# A proceedings of a workshop to strengthen CSO negotiation skills and strategies



CSO members, partners and facilitators who participated in the workshop

21-22 February 2019 Esella Country Hotel, Wakiso

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### 1. Introduction and background

Between February 21 and 22, 2019, the Shared Resources, Joint Solutions (SRJS) Uganda partners organised a two-day workshop.

The SRJS partners in Uganda include Africa Institute for Energy Governance (AFIEGO), National Association of Professional Environmentalists (NAPE), Environmental Conservation of Uganda (ECOTRUST) and IUCN Uganda Country Office (IUCN UCO).

The objective of the workshop was to strengthen civil society organisations' (CSOs) negotiations and partnership building skills to influence actors such as government and businesses to secure the International Public Goods (IPGs) of food security, water provisioning, climate change and biodiversity.

The specific objectives of the workshop included:

- Explore negotiation process and strategy choices;
- Introduce Mutual Gains principles and build negotiation skills;
- Apply skills and tools for developing negotiated solutions to SRJS work in the landscapes.

It should be noted that the workshop followed a November 2018 workshop in which the SRJS partners and their CSO allies reviewed the Environmental and Social Impact Assessment (ESIA) report for the Tilenga oil project.

During the November 2018 workshop, CSOs identified the need to strengthen their negotiations and partnership building skills to influence businesses (oil and sugar companies) to conserve biodiversity.

The Negotiations workshop was organised in fulfillment of the above identified need.

It is noteworthy that the SRJS partners are currently implementing activities to equip relevant stakeholders with knowledge and skills to influence the ESIA processes for the Tilenga, Kingfisher and East African Crude Oil Pipeline (EACOP) projects.

The negotiations workshop fit within the above work.

Over 33 CSO members participated in the workshop. They included 23 men and 10 women.

The workshop was facilitated by Mr David Fairman and Ms Michele Ferenz of the Consensus Building Institute from the United States (U.S.).

Below is a documentation of the proceedings of the two-day workshop.

### 2. Proceedings

#### 2.1. Welcome remarks by Mr Dickens Kamugisha

Mr Dickens Kamugisha, the chairperson of the SRJS projgramme Implementing Committee of Uganda (SICU) welcomed participants to the meeting. He introduced Mr Fairman and Ms Ferenz whom he said would facilitate the workshop.

He also introduced Mr Bas Tinhout and Ms Nadine McCormick from IUCN NL and IUCN respectively. Ms McCormick facilitated the CSO Expert meeting that was organised by SRJS partners in November 2018 to review, make comments on and learn from the Tilenga ESIA. The meeting was held at Golf Course Hotel in Kampala.

Mr Kamugisha reminded participants that during the CSO Expert meeting in November 2018, the CSOs at the meeting agreed that they need to continue building their capacity to engage with businesses. He said that the purpose of the negotiations approach workshop was to fulfill that identified gap. He noted that the workshop would help to strengthen CSO capacity to engage with businesses.

Mr Kamugisha reminded participants that review of the EACOP and Kingfisher ESIAs are coming up. He said that the CSOs need negotiation skills to continue influencing ESIA process.

He introduced the types of CSOs that were present at the workshop. He said that some of the CSOs belong to the same coalitions and had collectively and individually engaged government before. He further said that some youth organisations and those that work within communities were present.

He concluded his remarks by noting that the workshop would not have been possible without the support of Mr Henk Simon of IUCN NL.

"IUCN NL supports these meetings and without their support, we would not have been here. We need international consultants but we cannot afford them. It is therefore good that IUCN NL has supported us with funding to have such meetings," Mr Kamugisha said.



Mr Kamugisha while making welcome remarks. He said that the negotiations approach workshop would help CSOs to influence the Tielnga, EACOP and Kingfisher ESIA processes.

#### 2.2. Remarks from IUCN NL by Mr Henk Simons

Mr Simons welcomed participants to the workshop. He noted that IUCN NL has supported CSOs in developing countries for over 20 years.

He briefly discussed the SRJS project saying that since 2016, IUCN NL has been supporting the SRJS programme in Uganda. He highlighted the implementing partners as being AFIEGO, NAPE, ECOTRUST and IUCN UCO.

Mr Simons noted that even when the above are the only implementing partners, there is need to engage other CSOs.

This is because the philosophy underpinning the SRJS programme is that there are competing claims such as oil developments, sugarcane growing and others for shared resources. Joint solutions are therefore needed to secure the IPGs of food security, water provisioning, climate resilience and biodiversity.

Mr Simons noted that building partnerships and CSO capacity to engage government and business was key to securing the IPGs.

"I am very happy that Michele [Ms Ferenz] and David [Mr Fairman] are at hand to build your negotiation skills to help you in lobby and advocacy," Mr Simons said.



Mr Simons made remarks on behalf of IUCN NL. He noted that for the IPGs to be secured, there is need to build partnerships and strengthen CSOs to engage businesses and government.

#### 2.3. About the workshop and laying of ground rules

Mr Fairman took over the workshop thereafter.

He noted that the language of the SRJS programme speaks to what the facilitators wanted to do at the workshop. To meet the SRJS programme goals amidst competing claims, the SRJS partners and their allies need negotiation skills, Mr Fairman said.

He introduced the agenda for day one of the workshop as being:

- Managing the tension between cooperation and competition in any negotiation situation (Win as much Water as you Can)
- The Mutual Gains Approach: A framework for preparing and conducting negotiations
- How to "create value" in a negotiation (development partnership role play)
- Multi-party negotiation and consensus-building (Sustainable Development in Porto Mauro)

Mr Fairman said that on day one, the workshop would take the format of role playing and exercises. Through the two methods of instruction, participants would be equipped with negotiation skills and strategies that they would apply to their work.

He noted that on day two, participants would look at the oil and sugarcane case studies that they are working on and apply negotiations approaches to them.

Mr Fairman briefly introduced the concept of the Mutual Gains principles. He said that use of the principles in negotiations have resulted in success elsewhere and participants were going to be equipped with knowledge on them.

Thereafter, Ms Ferenz outlined the ground rules. They included:

- Mutual respect
- Safe space
- Participation by all
- Timeliness
- Mobiles and laptops preferably off
- Ugandan languages OK in small group discussions

She asked if there was any feedback, questions or objections to the ground rules.

None were raised.



Mr Fairman highlighted the agenda of the workshop.

#### 2.4. Participants' expectations

Mr Fairman asked the participants to pair up and introduce themselves. Participants were asked to answer the following questions after introducing themselves to each other:

- What are you most interested in achieving at this workshop?
- Why is that important to you?

This was done and thereafter, Mr Fairman asked participants from each table to highlight responses that most struck them.

