

MEDIATING ENVIRONMENTAL CONFLICTS

A Practical Manual



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BEING AN ENVIRONMENTAL MEDIATOR

This section will tell you everything you need to know to be a mediator, which is not to say a *good* mediator—that will come with practice. Some people will say that good mediators have a natural talent, and that is true, but you and almost any other person have the same talent: the human talent for talking. All that is needed is for you to access that natural talent, and access it repeatedly. Like the instruction book for a dance class, this manual will teach you the steps. We even include some music to dance to: role-play scenarios of fictitious disputes.

But first things first: we must teach you how to get the mediation underway. This will be the part about making your **Introduction**—and this part will include an overview of everything that will come later. After the introduction, things become more fluid. We will tell you about how to **Approach** the mediation—what your style and attitude should be. Mediations are flexible and dynamic things, and you must be both flexible and dynamic as well. Lastly, we will give you the **Tools** you need to see the mediation through to its conclusion.

The conclusion of your mediation will be one of two things: an IMPASSE; or an AGREEMENT. These are NOT the same as “failure” or “success.” Not all disputes can be mediated to agreement. On the other hand, more disputes can be mediated than most people realize. If you focus on the parties and not the outcome, then the parties will provide you with the outcome that is best suited for their dispute.

The Introduction

You are the mediator, a unique and novel actor in the forum of dispute resolution. Perhaps you are new to your role, but the parties in the dispute that you are going to mediate are probably new to the entire process. Therefore, by telling you how to introduce yourself to the parties, we can introduce you to your new role.

The first thing in mediation is the Mediator's Introduction. The introduction serves many purposes, but the two most important things which it should accomplish are: to tell the parties what they can expect from the mediation; and to tell the parties what the mediation will expect from them.

What they can expect is the "process" of the mediation—the steps you will all be taking on the way to agreement. What is expected of them has two parts: their *role* in the mediation, and the *rules* of in mediation. The best order for presenting this information is as follows:

1) ROLES

Mediator: to make decisions of *process*

Parties: to make decisions of *substance*

2) PROCESS

Perspectives: each party will describe how *he or she* sees the dispute

Private Sessions: (also called caucuses) if necessary, each party will meet privately with the mediator to share sensitive information

Brainstorming: all parties will suggest possible solutions

Agreement: the best possible solution will be chosen and agreed to

3) RULES

Confidentiality: all communication in mediation is protected

Civility: all communication must be designed to avoid offense

More About Roles: It is of primary importance that the parties understand that they are “not in Kansas anymore.” To mix analogies: they have stepped through the looking glass and are in a forum that is the opposite of a courtroom. This point cannot be made to them plainly enough. You as the mediator should state exactly this point to the parties, and then repeat it in different phrasing at least twice more. Mediation is the opposite of the courtroom:

- Instead of conflict, there is cooperation
- Instead of accusation and defense, there is problem sharing
- Instead of strategy and secretiveness, there is information sharing
- Instead of a public record, there is privacy and confidentiality
- Instead of losing control to a judge, they take control themselves
- Instead of waiting for a decision, they end the conflict now.

Describing the roles of the people present is very useful for emphasizing these differences. As mediator, you should contrast your role against the role of a judge. You make decisions about how best to proceed with the communication-the parties have come to you because they are stuck. But you CANNOT make decisions about the substance of the dispute.

More About Process: The process statement creates a roadmap for resolving the dispute, and can be a self-fulfilling prophecy: the parties are in *terra incognita* and they will rely on you as their guide-they are susceptible to your suggestions, so use strong affirmatives like “we *will* brainstorm” and “we *will* reach agreement.”

This is not to say that you should marry yourself to these objectives. Rather, say them without thinking they must necessarily happen. It is essential that you as the mediator should be totally detached from the outcome. If you become committed to achieving settlement, you will compromise your neutrality. This in turn will make any settlement less likely, or unstable.

Focus on the process, not the substance. It really isn't important if you win or lose—it really *is* how you play the game.

More About Rules: The only rule that must be laid out for the parties is the rule concerning confidentiality. This is absolutely essential. Furthermore, it should be made clear that information given in private session is confidential from the other parties, and you as mediator will not share any of that information, unless the party explicitly describes what can be shared.

