

# Promoting Water Cooperation

# Alternative dispute resolution

Information brief



## Challenges

Competition among uses and users of water is increasing in almost all countries. It is an inescapable aspect of development. This **competition** for water could increasingly become a source of tension and conflict between states, sectors and communities. Other potential sources for conflict include degrading water quality, inadequate water management and infrastructure development such as dams. While most acute conflicts occur **locally**, they can present challenges to the larger context of (inter)national peace and security.

### Quick facts

In 2030, 47% of the world's population will be living in areas of high water stress (UNESCO-WWAP 2012)

However, water has also proven to be a productive pathway for confidence building, **cooperation and conflict prevention**. Water can even be a key point in negotiating the end of a conflict, even if water did not precipitate it.

Also, cooperation on the search for solutions to resource scarcity and mismanagement can lead to **innovation** and the equitable sharing of costs, benefits and risks.

*(Sources: UNESCO-WWAP 2012, OSU 2011, Shamir 2003, Visscher 2008, World Bank 2012).*

## Alternative dispute resolution

**Alternative Dispute Resolution (ADR)** is a general term, used to define a set of approaches and techniques aimed at resolving disputes in a **non-confrontational** way, such as mediation, negotiation and arbitration.

While legal settlements can produce win-los outcomes that leave one party frustrated, adopting (ADR) mechanisms can lead to mutually-beneficial, **win-win outcomes for long-term gain**. Which approach from the ADR "menu" is most relevant in any given situation depends on the particular circumstances and context of the water conflict.

*(Sources: CAPNet 2008, Shamir 2003, Visscher 2008)*

### Quick fact

Even the most hostile enemies have a capacity for cooperation on water. Most governments recognize that violence over water is seldom a strategically workable or economically viable option. (UNW-DPC 2009)



## Mediation

Mediation as dispute resolution mechanism has become a viable alternative to adjudication and arbitration. It plays an important role in national and international conflicts.

- In a mediation process **an impartial person or persons** facilitates the negotiation between the parties.
- These **mediators** have no direct interest in the conflict and its outcome. They have control over the process, but not over its outcome.
- The aim is to reach a mutually accepted resolution; an agreement by **consent**.
- The parties participate **voluntarily** in the mediation process.
- Mediation aims to restore and **improve the relationships** between the disputing parties.

*(Source: Shamir 2003)*

### Steps in mediation process:

- Clarify the conflict and the main stakeholders
- Create a workable relationship
- Establish the (underlying) interests and views of parties
- Identify options for mutual gain
- Review opposing interests in a reasonable manner
- Weigh and choose potential solutions
- Achieve an implementation mindset

*(Shamir 2003, Visscher 2008)*

### Key elements for successful mediation:

- Separate the people from the problem, to avoid emotions blocking possible solutions.
- Focus on interests not positions; the aim is to meet the legitimate interests of the actors.
- Develop multiple solutions to choose from, searching for options for mutual gain.
- Insist on using objective criteria.

*(Shamir 2003, Visscher 2008)*

## Negotiation

Negotiation is a process in which disputing parties discuss possible outcomes **directly with each other**. Parties exchange proposals and demands, make arguments, and continue the discussion until a solution is reached, or an impasse is declared. *(Source: Shamir 2003)*

'Some of the world's most vociferous enemies have negotiated water agreements or are in the process of doing so, and the institutions they have created often prove to be resilient, even when relations are strained' (Wolf et al 2005).

## Arbitration

In arbitration processes an **external party** (accepted by the parties to the dispute) imposes a decision after hearing the arguments of the parties involved in the conflict. *(Source: Visscher 2008)*



## Applying ADR mechanisms

### Some key techniques

- Consensus building
- Visioning
- Scenario building

### Some key skills

- Communication skills: active listening, talking clearly and precisely
- Understanding and recognizing the points of views, interests of the involved parties
- Objectivity, validating both sides
- Ability to generate trust
- Re-framing positions as interests
- Asking open questions
- Separate the people from the problem

(Sources: Shamir 2003, Visscher 2008)

The Competing for Water research programme investigated local conflict and cooperation in 5 districts in Bolivia, Mali, Nicaragua, Vietnam and Zambia.

In the period 1997-2007 an estimated 3,135 conflictive public water-related events and 2,955 cooperative events took place, highlighting that agreement and conflict resolution between water users can be achieved (DIIS 2010)

### Examples of UN initiatives to support ADR

- The **UNDP Shared Waters Partnership (SWP)** promotes cooperative approaches to shared waters. SWP is a component of UNDP's Transboundary Waters Programme and is implemented by the UNDP Water Governance Facility at SIWI and the UNDP Bratislava Regional Centre.
- The UNESCO-IHP Programme '**From Potential Conflict to Cooperation Potential (PCCP)**' facilitates multi-level and interdisciplinary dialogues in order to foster peace, cooperation and development related to the management of transboundary water resources.
- The **Water Convention's Implementation Committee** was established by Parties to the Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Water Convention) in November 2012. It will render practical case-tailored assistance to prevent water-related disputes. The mechanism is expected to be simple, non-confrontational, non-adversarial, transparent, supportive and cooperative in nature.



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