One participant from each of the tables in the room was picked and the following expectations or questions were highlighted:

- i. Our country is nature-dependent as we rely on soil and rain to support agriculture. If we exploit oil, the environment will be degraded, making it hard to survive. We need skills to strengthen advocacy to prevent environmental degradation from oil.
- ii. European and African contexts are different. We need to compare how negotiation skills can be applied in different contexts. We see that Total in France operates smoothly but in Uganda, we have issues with it.
- iii. There are a lot of conflicts in the Albertine Graben because of oil production and sugarcane growing. We need to acquire negotiation skills to resolve conflicts.
- iv. Most people want more skills to negotiate with communities, government and business. But if there is no win-win situation, what can one do next?

Mr Fairman noted that the participants' expectations and the questions they asked were relevant. He committed that they, the facilitators, would check in during the workshop to determine if they were meeting the participants' expectations.

He further said that the facilitators were flexible and where expectations were not being met, participants could ask questions or say so and changes would be made.

He then said that participants were going to play a game on managing tensions between cooperation and competition in any negotiation.

Before the game however, each of the participants introduced themselves.

**2.5.** Learning about managing tensions through the 'Win as much water as you can' game Ms Ferenz introduced the game. She noted that they, the facilitators, had promised that the workshop will be interactive and that was going to start right then.

She said that the participants were going to do an exercise focused around water. She observed that the exercise teases around dynamics that are part of any negotiation. Participants were arranged into groups of four to undertake the exercise.

They were then handed instructions on how to play the 'Win as much Water as you can' game.

Ms Ferenz guided the participants through the game. She noted the following:

• The scenario is that you all live around Lake Mayflower.

- Water levels have gone down due to an ongoing dry spell yet you are all users of the lake.
- After heated negotiations, four primary users of the lake put in place a voluntary agreement to reduce water diversions.
- You are the four people seated around the table and are having negotiations over ten weeks to save the lake.
- If you play your yes card, you make a decision to cut back on your water use from the lake.
- If you play your no card however, you refuse to cut back on your water use.
- What you care about is that you do well. If you are put in a negotiation context, that's what you really care about.
- The more points you score, the better you will be doing. The reverse is true.

Ms Ferenz explained how participants would score based on whether they chose yes or no.

Participants asked questions on how the scores work and when their questions were answered, they started playing the game.





Ms Ferenz (standing) explaining how the 'Win as much water as you can' game would be played and participants during the game. Among others, the game taught participants that everyone wins when stakeholders maximise collective as opposed to individual gains.

# 2.6. Debriefing on the game: Lessons for multi-stakeholder negotiation on natural resources

After the game was concluded, Ms Ferenz asked participants what informed their choices as they played.

- Ms Evelyne Busingye said that during the game, participants at her table looked at the implications of their scoring on the lake and businesses. Between round 1 and 4, they let each other down as they chose to draw water from the lake. During round 5 when the water levels were critically low, the group decided not to draw water from the lake. During round 10, they decided not to draw water from the lake to save one group member who was always scoring yes and his business was losing.
- Mr Kamugisha who always played yes, meaning that he lived by the agreement to not draw water from the lake, said he played that way because he had to save the lake even if his business collapsed. He noted that he reasoned that if the lake's waters increased, he would restart his business.
- Mr Moses Egaru who was from group six noted that like Mr Kamugisha, his objective was to conserve the lake. However, the group had a shrewd businessman who played no all the time, even when the lake was losing. By round 9, Mr Egaru's score was -19.
- He convinced the shrewd businessman to play no. Because the group did not trust the businessman, they asked him to leave his card that said 'no' on the table as opposed to letting him make his decision with the others.
- Mr Enock Nimpamya was the shrewd business man. He noted that he played to win and at one point, he lured others to vote yes, saying that he would play yes too to save the lake. However, he played no to increase his score. However, he was always mindful that at a certain point, he would need to work with his group members to save the lake by playing no, thereby agreeing to not withdraw water from the lake whose waters were declining.
- Because of his trickery, his group mates could not trust him. This is why they made him play no by putting his card on the table before others made their decisions as to whether they would play yes and save the lake or play no and let the lake lose more water.
- Interestingly, Mr Egaru played no during the round when his group members played yes. He said he needed to win points.

The following lessons from the game were highlighted by participants and Ms Ferenz:

- i. Negotiators' interest plays a big role in success or failure of negotiations. If the negotiators have similar interests, the negotiation process will be successful.
- i. Very often, people enter into negotiations as if the various interests cannot be balanced yet interests can be balanced and trade-offs can be made.
- ii. In negotiations, be cautious so that if you are seeking to be fair, you don't end up as a loser.
- iii. Negotiating is not only about talking but sending signals as well. What you do, others will perceive.
- iv. For instance, if you play yes or live by a negotiated agreement all the time while others do not, you get taken for granted. You have to play no sometimes.

- v. Playing no or breaking a negotiated agreement sometimes sends signals to other parties that you also have power that you can use.
- vi. If a party in a negotiation breaks an agreement and creates mistrust, other parties may pay back and hurt your business.
- vii. Business owners who played no all the time and refused to live by the negotiated agreement ended up as losers after the scores were added up. This is despite the fact that they played no to save their business. It is therefore best to seek to create benefits for all stakeholders. That is when everyone wins.



One group during the 'Win as much water as you can' game. A key lesson learned from how this group played was that complying with a negotiated agreement while other stakeholders do not can lead to being taken for granted.

Stakeholders can signal that they too have power therefore by refusing to comply to the agreement so that other stakeholders can take them more seriously.

#### 2.7. Managing the tension: How to influence others to achieve success

Mr Fairman complemented lessons from the above exercise by outlining strategies that negotiators should be guided by when making a decision-making on whether to maximise their own gains by cooperating to create value or competing to claim value.

The strategies included:

- a) Pay attention to the long-term consequences of your actions
- b) Be forthcoming (start positive)
- c) Be provocable (use sanctions if necessary)
- d) Be forgiving (return to cooperation if they do)
- e) Be clear (communicate intentions, seek explicit agreement, avoid ambiguity)
- f) Signaling even in absence of direct communication (but can be ambiguous: I play yes early on to set them up for bonus rounds..)
- g) Don't assume others understand your motives and intentions and see the situation the same way you do: be clear and explicit
- h) Do you secure commitment? If so, how? (examples: put cash on table? Have players play for other parties?)

i) Do you allow for compensation for past losses?

He noted that "single-minded pursuit of self-interest does not pay well in situations of continuing interdependence [but] that a unilateral pledge to say YES regardless gives others no incentives to change conduct".

He also reminded participants to:

- a) Trust;
- b) Make themselves trustworthy;
- c) Be mindful of the role of reputation and weight of past history in negotiations and;
- d) If you start "hard" or break promises, it is very difficult to reestablish trust.