As to the rule concerning civility, that is best left unsaid if civility already exists among the parties. If tensions are high, it could be useful to strike this tone and assert your authority over the mediation. You as mediator are guardian of the process: you have the power to declare an impasse at any time, and you must use this power to guarantee fair play by all. Another power you have is the caucus: you can call for private sessions, and this is useful for bringing down tensions.

Approach

As a mediator, you should approach disputes with an eye out for two things: 1) any hidden, underlying issues between the parties; and 2) any extensive, continuing relationships between the parties. The presence or absence of these things will determine the style of your mediation:

- If both are **absent**

You should be *pragmatic* and focus on brainstorming creative but practical solutions for whatever superficial issues the parties have brought to the table;

- If either or both are **present**

You should be *sensitive* and focus on uncovering whatever underlying interests the parties have hidden within them, and/or uncovering whatever interests the parties share between them.

Parties to environmental disputes typically come to mediation with both continuing relationships *and* hidden interests. To make things even more complicated, there are usually many more parties to environmental disputes than there are to other kinds of mediated disputes. Your path will be winding, and will cover a lot of ground, so be prepared to exercise great patience and persistence.

The kind of approach you adopt will govern the choices you make between the various tools at your disposal. For example, a “pragmatic” approach would employ Reality-Checking more; whereas a “sensitive” approach would use Active Listening more. These tools are described below.

More About the Pragmatic Approach: This approach is all about no-nonsense solving of material problems. For example: the parties both want ownership of a lake. One wants to use it for fishing. The other wants to use it for swimming. Their only problem is that they can't

communicate their way to an agreement, perhaps to such an extent that they can't even see the possibility of an agreement—even though the solution is obvious to an outsider. Your job as the mediator is to help them see the solution and put it into a tangible form—such as a schedule, or a division of the lake area.

All disputes which end with agreement end with pragmatism, because all agreements must be reduced to a tangible, written form. Details must be worked out. In this sense, the Pragmatic approach is a mandatory stage of the process. The Sensitive approach, by contrast, is discretionary.

More About the Sensitive Approach: Because they came to you, it is safe to assume that the parties are unable to communicate without your help. Therefore, it is almost certain that there is much that they do not know or understand about each other. In fact, there may be much that they don't know or understand about themselves. To come up with an appropriately pragmatic solution, you as the mediator must have all the information. The problem is, the parties will likely be angry and defensive. Penetrating the walls they have built around their positions can be an impossible task. The Sensitive approach aims instead to coax them out from behind their fortifications.

Being "sensitive" here means more than just avoiding hurt feelings—although that's important of course. As the mediator, when approaching a sensitive mediation, you should rely on your *senses*. Principally, you should rely on what you see and what you hear. Both these senses are employed when you use Active Listening, which is described below. Reframing is another tool for gently coaxing recalcitrant parties into agreement, and it is often used in combination with Active Listening.

Tools

The Floor: The first and most important tool in any mediation is the floor. The mediator must control the floor. This is not to say that the mediator must dominate the conversation—in fact, the parties should speak much more often than the mediator. Nevertheless, the mediator should control who accesses the floor, for how long, and under what conditions. You are like a traffic cop directing the right of way, but your job is to say whose turn it is to speak.

Summarizing: This is a “can’t lose” situation for the mediator. If the parties make terrible, offensive statements, that just proves how much they need you, the mediator. You enhance your standing and trustworthiness by their negative comparison, so don’t be afraid of letting them go off a bit at first. You can collect a wealth of factual information this way, and gain insight to the interactive dynamics of the parties’ relationship.

Make sure they have roughly equal time and don’t cross fundamental floor rules, like civility. Your authority over the floor will be firmly established when you skillfully incorporate their seemingly irreconcilable positions into one single, comprehensive and sensitive Summary—which incidentally carefully edits out their positional language. This is your first and best Reframing opportunity: the one-text moment. In some mediations, parties will bring written position statements, and the mediator combines them into one text, which becomes the focus for negotiation and eventually memorializes the agreement. The spoken "perspectives" of the parties, and the mediator's Summary, can perform the same function.

