116	141	166	191	216	241
9%	-12	13	38	63	88	113	138	163	188	213	238
10%	-15	10	35	60	85	110	135	160	185	210	235
11%	-18	7	32	57	82	107	132	157	182	207	232
12%	-21	4	29	54	79	104	129	154	179	204	229
13%	-24	1	26	51	76	101	126	151	176	201	226
14%	-27	-2	23	48	73	98	123	148	173	198	223
15%	-30	-5	20	45	70	95	120	145	170	195	220
16%	-33	-8	17	42	67	92	117	142	167	192	217
17%	-36	-11	14	39	64	89	114	139	164	189	214
18%	-39	-14	11	36	61	86	111	136	161	186	211
19%	-42	-17	8	33	58	83	108	133	158	183	208

20%	-45	-20	5	30	55	80	105	130	155	180	205
21%	-48	-23	2	27	52	77	102	127	152	177	202
22%	-51	-26	-1	24	49	74	99	124	149	174	199
23%	-54	-29	-4	21	46	71	96	121	146	171	196
24%	-57	-32	-7	18	43	68	93	118	143	168	193
25%	-60	-35	-10	15	40	65	90	115	140	165	190
26%	-63	-38	-13	12	37	62	87	112	137	162	187
27%	-66	-41	-16	9	34	59	84	109	134	159	184
28%	-69	-44	-19	6	31	56	81	106	131	156	181
29%	-72	-47	-22	3	28	53	78	103	128	153	178
30%	-75	-50	-25	0	25	50	75	100	125	150	175
31%	-78	-53	-28	-3	22	47	72	97	122	147	172
32%	-81	-56	-31	-6	19	44	69	94	119	144	169
33%	-84	-59	-34	-9	16	41	66	91	116	141	166

An “efficient” agreement is with 80 cents or 33%.

If you plot a payoff of Downstream amount to payoff of Upstream, and the constraints on each, you can identify the efficiency frontier.

Many agreements are less than efficient – i.e. both parties could benefit from.

Exercise 2: Mighty Mushroom

GENERAL INFORMATION

R. Frederick and S. Thompson are senior negotiators for MegaHealth, Inc. and Drugs R Us respectively. The companies have had some difficult history with one another that has resulted in litigation and a continuing adversarial competitiveness.

Each company has learned about a large supply of a particular mushroom, the Mighty Mushroom, located in a remote area of the Queen Charlotte Islands. The mushroom plantation is owned by Adam MacKenzie, a person that neither company has done business with before.

Both companies know that the other knows about this Mighty Mushroom crop and is interested in it, but neither knows why. Each believes the other company wants the crop, but does not want to “jump the gun” and wind up at the mercy of MacKenzie.

Frederick and Thompson met, quite by accident recently, and agreed to meet again right away to talk about business in general but both know that they really want to see “what the deal is” with the MM and see what they can find out. There may even be something that they could work out with each other in spite of the contentious history between their two companies.

S. Thompson (Confidential Information)

You are the top negotiator for the Drugs R Us, Inc., a very successful Canadian pharmaceutical company, which is very close to a breakthrough on a cure for cancer. The company's researchers have invented a vaccine, which, not only produces an immunity to most forms of cancer, but also eliminates many forms of cancer in those who already have it. Cancer continues to be a leading cause of death worldwide so certainly time is of the essence in producing large enough quantities of this vaccine to handle the ever-increasing need.

The only delay is that the vaccine requires an element contained in the stem of a rare mushroom, known as the *mushroominus mightius* or the Mighty Mushroom, so named because of its potent healing qualities and the fact it grows to a height of over 3 feet. The only known existing supply of this mushroom is on the Queen Charlottes on the land of a wealthy Canadian exporter, Adam MacKenzie. The Haida people have been using this mushroom for hundreds of years for healing all kinds of illness, but it has been only recently that drug company researchers had been testing its effect on cancer.

Your investigations reveal that a highly competitive research company, MegaHealth Inc., is also very interested in acquiring the Mighty Mushroom for a new product they have developed (the nature of this product is unknown to you at this time). You have heard that their top negotiator, R. Frederick, has also located the Queen Charlottes supply and has contacted MacKenzie to inquire about it (as have you). The two companies have a past history of keen competition which has on occasion resulted in law suits between the two of them. The two companies are not very friendly toward each other at the moment and certainly don't trust each other.