Mr Fairman gave participants the following guidelines for building trust:

- a) Credibility: Keep commitments
- b) Capacity: Ability to provide what stakeholders need
- c) Concern: Having good intentions
- d) Authenticity: It means that a stakeholder meets the above 3Cs.

#### 2.8. The mutual gains approach to negotiation

#### 2.8.1. Defining the negotiation approach

Mr Fairman then took participants through the Mutual Gains Approach to negotiation. He noted that in principle, it is possible for everyone to benefit from negotiation.

He defined negotiation as: the process by which two or more parties with conflicting and compatible interests seek a mutually acceptable exchange to reach a voluntary agreement on a decision or transaction.

Mr Fairman highlighted some of the strategies that a lot of stakeholders including CSOs are using to meet their interests. They included: contestation, advocacy, consensus building, advocacy, dialogue, negotiation, coalition.

He noted that all the above strategies are good. However, some strategies are better suited for attainment of certain goals.

For instance, Mr Fairman noted that in situations where stakeholders do not have the option of say stopping a company from setting up a factory even if this is what they desire, then negotiation would be the best strategy to adopt to meet the various conflicting interests.

However, if stakeholders have the option to say no and can stop a project, then contestation and advocacy would be the best strategies to be employed.

He noted that negotiation is a good strategy to enable building of movements, coalitions, partnerships, initiatives and institutions.

#### 2.8.2. Circle of engagement and stakeholder influence

Mr Fairman then introduced participants to the circle of engagement in negotiations. The circle includes:

- (a) Information sharing: Stakeholders share information with each other. In the Kiiha partnership for instance, you find a lot of information on Kinyara being shared.
- (b) Consultation
- (c) Joint fact finding: Negotiating parties undertake joint fact finding missions. For instance, they could evaluate how significant the degradation from agriculture or oil and gas activities is. Joint fact finding however does not tell negotiators what the solution is.
- (d) Agreement seeking: At this stage, stakeholders agree to agree or agree to disagree.

Mr Fairman further noted that the more interested a stakeholder is, the more they are going to want an agreement.

However, not all stakeholders have the same influence. For instance communities may be interested stakeholders and want to be at the table to negotiate and agree. However, they may not have power to be at the table. They can therefore use their power of saying no and obstruction.

#### 2.8.3. Guidelines for attaining mutual gains through negotiation

Mr Fairman said that in order for mutual gains to be attained through negotiation, the following must be done:

- (i) Prepare effectively
- (ii) Create value
- (iii) Maximise gains for all stakeholders
- (iv)Distribute value: People try to get as much as they can instead of distributing gains
- (v) Follow through; Reaching an agreement is the first step. Acting on them is important
- (vi) Anticipate challenges during negotiations and address them.

He then requested participants to answer the following questions in the four groups that were created for the 'Win as much water as you can' game. The question was:

What are the most important things for you to know in order to prepare effectively?

The following answers were highlighted by participants:

- Interests, objectives and the bottom line of the adversary
- Track record or previous behaviour of adversary in negotiation
- Timing
- Context -what is the situation at hand?
- Strengths and weaknesses of the adversary

Mr Fairman noted that the above are key if a stakeholder is to effectively prepare for a negotiation.

He complemented the above by giving the following guidelines to enable effective preparation:

#### **Interests**

- Clarify your negotiating mandate, role and team
- Know your interests (process and substance)
- Think about their interests

#### **Alternatives**

- Estimate your best alternative
- Improve your alternative (if possible)
- Analyse their alternative

#### **Options**

• Come up with options that could be joint gains

#### **People and relationships**

- Consider their backgrounds, perceptions and behaviors (including culture)
- Think of ways to build trust and relationships

Mr Fairman also called on participants to try to stand in the shoes of the person they are negotiating with.

"You need to know that the person you are negotiating with is not pure evil. I have heard mining executives say how sad they are that even when they try to conserve the environment, improve economics and take care of communities, people think that all they are interested in is taking from communities," Mr Fairman said.

He also noted that participants need to be mindful that while participants may be negotiating with someone who does not have direct power, that person may have powerful allies even when they are not at the table.

Knowing that a stakeholder has powerful allies is important when preparing for negotiations.

One participant asked what stakeholders can do if they are weak or have no power yet they are negotiating with someone who is backed by the state.

Mr Fairman promised to answer that question later.

#### 2.8.4 Principles of negotiation

#### Principle 1: Understand your best alternative to a negotiated agreement (BATNA) and theirs

Mr Fairman defined the best alternative to a negotiated agreement (BATNA) as a stakeholder's plan B.

He asked participants to identify BATNAs based on real life situations they have been in.

- Mr Christopher Opio noted that say the oil refinery-affected people are in negotiations with government. Government wants to compulsorily acquire the people's land and offers them either compensation through cash or relocation. The oil refinery-affected people may say no to both the above and instead propose that government rents their land.
- Mr Robert Byaruhanga noted that Uganda National Roads Authority (UNRA) contracted a Chinese company to construct a road from Hoima to Butiaba in Buliisa. One unscrupulous businessman acquired a stone and sold it to the Chinese company to blast and get gravel for constructing the road. Bunyoro Kingdom objected to the sale, saying that the stone is historical. The Chinese contractor had already paid money however. Bunyoro Kingdom called for negotiations between government, the kingdom and the Chinese contractor.

Mr Fairman said, "Let's imagine that the kingdom says no amount of money will make us give up the stone and government says that you should have known that this is a historical stone. What does the contractor do?

The BATNA for the contractor would be to go to court. Another BATNA would be to acquire gravel from somewhere else and incur extra costs.

The decision on whether to pursue a court case will be determined by factors such as court costs and the amount of time that will be spent in court."

Mr Fairman noted that the court costs and amount of time spent on the case could be high and long respectively. He therefore noted that that would be a bad BATNA.

Going back to the negotiating table for other alternatives would be best therefore.

Mr Simons related the above to advocacy noting that a lobby group may get into negotiations but the negotiations fail. They can then decide to do advocacy. He asked if that was OK.

Mr Fairman said that it was.



Participants during identification of BATNAs from real life situations.

#### He gave the following advice to help stakeholders identify BATNAs:

- (i) Understand how the parties' alternatives are likely to influence their interest in negotiating. It's important to have sense of their BATNA and yours. If their BATNA is good, they are less likely to be open to negotiations.
- (ii) Try to improve your alternative before beginning the negotiation
- (iii)Consider making their alternative less appealing
- (iv)Only agree to a deal that is better than your "Best Alternative to a Negotiated Agreement"
- (v) Be careful about revealing your BATNA to your adversaries
- (vi)Don't threaten negotiating parties
- (vii) However, stakeholders can negotiate while asserting pressure say through protests

#### **Principle 2: Move from positions to interests**

Mr Fairman used the following example to define what a position and interests are. He noted that the Ministry of Public Works wants to build a dam (position) to meet energy demand and maximise economic benefit (interests). However, the ministry also wants to manage water efficiently and manage impacts.