Declaring Impasse: As mediator, you control the process of the mediation, and that gives you the ability to end the process. The main usefulness of this ability is in calling bluffs, such as when a party is threatening to walk out as part of a hard-bargaining strategy. Also, some parties attempt to manipulate the process of mediation to get an advantage over their adversaries—such as by gaining access to special information. Others treat mediation as an opportunity to attack their opponents freely. The Impasse, or the threat of it, can help these situations. In a sense,

the threat of Impasse is a Reality-Check; more on that tool is provided below.

Calling Caucus: Like declaring an Impasse, calling a Caucus is a way for you to assert your control as mediator over the process of the mediation. When things aren't going well, and you believe there's some important information which isn't coming out in joint session, then you should call a Caucus. Personal attacks are a good example, because caucusing gives everyone time to cool off, and you may find out what is behind all the strong emotions. It's amazing what you can discover in private session. One note of caution: don't lose track of time—because while you're talking, the other parties are outside waiting.

Interrupting: Anyone can interrupt, and everyone knows the risks and potential benefits of this conversational tool, but it's worth mentioning here for comparison with the Impasse and the Caucus. Like with those other interruptions, you should exercise caution and respect, but act with authority once you've made up your mind.

Questioning: There are two types of questions, Open and Closed. Open questions are questions like "Why?" They have more than one possible answer. Closed questions have only one possible answer; they get at specific information. Open questions by contrast invite a generalized narrative of information. The best way to use questions in mediation is to "funnel": you begin with a very open question which is nothing more than an invitation to speak; you follow it up with somewhat narrower questions which lead the conversation in the right direction; and then you fill in the gaps with closed questions about missing details. Questions can also be used in the form of Suggestions, Reality-Checks, and in Active Listening.

Suggesting: As mediator, you cannot tell the parties what to do about the substance of their dispute—that is entirely up to them. Sometimes, however, the parties are simply stuck and need a nudge; or perhaps they just can't see a particular option. You can make Suggestions which help these situations, but they should *always* be phrased in the form of a question. For instance: "Would it be possible to create a schedule for using the lake?" This gives the idea to the parties

and allows them to have control over it. Suggestions can also be good Reality-Checks.

Reality-Checking: This is a powerful tool that is useful for challenging troublesome parties. In negotiation, there is a thing called the Best Alternative to Negotiated Agreement—the BATNA. The BATNA of a party is the thing waiting outside the mediation room; it is what they will do if mediation fails. The most common example is that they will go to trial. There are other BATNAs, however, like going to the newspapers and injuring their opponents’ reputations. You can assume that, because they came to you, there may be something that is better than their BATNAs. Sometimes, however, parties will have unrealistic opinions about the value of their BATNAs, or perhaps they’re puffing themselves up to intimidate their adversaries. A good Reality-Check is designed to bring them gently back down to earth. It can be dangerous for the mediator if done improperly, however. To protect your appearance of neutrality, you should phrase your Reality-Checks as questions. Another good option is to Reality-Check in caucus.

Here is a sampling of good Reality-Checking statements:

- *“The door is unlocked, you can leave at any time.”*

This hand-washing statement emphasizes neutrality and calls the bluff of a hard-bargainer. It can also decrease defensiveness by empowering the party.

- *“You can take your chances out there at some future time, or walk out of here right now with an agreement.”*

This is the “bird in hand” Reality-Check: it takes advantage of outcome uncertainty, and the increased costs of delay. You can follow up, for instance, with questions about how much more they would have to spend on attorneys if they went to trial, and what if they didn’t win?

- *“Is it worth it to walk out over X?”*

X being whatever sticking point you are dealing with. This Reality-Check is most useful within a Pragmatic Approach, as you are nearing agreement. You should use it in combination with an incremental negotiation strategy: break the larger issue in dispute into components, then negotiate each component separately. As the parties buy into each sub-component, it becomes increasingly difficult for them to turn around—they become invested in achieving agreement. When the end is near, you can use that fact to keep them at the table and see it through.