You are under a great deal of pressure from Drugs R Us to purchase the entire crop of Mighty Mushrooms in order to obtain the needed stems. You have been authorized to offer MacKenzie as much as \$800,000, and you have been told that MacKenzie is a businessman through and through and will sell to the highest bidder.

You and Frederick (the top negotiator for MegaHealth, Inc.) ran into each other at the airport recently and began talking (casually) about the Mighty Mushroom sharing very little real information and agreed to meet to see what you might be able to work out (or at least find out).

R. Frederick (inside information)

You are the top negotiator for the well-known Canadian research company, MegaHealth, Inc. The company's researchers have invented a synthetic gas that effectively counteracts the chemicals of acid rain which is polluting streams and rivers and killing forests. You know that two U.S. companies have come very close to a similar breakthrough, so there is a great deal of pressure to complete tests on this product and deliver it to anxiously awaiting government officials world wide (very enthusiastic interest having been expressed by the Canadian government).

The only delay is being caused by an insufficient supply of one ingredient, an element contained in the cap (top part) of a species of mushroom known as *mushroominus mightius* or the Mighty Mushroom. It has been so named because of its potency in cures used by the Haida people for hundreds of years and because it grows over 3 feet tall. You have located the only known crop to exist, which is located in the Queen Charlottes on the land of a wealthy Canadian exporter, Adam MacKenzie.

Your investigations reveal that a highly competitive company, Drugs R Us, is also in need of this mushroom for a product they have developed (the nature of which is unknown to you at this

time). This company has assigned its top negotiator, S. Thompson, to get the supply it needs, and you know that he/she has located MacKenzie's crop in the Queen Charlottes. The two companies has a past history of keen competition which has resulted on occasion in law suits between the two companies. In general, the two companies are not exactly friendly.

You are under a great deal of pressure from your company to purchase the entire crop of Mighty Mushroom in order to obtain the needed caps. You have been authorized to bid as high as \$900,000. You have also been told that MacKenzie is a businessman through and through and will sell his crop to the highest bidder.

You recently ran into Thompson (the top Drugs R Us negotiator) at the airport and had a casual chat about the Mighty Mushroom, but each of you shared very little information. You both agreed to meet to see what you might work out (or at least find out).

MIGHTY MUSHROOM OBSERVER SHEET

In the columns designated, take note of the behaviours, both verbal and non-verbal, that both negotiators exhibit which either increased or decreased the disclosure of information by the other negotiator.

BEHAVIOURS THAT INCREASED
INFORMATION-SHARING AND
TRUST-BUILDING

BEHAVIOURS THAT DECREASED
INFORMATION-SHARING AND
TRUST-BUILDING

Caps/Stems	Research	Dollars	Trust (10-1)
(1			
(2			
(3			
(4			
(5			
(6			
(7			

Use this on a newsprint sheet to debrief with the large group determining from observers first and then the negotiators what kinds of behaviours, verbal and non-verbal encouraged or discouraged information sharing and trust building. Be certain that the comments do not get judgemental or evaluative but focus on behaviours only. This exercise is not intended to cause the negotiators to feel deficient but only to raise awareness. This exercise is done very early in the course before very much is known about "interests".

Exercise 3: Negotiation Over Water Between Neighboring Countries

Confidential instructions to representatives of **Country A**

It is year 2001, and you are appointed by the President to represent your country in the negotiations over allocation of water rights in the future period .

Your assignment is to protect current usage of water in the country and to get as much as you can of the Aquifer waters. Annual renewable quantities of water of other resources have been exhausted and, in order to keep the current rate of the industrial and agricultural development of

the country you must assure a significant increase of the rights to the River. There are a number of objectives you should think of while running the negotiations with your counterparts:

a. You have made a personal commitment to the president to get an appropriate deal. It will be hard for you to return home with a bad agreement, while a good agreement will have positive effects on your personal career .