Environmental advocates on the other hand want no dam to be built (position) to avoid ecosystem impact, preserve livelihoods and avoid forced resettlement (interests).

Interests are underlying wants, needs, desires. Positions are what stakeholders want to achieve them.



A screenshot showing what a position is (in red font) and what interest are (in green font)

Mr Fairman advised stakeholders that they need to focus on interests, not positions. He however noted that there are instances where stakeholders can have positions.

He also noted that stakeholders should aim at understanding why others are set on a certain position. This can be done through asking why.

He also noted that participants can ask, "Of all the things we've discussed, which is most important to you?"

Seeking to understand others helps in enabling successful negotiations.



Mr Fairman laid out the principles that guide negotiations. They include: creating BATNAs or a Plan B, emphasizing interests and not positions and creating value for all stakeholders.

They also include using objectivity to avoid impasse and anticipation of challenges.

#### Principle 3: Use options and tradeoffs to create value

Mr Fairman used a graph to demonstrate that stakeholders create maximum value in negotiations if they seek to maximise their and other stakeholders' (adversaries) satisfaction.

He gave the following advice to maximise all stakeholders' satisfaction.

(a) Once we have understood each other's interests:

We can brainstorm to see what's possible.

Key Question: What If...?

What if we tried it this way...? How would that work for you?

(b) Interests, then options:

Explore interests BEFORE you start proposing options

Increases the likelihood that options will effectively meet the key interests of all parties.

Mr Fairman asked participants to identify options to meet the interests Ministry of Public Works and Environmental conservations.

To "meet energy and water management goals with minimum impact, the following options were identified by participants:

- (i) Development of alternative energy such as wind or solar
- (ii) Releasing water for ecosystem protection

Mr Fairman also highlighted some options which included:

- (iii)Construction of 2 smaller dams
- (iv)Negotiated resettlement and livelihoods programme
- (v) Water releases for ecosystem protection
- (vi)Postponement of dam construction

Participants made the following comments after the above presentation.

- Mr Simons noted that options may not always be available at the time of negotiations. However, options may emerge as time goes on.
- Mr Egaru noted that when proposing options, one should not start from a weak point. He said that a stakeholder should start by proposing the option that is best for them.
- Mr Nimpamya noted that negotiations between state and none-state actors will only work in a democracy where the environment is enabling.
- Mr Byrauhanga noted that it is possible for a weak person to force a powerful company to
  negotiate by showing that the company could be better off if it negotiated or worse off if it
  did not.

#### Role of fairness and power play in negotiations: Playing the game, 'Ultimatum'

Participants were paired up and requested to play a game called Ultimatum. One person in the pair received \$10. The person with the \$10 was asked to write down how much they are willing to give their paired partner. The participant without the \$10 was asked to write down how much money they were willing to receive. Discussions between participants were barred during the process of writing down how much they were willing to give or receive.

In the feedback that was received after playing of the game, those who did not receive money said that they wanted to be given \$4-5. Those who received wanted to give \$1-4.

Mr Fairman also played a video, <u>Capuchin monkeys reject unfair pay</u>. In the video, a monkey was given a smaller banana compared to the one that was given to another monkey with which it was caged.

The monkey that was given the smaller banana kept refusing it.

Mr Fairman said, "Ladies and gentlemen, welcome to the world of fairness. Economists would say that the logical number to receive would be zero. The psychologists say that there should be a 50/50 split. The receiver believes that they should not accept zero money.

The person with the money is motivated by the need for fairness to offer their partner without money close to half.

Both the person with money and the one without had power."

Mr Fairman noted that during negotiations, the more powerful person should be able to explain what makes their choice fair. The less powerful one has to assess the fairness of a decision and negotiate for a fair one.

#### Principle 5: Anticipate challenges and follow through challenges during the negotiations

Mr Fairman noted the following:

(a) If we want sustainable agreements... We need to ask: "What might go wrong?" How can you minimise those chances? Incentivize compliance and commitment Identify organizational/resource gaps Seek to build this into your agreement...

(b) Agree on what will happen if it does go wrong... How will you monitor implementation? What do you agree to do if problems occur?

With the above, the discussion on the principles of negotiations came to an end.

Mr Fairman told participants that the principles do not work in a straight line. He said that stakeholders have to be adaptable and flexible. He also said that negotiations cannot be scripted.

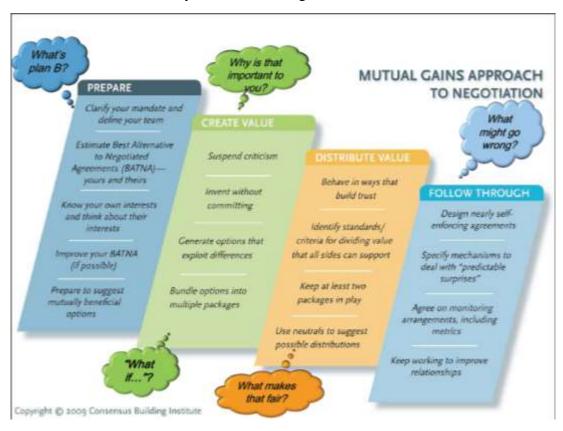
#### He noted that:

- (i) Other parties will have their own ideas about where to go and how to get there
- (ii) Circumstances may change (for better or worse)
- (iii) Your own preferences may shift (a little or a lot)

He opened the floor to discussions by participants.

- Mr Asadhu Sssebyoto highlighted how government had sought to be fair during activities aimed at wetland conservation. He said that for instance, when government restored wetlands and stopped communities from encroaching on them, it built dams to enable farmers get an alternative source of irrigation waters to grow their crops.
- He also noted that government put up fish ponds to replace livelihood sources that were lost when the wetlands were restored.
- Mr Gard Benda expressed reservations about seeking to maximise value for all stakeholders in negotiations. He noted that while one may get a better deal for communities, one may be accused of connivance if the communities perceive the negotiated deal as not being good for them.
- Mr Fairman noted that fairness is subjective and in negotiations therefore, one should choose the best options that are good for both themselves and the adversary. He noted that

if a stakeholder ensures community participation, the community could give the negotiator more alternatives than they could have thought about.



Pictorial presentation of Mutual Gains Approach

#### 2.9. Learning to build consensus through the Porto Mauro case

After participants were equipped with theoretical knowledge on the Mutual Gains Approach, they were given an exercise to practise the lessons learnt.

Ms Ferenz introduced the exercise in which participants looked at the following case:

- Porto Mauro is experiencing local level development conflicts.
- There is land on island being used for agriculture and tourism.
- However, it is about to be sold.
- NaturaTrust and Hotel Mauritz both want to buy the land to develop (or not).
- NaturaTrust wants to remove the current dam which local farmers depend on for their irrigation.
- Computech want to build new office and industrial facility on the east bank of the river.