Remember: if the Reality-Check involves sensitive information for the party, it should be caucused. For example, a party might not be comfortable talking about his attorney fees in front of the other parties. Or if you see a weakness in their case, you might want to privately ask them: “Have you considered what effect X might have on your chances of winning at trial?”

Active Listening: Active Listening is more than just keeping your ears open. The “Active” part comes in the form of the Reflection Statement. After you listen to what a party has to say, you must reflect back to them what you heard. There are two kinds of Reflection Statements:

- *Content Reflections*

These statements merely put into other words the substance of what the party just said. They are good for the Pragmatic Approach, because they deal with details, and are useful for clarifying ambiguities. For example: “Just to make sure I understand, you said X, Y and Z, correct?”

- *Feeling Reflections*

These statements put into words some unspoken emotion or attitude that was present in

the party's speech. They are good for the Sensitive Approach, because they deal with thoughts or feelings, and are useful for uncovering hidden interests or information. For example: "I hear that you're angry at being brought to court, it can be very upsetting—especially when it's the first time. But may I remind you that we are not in court now. Mediation is a chance to avoid going to court."

The Feeling Reflection example has in its last part a Reframing Statement. These two things go very well together. The Feeling Reflection establishes communication, and the Reframing Statement nudges the party in the correct direction. Active Listening in general helps you as mediator to gain the trust and cooperation of the parties, by showing them that you care about what they are saying, both above and below the surface.

Reframing: This tool represents the gentle art of persuasion. Reframing takes a thing and casts it in a different light, to make it look either more attractive, or more unappealing. Reframing is an editing tool: you can take the statements of the parties, cut out superfluous or irrelevant information, substitute cooperative language for adversarial language, and output a Summary or Reflection which is in all material respects accurate and acceptable. Or you could take a party's puffed-up assessment of his or her BATNA, take out all the puffery, and output an effective Reality-Check.

Of course, you must follow up by asking the party or parties if your Summary or Reflection is accurate, but if you do it right, then they will be buying into your improved version of the situation. Even if they object, that is merely an opportunity for you to gain further, clarifying information—followed by another attempt to summarize or reflect. One word of caution, however: like a magic trick, Reframing is not as effective if it's obvious what you're doing. Try to be subtle.

Conclusion

You should now be able to do three things: 1) provide an effective INTRODUCTION for the mediation; 2) determine the correct APPROACH for the mediation; and 3) know the right TOOLS to use for any given situation.

If you have these three things, then you will have everyone doing their appropriate part, you will be responding appropriately and will not be surprised, and you will be correctly handling situations as they arise.

As you begin your first practice, however, you can be sure that you do NOT have all of these things yet. It will still be strange and unfamiliar, and you will forget parts. Don't be discouraged; keep practicing, and before you know it, you'll be reaching for the right tool at just the right time and in just the right way. You are the mediator, directing traffic in a complicated intersection of interests. You are an authority on effective communication, and with your help, these people *will* come to an understanding.

EXERCISES

Basic Scenarios

Advanced Scenarios

These scenarios refer to a common fact pattern, which is provided below. Each subsequent problem has its own general information, followed by information which should be given separately to each participant in the exercise.

General Background

These conflicts take place in the state of Verde, the most far-flung and sparsely populated frontier state in the Federal Republic of Amarelo. Verde is a small, land-locked state that until as recently as 100 years ago was occupied only by indigenous peoples. It was avoided by the more technologically advanced colonizing peoples because of its remoteness from the ocean, and because of its dense cover of tropical forest. As industry grew, however, the need for rubber drove prospectors deep into the Amarelan forests, where abundant latex resources soon created a rush of development. Colonists used waterways to penetrate the jungle in the absence of roads, and the state of Verde began to take shape as distinct from other areas in the vast Amarelan jungle territory.

The Verdean colonists set up a quasi-feudal system for extracting latex. Under this system, some people were sent deep into the forest where they developed a complex network of trails between rubber trees. The rubbertapping trail system was highly efficient, but almost all financial benefits accrued to the residents of large coastal cities and other trade centers. Amarelo enjoyed a period of world monopoly, but then some rubber tree seeds were smuggled out of the country, and latex plantations cropped up abroad. The bottom fell out of the rubber market, and the residents of the state of Verde were marooned in the jungle. Nevertheless, rubbertapping continues, and these

trails remain as the traditional way of allocating land in Verde.