b. Current water consumption in your country is 1700 mcm. This includes 560 mcm of water from the Aquifer. Annual water demand in the close future is estimated to be about 1900 mcm. Annual natural replenishment of water resources is already exhausted, and, in order to assure a safe water supply, the government in your country considers seawater desalination, even though it is very expensive. If you 'give up' a part of the rights to use the Aquifer, the need for desalination will be even greater. It is expected of you to bring home an agreement that will promise your country a need as low as possible for seawater desalination.

c. Two thirds of water consumed in your country is used in agriculture. You are allowed to propose/accept alternative negotiation resolutions according to which, agriculture would use a smaller portion of the total water consumption in your country. The agricultural production could be decreased with an appropriate increase of import of foreign products. This would decrease the quantity of water needed for this sector. However, a decrease in the agriculture could cause problems in your country because of the two following reasons:

Because of the strained relations and a constant risk of war with your neighbors, self-sufficiency in food production is important to your country. Settlements along the borders, based on agriculture, are important for security reasons, too.

Any decrease in agricultural production would cause unemployment and dissatisfaction among the farmers. Because of its political power, any change in the agricultural sector can have impacts on the political scene of the country. In the case of a decrease in the agricultural production, your country would have to invest in infrastructure in industry in order to provide jobs for the unemployed farmers.

Hence, your target is to get a deal that will assure a high level of your country's security, as well as to avoid political and social problems in your country. In any case you must not accept the alternative solution that will give your country less than 60 percent of the aquifer.

d. Because of the security reasons, the Aquifer, as a shared water resource, is not suitable for the supply of City A. The city gets its water from the River, by a quite expensive conveyance system. It would be of a great benefit to your country if the supply of the city were from much closer Aquifer. For that, however, your country needs to be confident that its neighbor will not endanger the urban consumers. You can achieve this only through an agreement that will be to a great satisfaction of country B.

e. There is on going overall peace negotiation in the region, in which the Aquifer issue is considered to be very important. For many reasons, it is of the highest priority to your country to put an end to the hostilities in the region .It will be practically impossible to advance in the overall negotiations if you do not succeed to reach an agreement regarding the Aquifer .

f. Conflict between the two countries is in the center of the attention of the international community who expects the peace negotiations to end up successfully. For the sake of your country's international reputation, you should put all your efforts into reaching the agreement.

However, it will not do your country's international respect and reputation much good if you 'give up' too much of its present share in the Aquifer.

g. You are allowed to discuss (propose or accept) cooperative solutions to the problem (joint infrastructure projects, financing, etc.). You are considered to be of the appropriate knowledge and experience to make such decisions (some of the data presented in Table A may help you). However, you know that the public in your country is highly divided in its opinion regarding any kind of cooperation with country B. Even though there are those who will welcome such solutions, there will also be a lot of disagreements. You should be able to explain and justify the reasons for accepting a cooperative solution. Whether you will try to achieve a cooperative or non-cooperative solution to the problem is left to your personal judgment.

Here is the list of your objectives:

- 1. Reach the agreement**
- 2. Do not endanger your personal career**
- 3. Assure a reliable water supply to your country**
- 4. Assure an efficient (not expensive) water supply**
- 5. Improve the relations with country B**
- 6. Reach an agreement that will assure a higher level of your country's security**
- 7. Avoid agreements that will cause political and social problems in your country**
- 8. Protect international reputation of your country**

The importance of each of these objectives is left to your personal judgment.

How to use and whether to reveal these data during the negotiations or not, will be your personal decision. It can help you build arguments for your claims. On the other hand, it may provide valuable information to your counterpart for achieving his goals. Hence, you should be cautious when selecting your negotiation strategy.

Confidential instructions to representatives of **Country B**

It is year 2001, and you are appointed by the President to represent your country in the negotiations over allocation of water rights in the future period .

Your assignment is to increase the availability of water in the country. Water consumption in your country is currently about 230 mcm. Per capita water consumption is low. You are convinced that the reason is, at least partially, current allocation of the rights to the Aquifer. You have made a personal commitment to the president to get a deal, which will assure your country a larger share of the disputed water resource. There are a number of objectives you should think of while running the negotiations with your counterparts:

a. Your country is currently entitled to use only 20 percent of the Aquifer (120 mcm) while about 80 percent of its recharge area lies within your country. There is no international law that relates the recharge area and the allocation of water rights. However, you are convinced that widely accepted allocation method – allocation according to the right of geography can be used in favor of your country.