In three groups of eight people each, participants were asked to come up with a sustainable development solution using the Mutual Gains Approach to negotiation. Each group was expected to review stakeholder interests and explore creative options.

The eight stakeholders included:

• S. Mandel, Governor, Alienta Province (Chair)

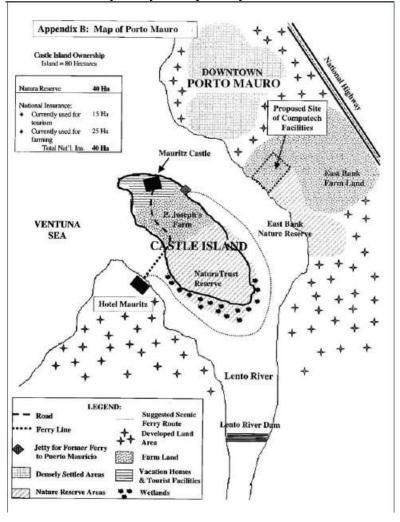
- K. Smit, Regional Head, Ministry of Environment
- M. Sanchez, Mayor, Town of Porto Mauro
- C. Peters, Executive Director, NaturaTrust
- D. Alvarez, Owner, Hotel Mauritz
- T. Vanderbilt, Vice President of Operations, Computech, Inc.
- P. Joseph, Director, Farm Union
- A. Jansen, Director, Citizens for an Open Castle

The CSO participants played the roles of the above stakeholders.

#### They were expected to:

- Seek representation of all affected stakeholders.
- Gain a shared understanding of each other's underlying interests and of the technical, political, social, economic and environmental issues at stake.
- Jointly develop options that are more creative and widely supported than the initial proposals of anyone stakeholder.

• Seek agreements that satisfy everyone's primary interests.



#### A representation of issues for resolution in the Porto Mauro case

Day one was concluded after participants had found solutions that met the interests of all the eight stakeholders.

## DAY 2

#### 2.10. Presentation on Collaborate Green

On Day 2, IUCN NL's Mr Bas Tinhout made a presentation on Collaborate Green, an online platform for SRJS and other partners to exchange information and work on various cases.

He noted that it is optional to join the platform but it might be interesting to work on the space as for instance, one can work on various documents using Collaborate Green.

He showed participants how to use the platform. Collaborate Green allows users to make comments, edit documents and arrange meetings among others.



Mr Tinhout enabled participants to understand how they can use the Collaborate Green platform to share information

Mr Tinhout informed participants that the Tilenga and Kinyara cases that were going to be discussed on the second day of the workshop had already been posted to the platform.

He noted that access to Collaborate Green was restricted but participants would be given access after accounts had been created for them.

Mr Nimpamya asked for clarity on what types of topics are allowed to be posted on the platform.

Mr Tinhout said that IUCN NL thought that it would be useful for working on the Tilenga and Kinyara cases. He noted that the action plans on applying negotiation approaches to the above cases would be posted as well. He further said that updates as regards activities implemented from the action plans could also be shared.

On day two of the Negotiations approach workshop, participants drafted action plans to guide activities aimed at influencing Kinyara and the Tilenga project to secure the IPGs through negotiations. He noted that the action plans would be uploaded to Collaborate Green.

Mr Simons informed participants that since the Collaborate Green platform was introduced, it has been hardly used. He observed that the platform would be useful.

"It is optional but if you can, you can use it," Mr Simons said.

Ms Diana Nabiruma asked if all other SRJS work can be posted to the platform.

Mr Tinhout said it could.

Ms McCormick informed participants that Collaborate Green helps to have information in one place and this information is easily searchable.

"It is difficult to find all the documents in an email. I tried to access the ESIA analysis via email but it was difficult," Ms McCormick said.

#### 2.11. Recap of lessons from day one

After the above discussion, participants reviewed lessons learnt on day one.

Mr Fairman thanked participants for returning for day two of the workshop. He asked participants to discuss amongst themselves and thereafter share one thing from day one that stayed with them.

#### Participants reported the following:

- (i) The strategic change in mind when people were made to act as investors during the Porto Mauro case struck one participant. It made him wonder if the CSO participants would be environmentalists if they were businessmen. Mr Fairman noted that it was good participants were able to forget themselves step into their adversaries' shoes.
- (ii) It is more important to come up with options/alternatives as opposed to positions.
- (iii)Stakeholders need to have BATNAs if negotiations fail.
- (iv) When stakeholders play fair, all win sustainably. When one plays unfairly, the stakeholder wins in the beginning but loses eventually (lesson leant from the *Win as much water as you can* game).
- (v) Stakeholders can negotiate while exerting pressure say through demonstrations. Mr Fairman noted that while doing this, stakeholders need to ensure that they are careful not to send mixed signals which may result in unsuccessful negotiations.

#### 2.12. Discussion on lessons learned from the Porto Mauro exercise

Mr Fairman then led the participants through discussion of lessons learnt from the Porto Mauro exercise. He asked participants whether preparing before helped them to have better negotiations. Participants read through the Porto Mauro case and understood the roles they were to play prior to the exercise.

#### The following was noted:

- Ms Adrine Kirabo said that the preparation meeting helped her to have confidence to better negotiate.
- Ms Diana Nabiruma said that preparation helped her to understand the various interests so
  that could steer the meeting for effective solutions. Ms Nabiruma chaired the meeting of
  Group 2.
- Mr Yoram Banyezanki reported that he switched roles several times during the preparations and learnt that if you know what your adversaries are up to, you can negotiate better.
- Mr Nimpamya, who chaired the meeting for Group 3, noted that because of preparation, he knew the competing interests of the various stakeholders.
- Mr John Ngabirano said that preparation helped in coming up with options.

Ms McCormick noted that while preparation is good, it can only go so far as it is hard to
predict what others will say during negotiations. She said that it is important to improvise
during the negotiations.

#### 2.13. Reflections on from the Porto Mauro exercise

Mr Fairman and Ms Ferenz shared observations they made while the groups went about the Porto Mauro exercise.

Mr Fairman noted that he had observed that participants were interested in understanding why certain stakeholders held the positions they did through asking why. The 'why' question was not asked aggressively.

He also noted that he heard participants asking a number of what-ifs as they came up with options to cater for all stakeholders' interests.

He further observed that group one did a process step and discussed the three objectives they wanted attained. They then looked at all the proposals from the various stakeholders and assessed how they stacked up against the objectives. He said that this was commendable.

Mr Fairman also shared the observations he made as regards group two. He noted that the chairperson of the group framed the main issues, allowed discussion and proposed solutions that she put up for discussion amongst the group. The group members also came up with options and everyone's interests were met.