The Verdean colonists began to develop familiarity with the forest, but then new waves of immigration came. The federal government, trying to relieve social pressures in the overpopulated cities along the coast, built highways into the jungle and subsidized the relocation of landless people. At the same time, another organ of the federal government, the National Territory Council (NTC) undertook programs designed to boost the economy by subsidizing agriculture and ranching in the jungle territories. Large interests came into the state of Verde, buying great tracts of land. Newcomers found little room—in fact, many old-time residents were forced out of their traditional areas. The state capital began to urbanize.

Four lines of division now exist between the Verdean people:

- Urban people, who are mostly impoverished newcomers
- Rural people, former rubbertappers who have adapted to life in the forest
- Indigenous people, who were forced deeper into the jungle and away from major rivers
- Large landowners, mostly ranchers and loggers, who actually reside in the coastal states

Violent confrontations between the rural people and the large landowners have resulted in a social and political stalemate. The rural people are tenacious, and the landowners have been losing motivation, as their investments turn sour. The Verdean soil and climate have proven inhospitable for agricultural industry. There are, however, many valuable species of trees in Verde, and so the landowners maintain their stakes.

Some years ago, the Verdean government intervened in the landowner-rubbertapper conflict, and created the Maria Anna Agro-Extractive Reserve—named after the rural activist who first championed the concept. This Reserve is the local result of a political-economic shift that began at the top level of the federal government. To help the stagnant economy, restrictions on foreign investment were lifted, and international capital began to flow into Amarelo. With waste and

corruption rampant, however, the nation created a new constitution, part of which was expressly designed to protect the greatest resource in Amarelo: its vast tropical rainforest, and a new institution was created: the Public Ministry, a phenomenally independent prosecutorial agency.

The Maria Anna Reserve functions under a Management Plan that determines its organizational structure and limits the kind of activities permitted on the Reserve. The basic organizational units are families, each of which controls a number of trails. Ten or twelve families make a Region, and the various Regions send members to an Association that meets monthly. Residents of the Reserve must make their living by collecting renewable forest resources--principally latex and Amarelo nuts. Also, the Reserve was created under the Natural Patrimony Protection Act (NPPA), which gives the Amarelan Natural Resources Authority (ANRA) oversight of all parks and reserves. The NPPA also defines a series of "environmental crimes" that must be reported by ANRA to the Public Ministry.

Creation of the Reserve required extinguishing the titles of any previous owners, but Verdean history complicated the matter. There are layers of overlapping claims to the land on the Reserve. The NTC granted many and often extensive land titles, without regard to existing titles or uses, and at times without sufficient regard to overlap between NTC titles. When ANRA began the process of condemning titles within the planned Reserve, NTC was reluctant to cooperate.

Conditions in the Verdean capital, Rio Negro, have been worsening. As a result, people who have even rather distant relations to residents in the Reserve have been moving from the city and trying to find room in the forest. They are often unfamiliar with approved uses of the land, and sometimes employ prohibited practices, such as slash-and-burn. Also, other city residents have been using the river that borders the Reserve, for recreational fishing. Some Reserve residents claim to have seen commercial fishermen in the area, with wide nets.

For the original residents of the Reserve, this is a challenging time. They face the need to grow

and improve their lives, without impacting the forest. The government is subsidizing latex production, but even so, their total production of all forest goods is barely sufficient to maintain current living conditions. Some residents have proposed selective harvesting of the more valuable kinds of timber—a very contentious idea.

Problem #1: Timber

General Information

One of the resident families on the Reserve has forced the timber issue, and cut trees. Furthermore, some of their neighbors expressed a desire to sell their land to the neighboring landowner, who for his part has expressed an interest in contracting to assist in tree harvesting throughout the Reserve. None of these activities would be possible without changing the Management Plan for the Reserve. While ANRA has final approval of any changes, the opinion of the residents carries great deference. The President of the Resident's Association has tremendous respect among the other members, but even so, at the last meeting of the Association, discord was so rampant that the meeting adjourned without a resolution.