b. Annual water demand in your country is about 380 mcm, far beyond current annual availability. In the near future, your country expects an increase in population and, correspondingly, in demand for water. Without an agreement, which will promise your country a larger share of the Aquifer, it will face a serious water shortage, and will have to consider the

expensive seawater desalination. Any agreement that does not promise your country at least 60 percent of the water from the Aquifer is considered bad agreement.

c. There is on going overall peace negotiation in the region, in which the Aquifer issue is considered to be very important. Your country would like to put an end to the hostilities in the region, and your are aware that it will be hard to advance in the overall negotiations if you do not succeed to reach an agreement regarding the Aquifer. However, you prefer no agreement to a bad one.

d. Conflict between the two countries is in the center of the attention of the international community who expects the peace negotiations to end up successfully .International reputation of your country would benefit if you reach an agreement with country A.

e. You are allowed to discuss (propose or accept) cooperative solutions to the problem (joint infrastructure projects, financing, etc.). You are considered to be of the appropriate knowledge and experience to make such decisions (some of the data resented in Table B may help you). However, you know that the public in your country is highly divided in its opinion regarding any kind of cooperation with country B. Even though there are those who will welcome such solutions, there will also be a lot of disagreements. You should be able to explain and justify the reasons for accepting a cooperative solution. Whether you will try to achieve a cooperative or non-cooperative solution to the problem is left to your personal judgment.

Here is the list of your objectives:

- 1. Reach an agreement**
- 2. Increase water supply to your country**
- 3. Do not endanger your personal career**
- 4. Assure an efficient (not expensive) water supply**
- 5. Improve the relations with country A**
- 6. Protect international reputation of your country**

The importance of each of these objectives is left to your personal judgment.

How to use and whether to reveal these data during the negotiations or not, will be your personal decision. It can help you build arguments for your claims. On the other hand, it may provide valuable information to your counterpart for achieving his goals. Hence, you should be cautious when selecting your negotiation strategy.

Exercise 4: Natasha Soprano

CONFIDENTIAL INSTRUCTION FOR NATASHA'S AGENT

You have just become a partner in a firm that manages and acts as agent for celebrities. Natasha Soprano is certainly not a major client, but you want to do a good job with this first assignment as a partner, especially since you have an interest in expending your firm's opera practice. This is the first time you have handled Ms. Soprano's account.

You met Ms. Soprano yesterday. She is an older soprano who still has a good voice, especially for her age. During your discussions with her, you gathered the following information:

She has not had a prime role in more than two years, although she has had a number of secondary roles. Her popularity has been declining. Lyric Opera ,with which Natasha has sung many times over the years, has a production of *Manon Lescaut* scheduled to open in three weeks.

When the names of all the performers in the opera except the title role were announced by the Lyric Opera several weeks ago, Natasha got in touch with the Artistic Director to ask if there was any possibility of that role being open. The title role is generally acknowledged to be a prize for any young soprano. However, Natasha knows the part well and has sung it very successfully many times. Yesterday Natasha was informed by the Lyric that they might be interested in signing her for the *Manon* role. A meeting was scheduled for today at which you, as Natasha's agent, will meet with the Lyric Business manager to discuss the situation.

The Lyric Opera is an established institution in a major metropolitan area. As with most opera companies, it is a non-profit entity that is financed by a combination of ticket sales, foundation and corporate grants, and income from a modest endowment. By and large, it usually breaks even over the course of the year, with fairly good attendance in its 2000 seat hall. Ticket prices range from \$18 to \$55. This production of *Manon Lescaut* is scheduled to run for six weeks, with three performances per week.

Natasha desperately wants this role. It could signal a real comeback, and give her a good chance at an important role in the forthcoming television special on opera. The TV special would pay \$45,000 and would probably lead to many other singing engagements. Natasha was overjoyed at hearing of Lyric's possible interest. Natasha told you that getting the part is what counts; the amount of compensation is of secondary importance. She told you that, frankly, she would be willing to sing the part for nothing, except for reasons of professional pride, reputation, and the potential impact on future engagement, the higher the price-the better.