Ms Ferenz noted that group three created new options which included calling for the conduct of an ESIA to guide decision-making. She noted that the group also created a multi-stakeholder committee to handle uncertainties that would arise.

She advised participants to always focus on factual issues during negotiations and to ensure that they don't resort to options such as seeking more facts to avoid decision-making.

She also noted that stakeholders need to create a hierarchy of important interests to guide decision-making. She called on participants to recognise that they will not get everything they want during negotiations and should be willing to compromise and make an exchange.

Mr Fairman asked the participants to share their reflections on the Porto Mauro exercise.

- Mr Ngabirano noted that he realised that if one is not careful in negotiations, one can be tricked and think they have been given something/have made gains when they have not. He noted that he tricked the farmer who accepted that his interests would be taken care of in next financial year yet as the mayor, he knew that he would not implement the promise.
- Mr Fairman observed that the above teaches that a negotiator should have contingency plans and should not trust too much as they could be tricked.
- He advised that where trust levels are low, a negotiator should ask for commitments from the other negotiating party. He suggested that having a press conference where a commitment will be publicised would help to hold the other party to their commitment.

- Mr Samuel Okulony noted that to ensure that commitments were implemented, conditions
  were put for every decision made. Stakeholders would be monitored to ensure that they
  were meeting the conditions.
- Another participant reported that environmentalists learnt that they should accommodate the ideas of other people so that sustainable development is realised.
- Mr Fairman told participants that they need to be aware that they cannot get everything they want. As such, there is need to prioritise interests so that stakeholders push to realise the interests that are of high priority.
- Mr Sam Mucunguzi noted that the Porto Mauro exercise taught him that government sides with investors so that the environment and farmers lose.

Mr Fairman wrapped up the discussion by noting that stakeholders need to frame the shared goals and discuss whether a particular proposal or option meets the shared goals (joint gain, joint risk).

He also advised participants to keep issues open if stakeholders are stuck for discussion at a later point. He observed that this could allow some stakeholders to rethink their positions while others may come up with options that suit shared goals.

He noted that the game was meant to invite participants to understand that all stakeholders need to work together to find solutions that work for all.

"Everyone at the table had power. We are about to transition to real life where we have a situation where some stakeholders have less power and are not even at the negotiating table. We are going to see how we can negotiate through such situations," Mr Fairman concluded.



Group three members during the Porto Mauro exercise. The exercise enabled participants to learn how to negotiate through using the Mutual Gains approach.

#### 2.14. Stakeholder identification and analysis

After the above discussion, Ms Ferenz led participants through a session on stakeholder identification and analysis.

To prepare for negotiations, she said, there is need to identify stakeholders, their key issues or interests and options to meet these interests.

Ms Ferenz observed that on day two, participants were going to discuss the Tilenga and Kinyara case studies to articulate goals, identify stakeholders and analyse their interests among others.

"We are going to get into goal-oriented analysis to determine whether stakeholders can work with us," Ms Ferenz said.

Participants were split into two groups. One group worked on the Tilenga case while another worked on the Kinyara case.

#### The following key stakeholders and interests were identified for the Tilenga case.

Stakeholder	Interests
Government -Ministry of Energy	Tilenga ESIA interests: -Start oil production; -Speed up oil production through hiding information; -Maximise oil benefits to economy; -Minimise oil production costs through lowering environmental standards; -Undertake stakeholder consultation; -Ensure energy supply.
-NEMA	NEMA's weaknesses: -Bends to political pressure; -Lacks capacity to protect environment from oil threats; -Under-resourced.  Note: Ms Ferenz noted that participants would discuss what can be done if a critical actor is weak.
-Total Uganda	Tilenga project ESIA interests: -Start oil production; -Legitimacy of ESIA report enabled; -Keep costs down; -Minimise reputational risk;

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	-Implement CSR commitments.
	Transparency interests:
	-Maintain good reputation to access capital;
	-Be transparent with government to maintain good
	relations;
	-Avoid transparency with citizens to maintain good
	relations with government.
	Oil production in Murchison Falls National Park
	(MFNP) interests:
	-Produce oil in MFNP as most of Tilenga project oil
	is in the park; therefore, not economically viable not
	to operate in the park;
	-Have technological capacity to operate within the
	park;
	-Reputational risk; -Implement international commitments on
	biodiversity;
	-Respect laws and maintain high standards.
CSOs	Tilongo ESIA intovesta
-WCS (BLAC)	Tilenga ESIA interests: -Decision on Tilenga ESIA respects stakeholder
-Friends of the Earth	views;
-Global Witness	-Compliance with legal standards;
-ActionAid	-Ecological footprint within MFNP avoided or
-Oil Watch Network	minimised;
-Environment and Natural Resources	-Land acquisitions;
Network (ENR)	-Water abstraction;
-Civil Society Coalition on Oil and Gas (CSCO)	-Pollution;
-AFIEGO	-Waste management;
-NAPE	
- Bagungu Community Cultural Association	
-Publish What You Pay	
-Uganda Water Sanitation Network	
Others	
Other government ministries and agencies -Ministry of Lands	
-Ministry of Lands -Petroleum Authority (PAU)	
- Parliament	
-President	
Total Corporate, France	
Cultural kingdoms	
Contain Kingdonis	

The following key stakeholders and interests were identified as regards the Kinyara case.

Stakeholder	Interests
Stakeholder Kinyara Sugar Ltd	Equal benefits for outgrowers/employment conditions: -Recruit outgrowers -Pay outgrowers enough to keep them -Cheap labour  Waste disposal: -Minimise waste disposal in the estate and town council  Community relations: -Minimise fire risks Food security: -Comply to food security laws  Land use conflicts: -Land for expansion  Forest and land protection: -Prevent encroachment on wetlands and forests on their estate  Fire risk management: -Minimise losses from fires
	Water quantity and quality: -Get enough water for production -Have safe water for consumption  Access to justice: -Meet contractors' obligations
	Public image: -CSR
Outgrowers	Equal benefits for outgrowers/employment conditions: -Maximise pay (rise in payment)  Land use conflicts: -Land for expansion
	Fire risk management: -Minimise losses from fires

	Water quantity and quality:
	-Get enough water for production
	-Have safe water for household consumption
	Access to justice:
	-Contracts met
Local brewery	Equal benefits for outgrowers/employment conditions:
	-Poach cane from outgrowers where possible
	Waste disposal:
	-Minimise costs of waste disposal
	-Continued access to molasses from Kinyara
	Wetland protection:
	-Using the wetlands for distribution process
	Water quality management:
	-Avoid legal responsibility
	· · ·
	Access to justice:
	-Fair process for evictions
District local governments (Masindi and Hoima)	Equal benefits for outgrowers/employment conditions: Kinyara Sugar ensures:
	-Equality;
	-Transparency and;
	-Fairness for outgrowers
	-Adherence to national labour regulations and
	enhance revenue
	Waste disposal:
	-Kinyara and local communities adhere to
	national waste management regulations
	Community relations:
	-Minimise conflicts between private sector and
	communities
	Food security:
	-Adherence of outgrowers to the 30% land for
	food production
	Forest and land protection:

	-Expansion should not encroach on wetlands
	and forests
	Fire risk management:
	-District fire policy implemented by all
	and the point imposition of the
	Water quantity and quality:
	-Sufficient water for all and water quality is
	guaranteed
NARC-G	Equal benefits for outgrowers/employment
Wilc-0	conditions:
	Kinyara Sugar ensures:
	-Equality;
	-Transparency and;
	-Fairness for outgrowers.
	-Kinyara improves labour conditions.
	Waste disposal:
	-Kinyara adheres to national waste
	management regulations
	Community relations:
	-Kinyara improves community relations
	Food security:
	-Kinyara enforces policy of 30% of
	outgrowers' land being used for food security
	Land use conflicts:
	-Kinyara stops expansion at the expense of food security and environmental conservation
	Tood security and environmental conservation
	Forest and land protection:
	-Kinyara prevents encroachment on wetlands
	and forests on both their estate and
	outgrowers' land
	-Kinyara adheres to 10% forest policy
	Fire risk management:
	-Fires are prevented by all land users
	·
	Water quantity and quality:

	-Sufficient water for communities, industry and nature -Clean and safe water for consumption
Wetland management Associations	
Forest owners (individual and Communal	
Land Associations -CLAs)	
Catchment Management Committee (CMC)	
GIZ	



Participants during a session in which they identified stakeholders and their interests.

On the left is the Tilenga group and on the right is the Kinyara one.

#### 2.14.1. Developing and discussion on stakeholder influence maps

Following identification of stakeholders, participants re-convened for a session in which Ms Ferenz noted that participants were next going to draw stakeholder influence maps for the Tilenga and Kinyara cases. Adversaries, strong and weak allies were identified.

Ms Ferenz noted that during the analysis on the level of influence stakeholders have, it is important for CSOs to also analyse their strengths and weaknesses.

She explained where to put what stakeholders on the map based on their positions and influence.

In reaction to this, Ms MrCormick pointed out that there might be companies which want be to seen as being pro-transparency but they are not in real life. She asked where such companies should be put on the map.

Ms Ferenz noted that they can be put in the middle because their interests are unclear.

Mr Fairman noted that where a stakeholder's position is unclear, it is up to the negotiator to make a decision on where to place that stakeholder based on the information they have about them.

He then requested the participants break into the Tilenga and Kinyara groups to map the identified stakeholders.

#### 2.14.2. Kinyara stakeholder influence map

- Goal: Hold Kinyara and Outgrowers accountable to protect forests and wetland
- Indicators that the goal is being met: Laws, regulations, minimum standards (Bon Sucro) and agreements with outgrowers are enforced
- The following were the explanations made for positioning of various stakeholders on the map: Kinyara has access to Ministry of Trade which makes the company have high influence
- Kinyara has access to the RDC and can cause trouble; Kinyara therefore has high influence.
- The Hoima district local government is unlikely to be open to negotiations for the adoption of the Bonsucro standards to enable attainment of the Kinyara case goal.
- The Kinyara case group will therefore focus on Masindi district where they hope to demonstrate the advantages of adopting the Bonsucro standards to encourage Hoima to implement them as well.
- The group will also focus on incentivizing Kinyara by committing that if Kinyara cooperate with them, they will deal with brewers who cause fire.

Mr Byaruhanga asked why the actors who burn molasses in the wetlands were not captured. Ms Pauline Nantongo noted that they had been captured under outgrowers.



R: Ms Nantongo during discussion of the Kinyara stakeholder influence map

L: The Kinyara case stakeholder influence map

#### 2.14.3. Tilenga stakeholder influence maps

Participants working on the Tilenga case were sub-divided into three groups. They each drew a stakeholder influence map as captured below.

**Group 1 goal:** No oil activities in key biodiversity areas (MFNP)

The green sticky notes represent CSOs.

The yellow ones represent Total and government institutions.

#### The following roles were identified for the international allies mentioned below:

- IUCN Headquarters can influence Total Corporate, France.
- International Financial Institutions (IFIs) would be targeted for international action
- Global Witness can mobilise international media targeted at Total Corporate, France.
- Green Peace can lobby Total Corporate, France.

#### The following was noted about CSCO:

The CSCO platform, which is composed of 56 members, still has work to do to be strongly united. Their influence would be higher if they were more united.

#### The following was noted about parliament and the general public:

Parliament is a strong and needs to be on our side, and so is the general public.

#### The following was noted about Total:

- Total and government were noted to have strong influence but are adversaries.
- Total Uganda has a relationship with Total Corporate, Ministry of Energy, Petroleum Authority of Uganda (PAU) and the president. The company also has a relationship with NEMA, local media, Uganda Wildlife Authority (UWA) and Ministry of Water and Environment (MWE).

# Following presentation of the stakeholder influence map for the Tilenga group 1, the following questions and observations were asked and made respectively:

- If we push Total E&P (U) out of the country, CNOOC will remain as the main oil company in Uganda. Would we want that to happen?
- Can the president be influenced to become a strong ally?
- Is it realistic to target PAU to say no to oil exploitation in MFNP?
- Academicians were under-estimated yet they can do research to create knowledge on oil impacts.
- The judiciary was not identified as a stakeholder yet Total E&P (U) can be taken to court should negotiations fail.
- Mr Kamugisha noted that currently, Uganda Law Society (ULS) has been silent as regards
  the oil sector and they may not contribute to the goal of preventing oil activities in MFNP
  and key biodiversity areas (KBA).

- Ms Nantongo reacted to the above and observed that it is unlikely that PAU would be convinced to say no to oil in MFNP and other KBAs. She noted that in such a situation, ULS would be useful.
- She further observed that participants need to find solutions that would ensure that if Total stops oil activities in MFNP, CNOOC does not replace them.
- Ms Nantongo called on the Tilenga group to identify a BATNA in case the above goal cannot be achieved.
- Mr David Kureeba noted that previously, NAPE mounted a campaign against limestone
  mining in Queen Elizabeth National Park (QENP) but the organisation failed to stop the
  mining. They went to court but since 2007, they have not gotten any ruling. He noted that
  participants need to focus on mitigation of oil impacts in MFNP as opposed to trying to
  stop oil mining.
- Mr Kamugisha reacted to the above, and noted that there is need to set a high target if meaningful gains are to be attained. He observed that if stakeholders say no to oil activities in MFNP, then maybe oil infrastructure such as Central Processing Facilities (CPFs) will be built outside KBAs.
- Ms Ferenz observed that the discussion being had was good as one of the core purposes of doing an exercise like the one that was done is to help check how realistic set goals are.
   The exercise also helped to check whether stakeholders are committed to a goal or can set a lower one.