Residents in the Reserve filed a complaint with the Public Ministry concerning the tree cutting, and a preliminary investigation has been initiated. Hoping to avert a crisis, ANRA has asked the following persons to convene in mediation:

- The head of household for the family which harvested trees
- The President of the Reserve Residents' Association

The principals agreed to mediate, and selected a professor from the local university to act as mediator. The following additional parties have asked to be included:

- The Association Representative for the region where the tree harvesting occurred
- A representative from ANRA
- An agent from NTC
- An attorney representing the neighboring landowner
- A representative from a foreign pharmaceuticals corporation

Private Information

Mr. Josué Castanha

(Female: Ms. Josefina) You are an angry and belligerent person with a drinking problem and too many people depending on you. You have gotten in trouble with the Association before, by using slash-and-burn to clear your farming area, instead of clearing by hand as required. So what if it got away from you and burned a few extra meters? It was an accident! Your spouse died four years ago, leaving you with two kids. You lost your first child some years before, because healthcare at the time was nonexistent. Now you have your niece moving in from Rio Negro with her husband and three children, and you don't know where to put them. They don't know the first thing about life in the forest.

You sat by and listened as the other residents talked about the "sanctity of the forest," trying to remain calm while your family went without, but finally something just snapped, and you cut down two mahogany trees. You sold the timber to a middleman who probably passed it on to the neighboring landowner. He paid you more money than you'd seen all year, and promised more, but you're not willing to discuss that in mediation.

POSITION: You want the freedom to earn a living. BATNA: If you don't get what you want, you will pretend to agree, and then begin cutting trees in areas farther from your house.

INTEREST: You are afraid of the Public Ministry investigation, and want to avoid jail or fines.

Mr. Emilio Rosada

(Female: Ms. Amelia) You can't believe it's come to this, but you're determined not to let this dispute undermine the dream of Maria Anna. You fought alongside her in your people's struggle against the large landowners who were invading Verde, and you vividly remember the day she

died. To you, this Reserve is a temple for her memory.

At the same time, you are keenly aware of the difficulty facing your people in the Reserve. How can they continue to improve their lives, without hurting the forest? You feel you can buy some time, because there are more investments coming from the state to build health posts and schools, but eventually the subsidies will dry up and the Reserve must become self-sufficient. You are filled with good intentions, but you feel divided between your desire to lead your people, and your desire to preserve the forest.

POSITION: No change should be made to the management plan. BATNA: If you don't get an agreement, you will propose the expulsion of Mr. Castanha at the next Association meeting. INTEREST: You want to maintain the forest inviolate, at least within the heart of the Reserve. Any solution which will provide the residents more income without cutting trees, will be acceptable to you.

Mr. Enrique Castanha

(Female: Ms. Rita) You are Josué's cousin, and are among those residents who have expressed an interest in selling out to the neighboring landowner. In fact, your contacts with the landowner are more extensive than you'd like to let on. You allowed a surveyor to enter your land some months ago, and almost fainted when he told you how much the trees there were worth. Furthermore, you know some people in Rio Negro, and you think that with a big enough stake, you could make the move and find work in the city.

As for the families in your region, they seem to be mostly opposed to the idea of harvesting trees in the Reserve. The minority who agree with you, however, are very vocal. You think your cousin's boldness is just the thing to push a change to the Management Plan. The only thing you're afraid of is the Public Ministry. You've heard that someone complained, and that they've already begun a preliminary investigation. The prosecutor in charge of environmental crimes has

a reputation for being aggressive and relentless.

POSITION: The management plan should allow sustainable timber harvesting, and also that residents should be able to sell their land with the Association's permission. BATNA: If there's no agreement, you will accept the landowner's offer and split for the city. INTEREST: You are self-interested, and want only to profit from something, somehow. You're just unsure if the sale of your land would be legal, or if the Public Ministry might get involved.

