

The Expert Negotiator

The Expert Negotiator

Second Edition

Raymond Saner

Strategy
Tactics
Motivation
Behaviour
Leadership

MARTINUS NIJHOFF PUBLISHERS
LEIDEN/BOSTON

A C.I.P. Catalogue record for this book is available from the Library of Congress.

ISBN 90-04-14303-3 (PB)

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Koninklijke Brill NV incorporates the imprints Brill Academic Publishers, Martinus Nijhoff Publishers and VSP.
<http://www.brill.nl>

Printed on acid-free paper

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About the author

Dr Raymond Saner has 20 years of experience as a trainer and consultant in the fields of globalization, leadership development and international negotiations with multinational companies, governments and international institutions.

He has worked as a consultant to the United Nations and its specialized agencies and other intergovernmental organizations as well as for multinational companies and enterprises in developing and transition economies.

Dr Saner also teaches at the Centre of Economics and Business Administration at the University of Basle, Switzerland, and conducts negotiation seminars for management executives and diplomats in, Beijing, Berne, Bonn/Berlin, Brussels, The Hague, Frankfurt, Geneva, Hong Kong, Jakarta, Kuala Lumpur, Madrid, Manila, New York, Paris, Rome and Taipei. He has published extensively on the topics of international negotiations, human resources development & training, and global leadership.

Dr Saner's academic record includes graduate studies in Switzerland, Germany and the USA. He has lived for many years in France, Germany, the USA, Taiwan, Hong Kong and his native Switzerland and has authored numerous articles, and books, chaired international conferences and served on committees of academic organizations. He is an active member of the Academy of Management, the International Institute of Administrative Sciences and the Society for the Advancement of Socio-economics.

Dr Saner is President and Partner of Organisational Consultants Ltd., a consulting firm specializing in international management, organization development and business diplomacy. He is also a Director of the Centre for Socio-Eco-Nomic Development in Geneva, Switzerland focusing on socio-economic research and reform in the public sector.

Original title: *Verhandlungstechnik*.

Translated into English by Brian Levin for Michel Levin

TRADUCTIONS, Geneva (e-mail: ml-traductions@geneva-link.ch)

Contact addresses:

Dr Raymond Saner

Director

Centre for Socio-Eco-Nomic Development (CSEND)

P.O. Box 1498 Mont Blanc

1211 Geneva 1, Switzerland

Tel: +41-22-906-1720

Fax: +41-22-738-1737

Web: www.csend.org; www.Diplomacy.Dialogue.org

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Foreword to first edition

About this book

Like birth and death, conflict resolution is part and parcel of human existence. We experience inner conflicts, we feel insecure, we agonize over choices, and sometimes we experience a mental block that makes decisions nigh impossible. We see conflicts all around us, between different groups, between social partners, between countries, and within them.

Conflicts demand decisions and actions to resolve them. They can turn into a quarrel, they can even turn into war. Or again, a conflict may evolve towards negotiation and peace. So many possibilities are waiting in the wings. The ambivalence may be such that our negotiations fail, and the underlying conflict erupts into belligerency. Or conversely, the hostilities are followed by exhaustion on both sides, and their only recourse is to grope for a way out of the stalemate to the negotiating table.

Negotiation and conflict belong together like Siamese twins, and the combination of the two is an irrefutable part of our existential reality. Life is unthinkable without conflict. Each moment of balance is followed by a moment of imbalance, just as eating is ineluctably followed by hunger, the drive to go in search of food, to confront the new challenges that always await us out there, in the wider world. Each new imbalance then demands a new solution, and each new challenge offers new possibilities of finding a creative resolution of the conflict that will inevitably succeed it.

To be a human being means to be both capable of resolving conflict and of facing up to confrontations. This book addresses both of these options, but is primarily concerned with the resolution of conflict through negotiation. Hostility and war are sometimes necessary, but redressing the damage they cause is often more difficult and painful still.

So why not continue to negotiate, as long as the interests of both parties to the conflict are assured?

The question this book thus addresses is how we can handle negotiation constructively, through peaceful means and to the benefit of all the parties concerned.

Acknowledgements

This book is the fruit of many years of personal experience with conflict: in some cases I was able to contribute to the achievement of a successful conclusion, at other times I had to swallow defeat. Learning to negotiate is an ongoing, life-long process. The greater the challenge, the stronger the pressure to improve. But like a young plant, all learning needs the right mixture of good soil, fertilizer, sunshine, and space to grow, plus protection from life-threatening adversaries.

Very special thanks must go to my parents and my brother, who introduced me early on to the world of conflicts and encouraged me neither to avoid them nor to refuse to cooperate. To continue this journey on the knife-edge, not to shrink before new challenges, and never to stop learning, none of this would have been possible without the right circumstances. Thus it was extremely valuable for me to have studied sociology in Freiburg in Breisgau (Germany) in 1968 and to have been encouraged by Professors von Hayek and Popitz to reflect on the limits of reason and power.

Another most felicitous circumstance was to have family relations in Alsace and French-speaking Switzerland, for they have given me an opportunity to live and work in these regions: both are subject to inevitable cultural conflicts, and it has been my privilege to help solve some of them. The art of negotiation calls for a certain sense of curiosity to question existing solutions and to enjoy experimenting with new ones. My opportunity to put this into practice came in New York in 1980, where thanks to my colleague Ellen Raider I had the chance to co-train at the first training courses on diplomatic negotiations for UN diplomats. Similarly, as Adjunct Professor with my colleague Thomas Gladwin I was able to deepen my research and teaching of negotiation theory at New York University Graduate School of Business Administration.

A further important step was my subsequent activity as delegate and deputy head of training at the International Committee of the Red Cross in Geneva. The protection of political prisoners from torture and maltreatment required bargaining with counterparts who sometimes had a completely different sense of values from our own. Sometimes the negotiations failed, and I had to learn to swallow my feelings of powerlessness, all the while keeping alive the long-term goal of offering protection to the political prisoners, and waiting for the right moment when a reasonable solution could be achieved.

An excellent opportunity to learn often presents itself when a client is very demanding but also willing to go along with new approaches. It was my good fortune to be able to design the first negotiation courses for the Swiss Federal Office for Foreign Economic Relations in Berne, and then to teach them. State Secretary Blankart's sharp insights into the art of negotiation spurred me on to look beyond the existing American literature and to bring European scholarship into focus.

Much of the content of this book has been discussed and further developed in tandem with my professional colleague, business partner and spouse, Dr Lichia Yiu, without whose creativity, patience and continued support this book would never have seen the light of day.

I am grateful to those of my colleagues for whom negotiation is their bread and butter – Dr Michael Schaefer, former head of the Training Centre at the Foreign Office in Bonn, and Mag. Paul Meerts and Mag. Roul Gans, both with the Clingendael Institute of International Relations in The Hague. The special needs of German and Dutch negotiators, particularly in the field of EU negotiations, continually motivated me to search for new concepts and tools in negotiation training and practice.

Thanks too to Professor Werner Müller of the Centre of Economics and Business Administration at Basle University, where I regularly conduct seminars on negotiation theory and practice. His constructive questioning of American management models was most stimulating, and his emphasis on the ability to cooperate provided a welcome balance to the neo-classical profit-maximizing game theory so dominant in our mainstream universities.

I am equally indebted to Dr Silvio Arioli, former Ambassador of the Swiss Federal Office for Foreign Economic Relations, whose many years of experience in negotiations and his practical and technical knowledge

as an economic diplomat helped me better understand the historical and political complexities of the Swiss-EU negotiations.

This book could never have been produced without the excellent collaboration of Christian F. