



USAID
FROM THE AMERICAN PEOPLE

Boundary Harmonization

A Training Program on Effective
Negotiation Procedures to Delimit,
Demarcate & Resolve Disputes over
Boundaries

Conducted by the

Land Governance Support Activity (LGSA)

Tetra Tech, CDR Associates and Parley

Boundary Harmonization

Harmonizing Boundaries Training Program

- Introductions
- Program
Guidelines/Groundrules and
Expectations
- Agenda Review



Boundary Harmonization

Introduction to Negotiation

- Experiences in Negotiation
- Definition
- Types
- Needs and Interests
- Negotiators' Attitudes
- Positional vs. Interest-Based Procedures



Boundary Harmonization

Negotiation

A relationship establishing and problem-solving process in which two or more people or groups voluntarily discuss their views and differences on one or more issues of importance to them, and reach a joint decision that satisfactorily meets their individual and common needs and interests.



Boundary Harmonization

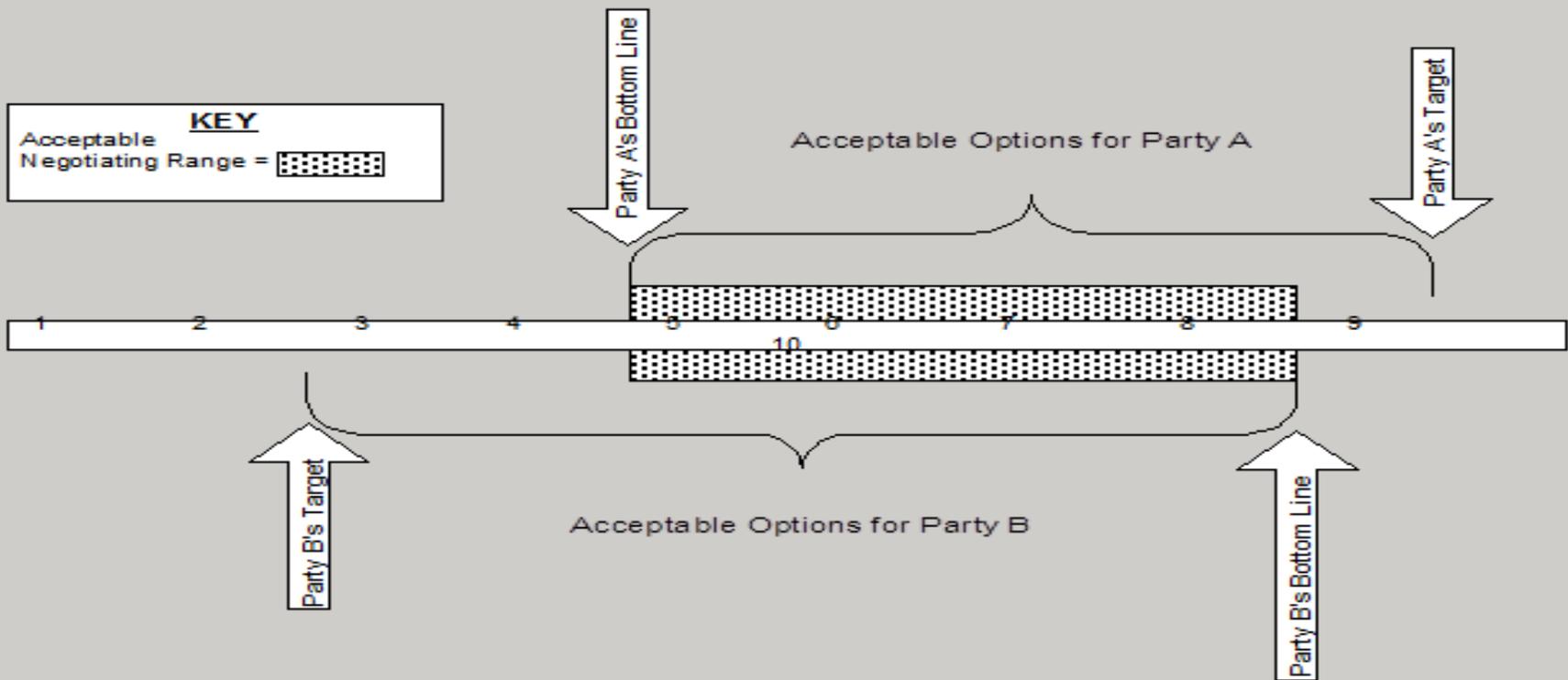
Types and Procedures for Negotiation

Positional Negotiation – A problem-solving process for addressing an issue, solving a problem or resolving a dispute in which negotiators develop and sequentially exchange positions and counter-positions until they happen upon, make adequate concessions or propose a solution that adequately meets their individual and joint interests

Interest-based Negotiation – A problem-solving process in which negotiators establish and build positive working relationships, educate each other about their needs and interests, collaborate to identify or develop multiple potentially acceptable options and ultimately agree on a “win-win” solution that results in individual and joint gains.

Boundary Harmonization

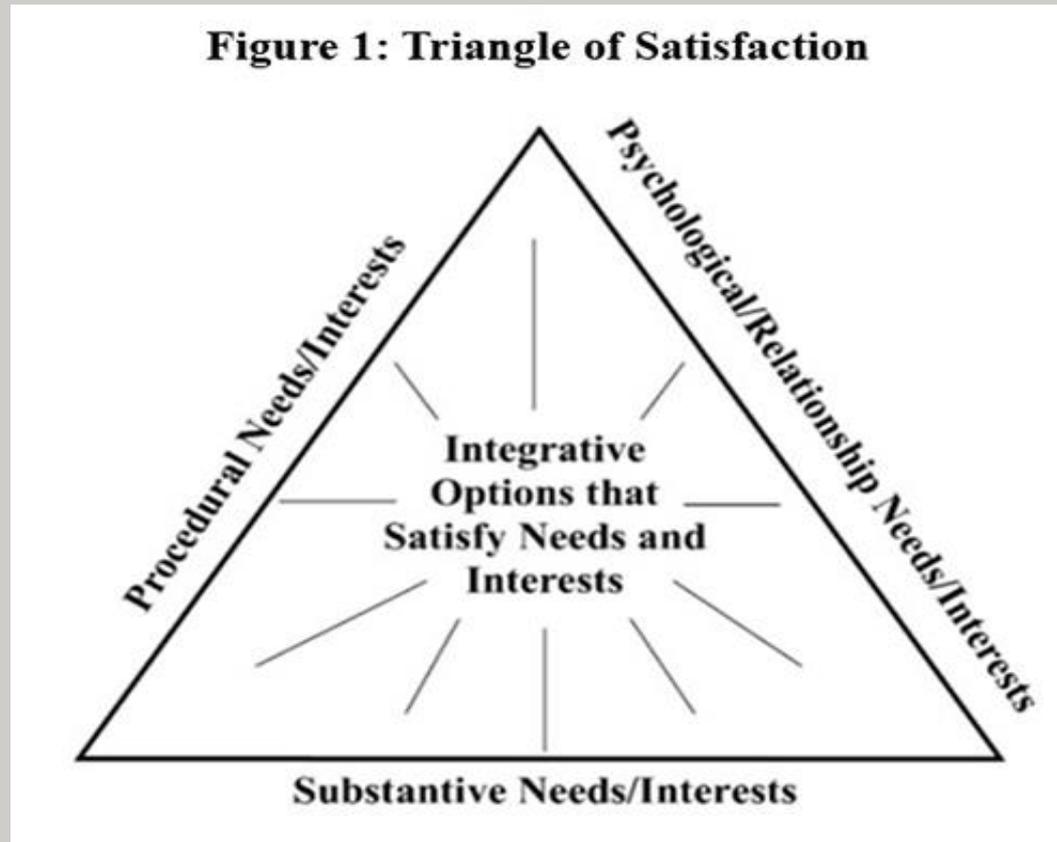
Positional Negotiation



Christopher Moore, *The Mediation Process: Practical Strategies for Resolving Conflict*. San Francisco: Jossey-Bass, 4th ed., 2014.

Boundary Harmonization

Interest-based Negotiation

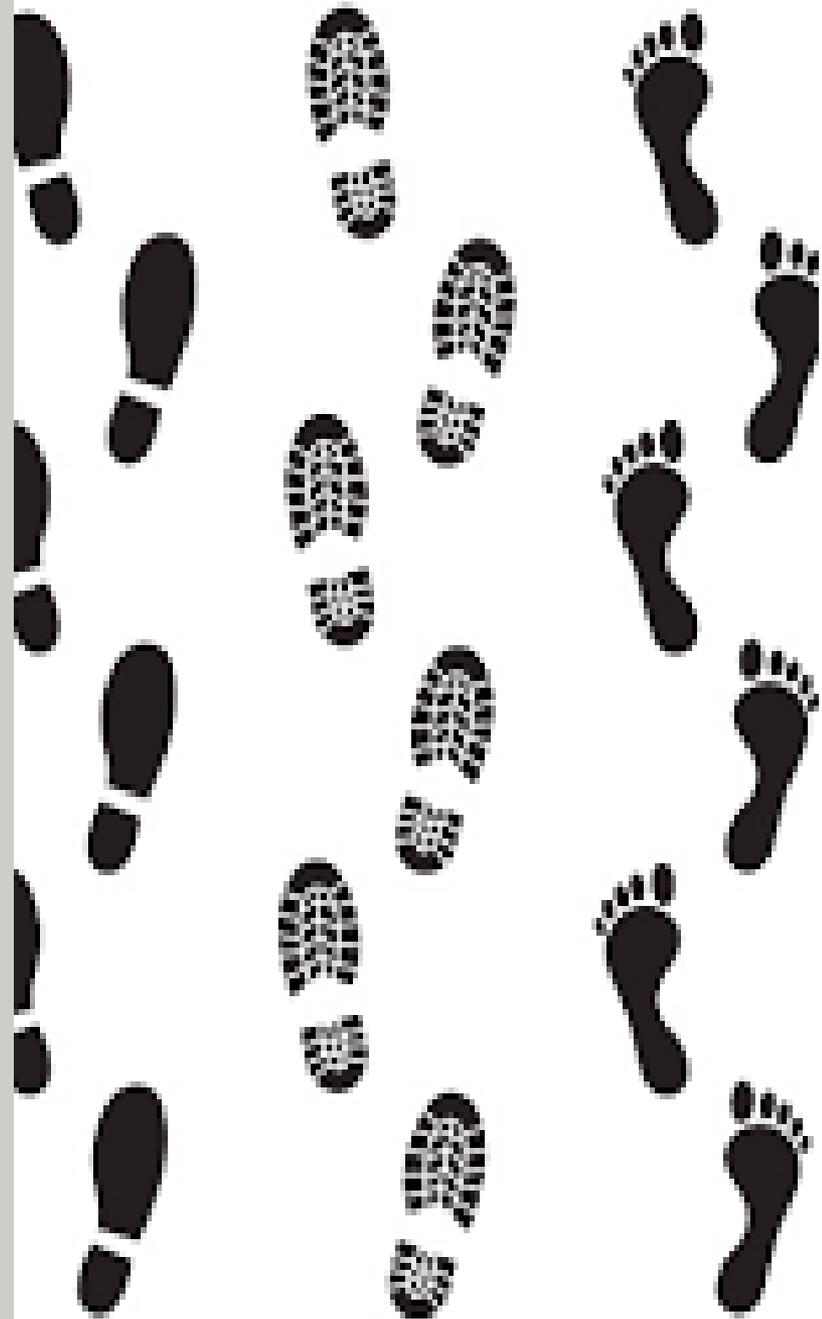


Christopher Moore, *The Mediation Process: Practical Strategies for Resolving Conflict*. San Francisco: Jossey-Bass, 4th ed., 2014.

Boundary Harmonization

Stages and Steps of Negotiation

- Make positive (and not negative) opening statements
- Identify, state and agree on issues (topics to be discussed)
- Educate of all parties about their concerns, needs and interests
- Develop multiple options to address issues, concerns needs and interests
- Evaluate options to see how well they meet concerns, needs and interests
- Modify and refine option(s) to improve satisfaction and select preferred one(s)
- Finalize agreement



Boundary Harmonization

Communication Skills for Negotiators

- Handling history between or among parties
- Responding to strong feelings
- Active listening skills and non-verbal communication
- Understanding interests and framing and reframing issues, needs and interests

Boundary Harmonization

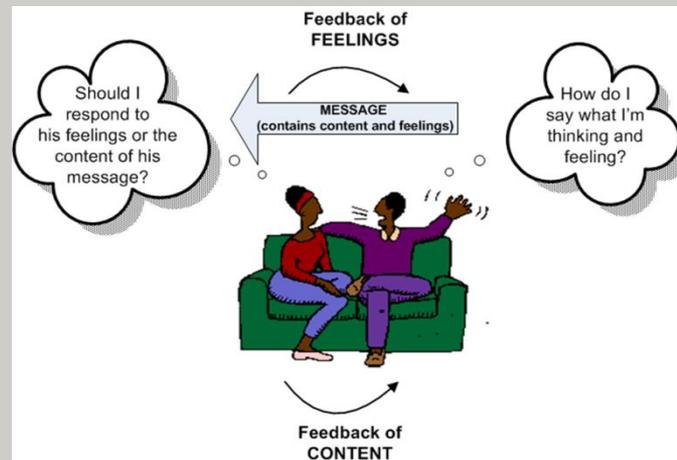
How can we handle history?

- Identifying and building on past positive relationships, connections and history
- Acknowledging past problems
- Owning roles in past problems
- Making apologies
- Compensating people for harm

Boundary Harmonization

Responding to and managing strong Feelings and Active Listening

- What are some ways of handling strong feelings?
- Listening involves attitudes and behaviors. What is good and bad listening?
- Listening and feedback can focus on feelings or content

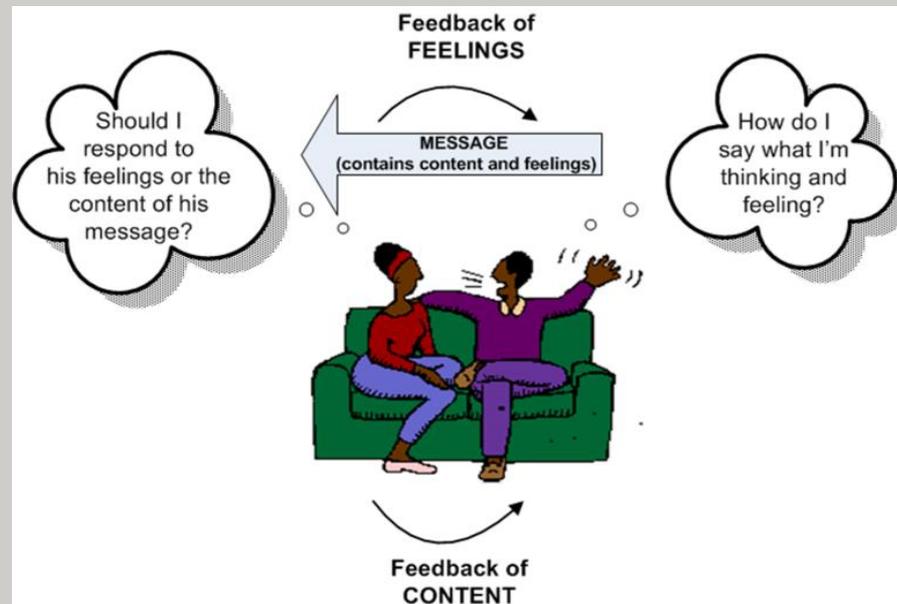


- Active listening – A process of actively listening, acknowledging and restating what has been said and heard

Boundary Harmonization

Model Active Listening Statement to identify Feelings

“You are very upset (emotion) about (event or situation) the loss of your land and feel it was taken and is being held unfairly.”



Boundary Harmonization

Framing and Reframing Issues, Concerns, Needs and Interests

- **Framing** – The way an issue, concern, need or interest is seen, described or stated
- **Reframing** – Re-describing or stating an issue, concern, need or interest in a different way that makes it easier for all parties to understand, accept and engage in productive negotiations

When reframing, it is often helpful to re-describe an issue, problem or conflict in terms of parties' *needs* and *interests*

- **Substantive** – the *content* of what they want
- **Procedural** – the *process* they prefer or want to use to achieve their goals, and
- **Psychological/relationship** – how parties' want to feel about themselves and each other and the relationship they want to have during negotiations and in the future.

Boundary Harmonization

Land and Boundaries: Some definitions

- **Land** - the unmovable portion of the earth's surface – the soil and any space above the soil that is needed for construction and/or use of any building or attachments by the possessor or occupier of the land.
- **A boundary** is a conceptual dividing line, physical barrier or mark between two tracts of land. (Liberia Draft Land Rights Act, Chapter 1: General Provisions: Article 2:Definitions, p. 5.)



Boundary Harmonization

Levels of Detail for Boundaries

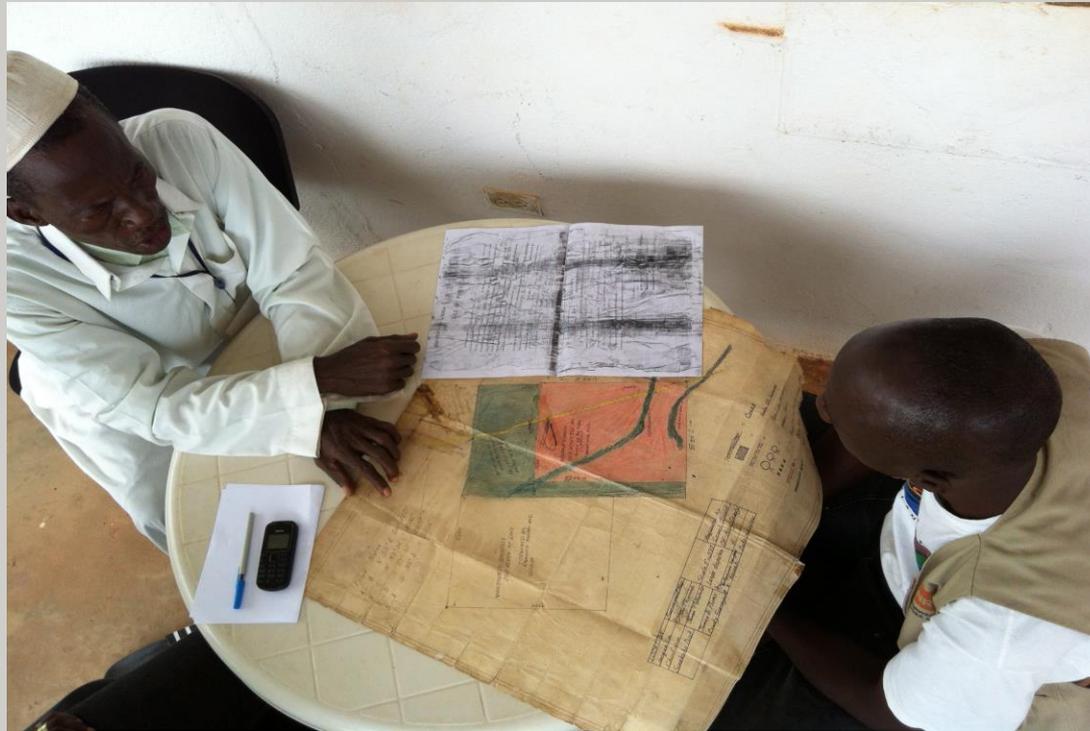
A hard boundary – A natural barrier that limits access between tracts of land, or a formally recognized and clearly marked dividing line between land claimed by two parties and over which each has a high level of authority or control.



A soft boundary – A vaguely recognized or poorly defined dividing line between tracts of land and/or two or more parties. Soft boundaries are not rigid and pose few if any barriers to people crossing and having access to land or resources on either side.

Boundary Harmonization

Why might the establishment of boundaries be important?



Boundary Harmonization

How many kinds of boundaries related to your community can you identify?



Boundary Harmonization

Boundary Harmonization

Boundary harmonization involves intentional and planned activities by concerned parties to share their views and perspectives, identify and confirm common understandings, negotiate solutions to reconcile differences and reach a mutually acceptable settlement on a conceptual or physical dividing line between land claimed by each of them.

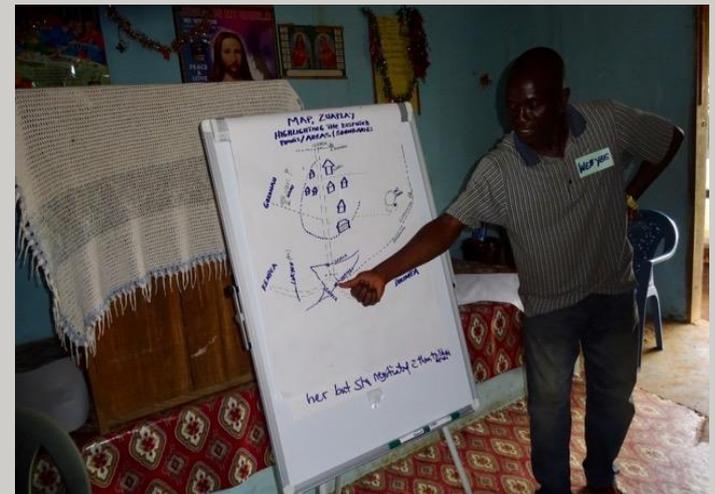
- Boundary harmonization occurs in two contexts:
 - Delimitation and demarcation of land *within* a community or political entity
 - Delimitation and demarcation of boundaries *between* land claimed by two or more communities or political entities



Boundary Harmonization

The Context for Harmonizing Community Boundaries

- **The Land Rights Act (LRA)** and steps for legal recognition of community land
 - Community self-identification
 - Community identification of external boundaries
 - Community establishment of a representative and inclusive governance structure
 - Community registration of land and receipt of a title from the government



Boundary Harmonization

Applying Interest-based Negotiation in the context of Boundary Harmonization

- Organizing your community to identify potential boundaries
- Identifying neighbors and individuals of interest along the boundary
- Identifying key issues, needs and interests for your community and neighbors', and possible disputes related to the future boundary with neighbors
- Identifying possible areas ways that differences could be minimized or settled
- Forming a community boundary harmonization/negotiation team
- Coordinating with the negotiation teams of neighboring communities
- Walking the land



Boundary Harmonization

Identifying and preparing a Boundary Harmonization Team

- Value of a negotiation team
- Qualities and criteria for selecting effective boundary negotiators and teams
- Determining the size of negotiation team and types of members needed
- Team selection and formation
- Team members' roles and responsibilities

Boundary Harmonization

Negotiation Approaches and Strategies for Boundary Harmonization

- Positional negotiation
- Attitudes of positional negotiators
- Procedures used by positional negotiators
- Interest-based negotiation
- Attitudes of interest-based negotiators
- Procedures used by interest-based negotiators

Boundary Harmonization

In-team preparation for Multiparty Negotiation

- Conducting community mapping
- Preliminary walking the land to identify potential boundaries
- Conducting a situation assessment (Issue identification for negotiations)
- Conflict analysis (Identification of potential conflicts, parties, causes, needs and interests, etc.)
- Role assignments of team members
- Strategy development (How to handle boundary negotiations as a whole and to settle specific issues)



Boundary Harmonization

Types of Negotiation Meetings and Participants

- In-team meetings – Among negotiation team members
- Bilateral meetings – Between negotiation teams
- Constituent meetings – Between teams and community members
- Hierarchical meetings – Between teams and community or statutory leaders
- Vested interest and conciliatory meetings – Between team members with a self-interest () or to build mutually beneficial agreements
- Leader-to-leader meetings – Between leaders of negotiation teams or community leaders
- Mixed interest Group meetings – Smaller working group representatives of each negotiation team or community
- Multilateral meetings – Meetings of representatives of communities or multiple community meetings



Boundary Harmonization

Strategies for reaching Agreements on Boundary Issues and Preventing and Resolving Problems

- Set a positive tone during discussions
- Focus on connectors
- Establish and re-build broken relationships
- Respect what parties value
- Generate multiple options that meet as many parties' interests as possible



Boundary Harmonization

Preparation for the Multiparty Negotiation Simulation

- Review information provided in the simulation
- Conduct a situation assessment/ conflict analysis of:
 - The parties – Communities and negotiation teams and members
 - Issues to be addressed
 - All parties' concerns, needs and interests related to issues
 - Possible options to address concerns, needs and interests
 - Strategies to talk about each issue separately or together with others with links and trades



Boundary Harmonization

Promoting Voluntary Compliance with Boundary Agreements and Third-party Assistance to reach Decisions and Resolve Disputes

Promoting Voluntary Compliance

- Community education
- Registering agreements
- Designing and implementing a community dispute resolution process

Resolving Disputes through Third-party Process Assistance

- Facilitated problem-solving
- Mediation
- Customary dispute resolution procedures (a combination of mediation, conciliation/advice and third-party decision making)