Dr. Mario Lazuli

(Female: Ms. Maria) You have been working for ANRA only a few months. A change of leadership at the national office led to the firing of your predecessor, and you were selected to move in and change the direction of the agency in Verde. The agenda being set at the national level is to position Amarelo to take the lead as the storehouse for raw material in the developing world biotechnology industry. Your degree is in the life sciences, and you are aware of the push nationwide to train people for this sector, and to draw technology into the country from abroad. You recently completed a course of study at a foreign university that convinced you of the wealth hidden within the Amarelan jungle: its tremendous biodiversity. You are familiar with Mr. Brown and his company, but are uncomfortable discussing that familiarity.

As to the case at hand, you believe this dispute presents an excellent stage for introducing your ideas about bioprospecting. Logging is going the same way as agriculture, ranching and rubber tapping: into the past. The staff at ANRA are very much behind you on this—they all oppose logging in the Reserve, but the arguments of the NTC regarding economic development have been hard to counter in the arena of public opinion. There is great antipathy between the staff at ANRA and the NTC. You believe that NTC is involved with promoting the interests of the neighboring landowner, but are reluctant to make accusations. There's something about NTC which intimidates you. You have great hope and expectations for the Public Ministry, however,

and you hope their investigation could neutralize the influence of the NTC.

POSITION: No change in the management plan, unless for only a short term while other studies proceed. BATNA: If there's no agreement, you will threaten to cut the latex subsidies.

INTEREST: You want to initiate biological studies as soon as possible.

Col. Humberto de Castelo Branco

(Female: Dr. Berta) You are an old man from the old guard, and you are reluctant to let go of the past. You have been the director of the NTC office for the state of Verde since before the rubber tapper rebellions, and you carry the scars of those battles. You cherish the dreams of those days, and still believe that, but for the resistance of the peasant communists, the NTC could have created a Utopia in the jungle.

Informants within the Reserve have told you that the latex collection figures have been inflated. This dispute, coupled with what you consider to be fraud upon the state latex subsidy, could be the break the NTC has been looking for in promoting the interests of developers. The NTC granted the land title for the landowner neighboring the Reserve, and you want to assure that at the least his right to log is protected.

POSITION: The neighboring landowner has rights to land within the Reserve. BATNA: If there's no agreement, you will sue to have the Reserve borders changed. INTEREST: You want to weaken the management plan in some way, either by logging or land sales, so that other large landowners will come to rely on the NTC once more.

Dr. Carlos Honorato Verde

(Female: Dr. Carla) You are a young, local land use and real property attorney, and you've been drafted by a large firm from out of state to represent the interests of Mr. Charles de Azevedo. At

first this seemed like a standard land title dispute, but then you began to uncover some questionable information. It appears that records may have been falsified to give Mr. de Azevedo the title to his land. You feel personally uncomfortable with this, but you're just starting out and you don't feel inclined to be a social activist. Besides, you have been instructed to not pursue that claim in earnest, but rather to use it as leverage in the negotiating of timber harvesting rights on the Reserve.

POSITION: Mr. De Azevedo has rights to a large parcel of land currently within the Reserve. BATNA: If no agreement is reached, you will sue to enforce your client's rights. INTEREST: You were instructed to not pursue land title, but to use the threat as leverage to gain a logging contract within the Reserve.

Mr. William Brown

(Female: Ms. Wilma) You are an ethnobotanist working for the BioPharm Corporation, and you have visited this area before. You have been talking to indigenous people here about their traditional medicines, and discovered information about a plant in the Reserve which may be quite valuable. You are aware of the suspicion which many locals feel for people like you. Some people still remember how seed piracy destroyed the market for rubber and consequently the entire economy for this area as well. A few months ago, the Public Ministry in a neighboring state jailed another ethnobotanist for "biopiracy," a violation of the NPPA. On the other hand, another pharmaceutical company recently signed an agreement for a joint study with a major university in another state. The infrastructure is not as developed in the state of Verde, but you believe that cooperation is the way of the future, and you are eager to establish friendly relations.

POSITION: Logging will disrupt the integrity of the ecosystem; bioprospecting has much greater potential rewards over the long term. BATNA: If there is no agreement, you must obtain a sample of the plant, one way or another. INTEREST: You want to establish yourself in the area to continue long-term studies, gaining an advantage over your competitors through the protection

of the government.