Natasha's pay over the last two years for secondary roles in operas of this type has ranged from \$10,000 - \$18,000. Four years ago, when she was at the pinnacle of her career and the apex of her profession, she received \$22,000 for performing the title role in *Manon* at the Lyric. Since then, due to inflation and the increased popularity of opera, the amount paid to top opera singers has nearly doubled. Natasha recognizes however, that she is older now and cannot count on sold out performances the way she could then.

Last year the inexperienced young soprano who sang the title role of *Manon* for the Lyric was said to have been paid over \$24,000. The last time Natasha sang for the Lyric was over a year ago, in a secondary role in *Manon*, for which she received \$12,500, and got reasonably good reviews. Although it is difficult to generalize, performers in lead roles in operas of this type are usually paid at least twice the amount received by singers in secondary roles.

One of the Lyric's major concerns is likely to be what kind of attendance Natasha's performances would generate. The Lyric is said to average around an 85% house over the course of the year, but many performances are sold out. On the other hand, a bad house can be financially devastating for the annual budget. That is one reason why you think Natasha has been offered fewer roles recently. While her voice generally remains strong, she has had a few mediocre days now and then, which was not true four years ago. If Natasha's performances generate a 50 or 60% house, this would almost surely be her last leading role. In fact, anything under 80% would probably lead to that result.

Prepare for your meeting with Lyric's Business Manager.

CONFIDENTIAL INSTRUCTION FOR LYRIC OPERA'S BUSINESS MANAGER

You have been with Lyric Opera only three months. So far, things have been going well, but this negotiation with Natasha's agent will be your most important assignment to date. You want to make sure that your boss, the artistic director, is pleased with the outcome.

You met with the artistic Director yesterday, and gathered the following information:

The Lyric Opera is an established institution in a major metropolitan area. As with most opera companies, it is a non-profit entity that is financed by a combination of ticket sales, foundation and corporate grants, and income from a modest endowment. By and large, it usually breaks even over the course of the year, with fairly good attendance in its 2000 seat hall. Tickets prices range from \$18 to \$55, with \$28 a reasonable average for rule of thumb accounting..

A production of *Manon Lescaut* is scheduled to open in three weeks. This production is scheduled to run for six weeks, with three performances per week. The names of all the performers in the opera except the title role were announced by the Lyric Opera several weeks ago. Although it is not widely known, the reason for the omission was that the soprano who had been expected to sing the title role, developed a benign throat tumor that will require surgery prior to the performance date. The Lyric was unable to find any other good soprano who is available for the dates of the performance. The soprano engaged for the secondary role (at a salary of \$14,000) has a good voice, but is relative newcomer to professional opera, and clearly lacks the experience necessary to perform the title role well. The Lyric is obviously in a tight spot. Cancellation of the opera would result in a loss of hundreds of thousand of dollars.

Fortunately, Natasha Soprano, a distinguished, though somewhat aging soprano, called the Artistic Director shortly after the cast announcement, to inquire whether there was any possibility that she might sing the lead. Up to now, The Artistic Director has held her off, hoping to find a younger lead. Unfortunately, that now appears impossible, and the Artistic Director is suddenly quite desperate to sign Natasha. You have scheduled an early appointment with her agent.

Natasha has sung many times for the Lyric Opera over the years, but the last time she sang was more than a year ago, in a secondary role of *Manon* (for which she received \$12,500). Four years ago, when she was at the pinnacle of her career and the apex of her profession, she received \$22,000 for performing the title role in *Manon* at the Lyric. That was regarded extremely high at the time, justified only by the fact that Natasha was at the apex of her career, and had a significant following (which has probably fallen off somewhat since than). On the other hand, over the last four years, inflation and the increased popularity of opera have in general brought about a near doubling of the average salaries of the top opera stars.

The Lyric as a matter of policy, does not generally disclose the compensation of its performers. However, for negotiation purposes you have been given access to the salary figures paid by the Lyric in recent years for the title and secondary roles in *Manon Lescaut*.

	<u>Title Role</u>	<u>Secondary Role</u>
Five years ago	\$ 14,000	\$ 7,000
Four years ago	\$ 22,000	\$ 8,000
Three years ago	\$ 17,500	\$ 9,000
Two years ago	\$ 21,000	\$ 12,500
Last year	\$ 25,000	\$ 12,000
This year	(?)	\$ 14,000

Although particular cases vary widely, as a general rule the Lyric does tend to follow the industry practice of paying performers in lead roles in operas of this type about twice the amount received by singers in secondary roles.