Boundary Harmonization

Resolving Disputes by Technical Assistance

- Simple Mobile Technologies and Approaches for Mapping Community Land
- Surveys
- Global Positioning Systems (GPS)



Resolving Disputes through Advice

- Independent neutral evaluation
- Fact-finding



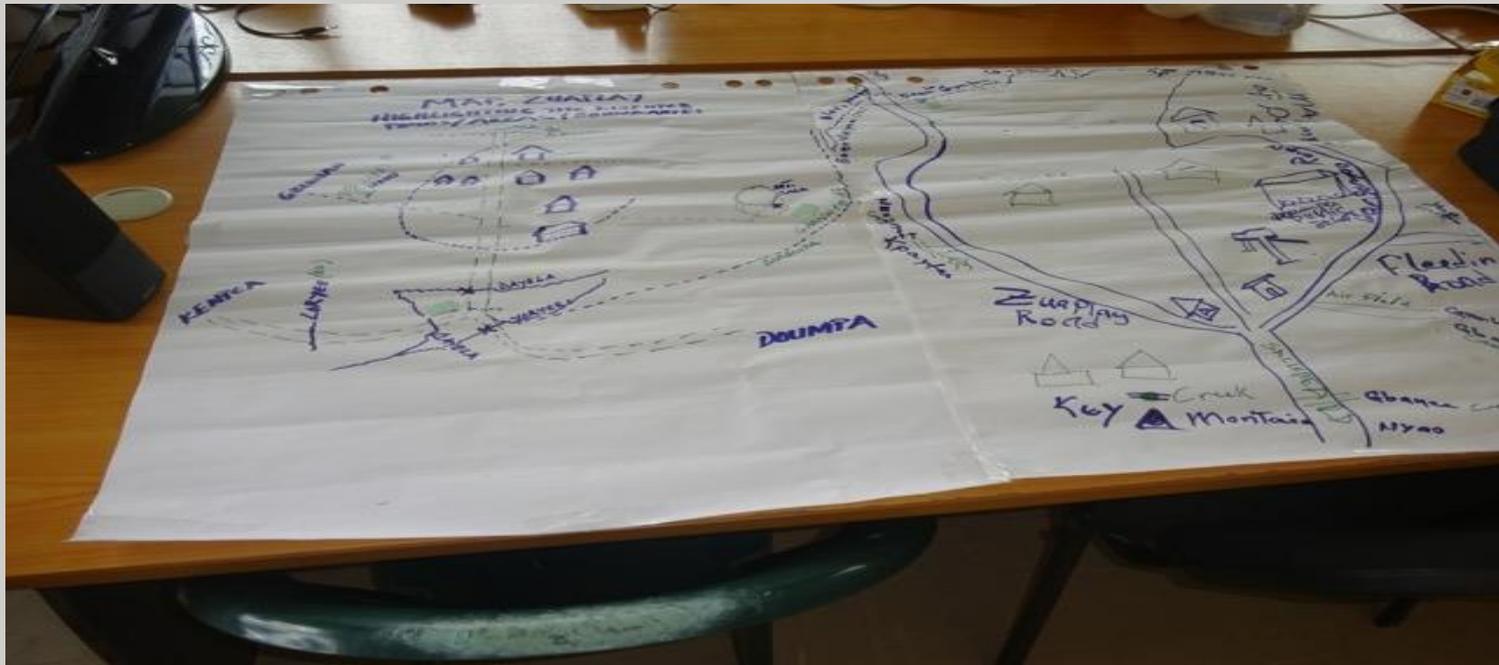
Boundary Harmonization

- ***Resolving Disputes by a Third-party Decision***
- Administrative rulemaking or hearing, and decision-making
- Legislation
- Arbitration
- Litigation and a judicial decision



Boundary Harmonization

- Insight sharing
- Final Q & A, and
- Workshop evaluation
- Closing



Contacts:

Dr. Mark Marquardt, Chief of Party, Tetra Tech LGSA Mark.Marquardt@tetratech.com

Dr. Christopher Moore, Partner, CDR Associates cmoore@mediate.org

Gregory Kitt, Executive Director, Parley gk@parley.org

Nyahn Flomo, Program Coordinator, Parley nf@parley.org



USAID
FROM THE AMERICAN PEOPLE