L: Mr Simon and Mr Kamugisha explaining the stakeholder influence map for group one

R: The stakeholder influence map for group one

After the above discussion, Ms Ferenz made presentations on the stakeholder influence maps for groups 2 and 3 that also worked on the Tilenga case.

#### The following is the goal, stakeholders and their level of influence as identified by group 2:

- Goal: Ensure enhanced transparency and accountability in Tilenga project
- The media are a high support and high influence stakeholder.
- Donors played a role in pressuring Uganda to join the Extractives Industries Transparency Initiative (EITI) because the Ugandan government relies on them for funding.
- Interests of Total E&P (U) include: minimising reputational risks, complying with international standards and avoiding conflict with the Ugandan government. That's why Total E&P (U) is in the middle.
- In terms of strategy, communities' capacity needs to be built to increase the levels of influence they have.
- Mr Gard Benda complimented the presentation by Ms Ferenz, noting that there are stakeholders such as the World Bank which have high levels of influence but do not want to conflict with government by demanding for transparency.
- He also noted that the Justice, Law and Order Sector (JLOS) brings together over 26 agencies but most of them respond to orders from above or don't want to conflict with government. He noted that during a case against government, the judge would make it a point to leave court when the case was up for hearing. This means that though they may have influence, they cannot be counted on as allies.



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#### The following is the goal, stakeholders and their level of influence as identified by group 3:

- Goal 3: Communities get fair land acquisition and resettlement process
- Total is a high influence stakeholder and an ally.
- CNOOC has no land acquisition issues.
- Mr Kamugisha asked why the group was saying that president's office has low influence.
- The group noted that the placement of the card on the map has no bearing on a stakeholder's level of influence.
- It was also noted that though some MPs are running away from defending the land rights of communities, in some instance, parliament has provided support and could be a high influence ally.



The stakeholder influence map for the Tilenga group 3

#### 3. Conclusion

With the above presentations being done, the workshop was concluded.

In his concluding remarks, Mr Simons noted that the two-day workshop was interesting. However, participants did not finalise what was started. He noted that they therefore need to continue working together to map ways in which they can influence Kinyara and Total E&P (U) to attain the desired goals that are articulated above.

"I am not under the illusion that we can solve all the issues [that need to be solved]. However, you can continue engaging under the CSCO [platform] to attain consensus," Mr Simon said.

Mr Simon also thanked AFIEGO for organising the workshop. He further thanked Ms Ferenz and Mr Fairma for facilitating the workshop.

He noted that IUCN NL will conclude the SRJS programme in 2020 but its intention is to continue supporting Ugandan partners because the oil and sugarcane challenges will not stop in 2020.

On behalf of the SRJS partners, Ms Nantongo thanked participants for attending the workshop. She also thanked IUCN NL and CBI for supporting the workshop.

#### 4. Annex

#### 4.1. Annex 1: Remaining tasks

No.	Task	Responsible person
1.	Sharing a proceedings report of the meeting	Diana Nabiruma (AFIEGO)
2.	Sharing slides via Collaborate Green	-Bas Tinhout to upload slides -AFIEGO to share link
3.	Organise follow-up meeting to finalise action plan for engaging Total and Kinyara	AFIEGO

#### 4.2. Annex 2: List of participants

No.	Name	Sex	Institution & Position	Email and Tel.
1.	Henk Simons	M	IUCN NL Uganda SRJS coordinator	henk.simons@iucn.nl
2.	Dickens Kamugisha	M	AFIEGO	dkamugisha@afiego.org
3.	Nadime McCormick	F	IUCN	Nadime.mccormick@iucn.org
4.	Africa Kilenga	M	Uganda lawyers defenders	africakilenga@gmail.com
5.	Grace Atim	M	Uganda lawyers defenders	Greyc17@yahoo.com

6.	Doris Atwijukire	F	CRED – Programs coordinator	doratwijukire@gmail.com
7.	David Kureeba	M	NAPE	kureebamd@yahoo.com
8.	Rajab Y. Bwengye	M	NAPE – Programs coordinator	rbwengye@yahoo.com
9.	Edward Natamba	M	South Western Institute for Policy & Advocacy (SOWIPA)	eddienatamba@gmail.com
10.	Susan Ninsiima	F	Concern for Environment & Development	susandeshushye256@gmail.comF
11.	Janepher Baitwamasa	F	Navigators of Development Association (NAVODA) Projects officer	bjanepher@gmail.com
12.	Doreen Elima	F	AFIEGO	ddeellmmaa@yahoo.com
13.	Christopher Opio	M	Oil Refinery Residents Association (ORRA)	
14.	Innocent Tumwebaze	M	Oil Refinery Residents Association (ORRA)	innocenttwz@gmail.com
15.	Yoram Banyenzaki	M	Chairperson GDFOG	yorambanyenzaki@gmail.com
16.	Diana Nabiruma	F	AFIEGO – Senior communications Officer	dnabiruma@afiego.org
17.	Asadhu Ssebyoto	M	GPFOG – General secretary	ssebyotoasdhu@yahoo.com 0778283618
18.	Enock Nimpamya	M	ACCC – Director	nimpamyaenock@gmail.com 0783003803
19.	Bas Tinhout	M	IUCN NL	Bas.tinhout@iucn.nl
20.	Micah Asiku	M	CODECA – ED	micahasiku@gmail.com
21.	Robert Byaruhanga	M	Bunyoro Kingdom	byaruhangarobert1@gmail.com
22.	John Ngabirano	M	Pan African Youth Movement Coordinator	ngabiranojohn@gmail.com 0700806557
23.	Sam Mucunguzi	M	CICOA – National Coordinator	samzoo2014@gmail.com 0782562098

24.	Lilian Kempango	F	GIZ – Junior Advisor	Kempangolilian37@gmail.com
25.	Samuel Okulony	M	Projects coordinator AFIEGO	sokulony@afiego.org
26.	Irene Ssekyana	F	Green watch – National coordinator	issekyana@gmail.com irene@greenwatch.org.ug 0788707260
27.	Gard Benda	M	WVU – E.D	benda.worldvoices@gmail.com
28.	Evelyne Busingye	F	Program officer – Water & Biodiversity IUCN	Evelyne.Busingye@iucn.org 0773300265
29.	Moses Egaru	M	IUCN – Senior Programs officer	Moses.egaru@iucn.org 0774275807
30.	Pauline Nantongo	F	ECOTRUST – E.D	pnantongo@ecotrust.or.ug
31.	David Fairman	M	CBI	dfairman@cbi.org
32.	Robert Kugonza	M	FED – Director	kugonzarobert@gmail.com
33.	Kenneth Lukwago	M	Radio one/Producer	anderlukson@gmail.com