In general, the nonprofit Lyric needs to keep the cost of performances as low as possible. The Lyric's average house over the year is generally 85%. This is also the breakeven point.

Anything less than 80% would cause the Lyric to take a loss of \$50,000 or more, and a house of 50 or 60% while barely conceivable, would be a true disaster.

(These kinds of financials, probably explain why Natasha has had so few offers recently for lead roles. While her voice remains generally fine, most operas are reluctant to risk even a small chance of an off day).

This year the original soprano hired for the title role was to have been paid \$30,000. In view of the emergency situation, and the great desire of the Artistic Director to obtain Natasha Soprano, the Lyric trustees, have authorized you to offer her up to \$45,000 should that be necessary. If she holds out for more than that, the Lyric will just use the young secondary soprano in the title role, and hope that she miraculously rises to the occasion. (you would probably pay her something less than double her salary of \$14,000 for that, certainly no more than \$28,000). You should also bear in mind the potential adverse impact on future negotiations with other performers should an unusually high salary for Sara becomes public knowledge.

The artistic director wants Natasha. Though she is old for the role, the Director believes that with proper makeup and a little luck, Natasha could actually workout extremely well. In any event, there is little alternative. As it is, the late announcement of the title role may adversely affect box office sales.

The Artistic Director is hoping, however, for a favorable public response to the announcement of Natasha in the title role.

Prepare for your meeting with Natasha's agent.

Exercise 4: Oil Pricing

Alba and Batia are two less developed countries. Each produces oil at a cost of less than \$10 per barrel. Their neighboring country, Capita, is a land-locked, highly developed country that consumes a large amount of oil. Capita must buy all its oil from Alba or Batia unless it wants to pay an overland transportation charge of \$25 per barrel.

Alba and Batia are each now selling oil to Capita at a price of \$20 per barrel. So long as they both sell at the same price, each country can expect to retain about half of the Capita oil market. If one sells at a lower price than the other, it will expand its market share and increase its profits at the expense of the other. But neither can put the other permanently out of the oil business by undercutting the other's price on sales to Capita.

You are a member of the oil board of Alba or Batia .Each month for the next eight months you will be asked to set that month's price for your country's oil sales to Capita. Your goal is to maximize your country's profits on oil sales from Capita.

You are entirely indifferent to the oil profits of the other country.

Market research has demonstrated that the monthly profit of your country on oil sales to Capita will depend on the price you set, and on the price set by the other country that sells oil to Capita. However, the possibility of overland delivery of oil from other producers makes it impossible to sell oil to Capita at a price of more than \$30 per barrel.

By agreement with Capita, the price that each country charges must be \$10, \$20, or \$30 per barrel. The profit that Alba and Batia each make on oil sales is indicated in the following chart. The figures inside each box are the profit made during that month.

The figure on the upper left of each box is the profit of Alba in millions of U.S dollars. The figure in the lower right of each box is the profit of Batia in millions of U.S dollars.

PRICE CHARGED BY BATIA

PRICE CHARGED BY ALBA		30\$	20\$	10\$
	30\$	11\$Alba Batia \$11	\$ 2Alba Batia \$18	\$ 2Alba Batia\$ 15
	20\$	\$ 18Alba Batia \$2	\$ 8Alba Batia \$8	\$ 3Alba Batia \$15
10\$	15\$Alba Batia \$2	15 \$Alba Batia \$3	5\$Alba Batia \$5	

Alba and Batia have a history of hostility, and have no diplomatic relations. Each will have to set its price on next month's sale to apita without knowing what price the other is going to charge. Any attempt to confer with the other country would certainly result in your being dismissed from the Oil Pricing Board, and might result in your prosecution for treason.

Profit Ledger

	Cumulative Total Profit		Profit for Month		Price Chosen	
	<u>Batia</u>	<u>Alba</u>	<u>Batia</u>	<u>Alba</u>	<u>Batia</u>	<u>Alba</u>
<u>1</u>						
<u>2</u>						
<u>3</u>						
<u>4</u>						
<u>5</u>						
<u>6</u>						
<u>7</u>						
<u>8</u>						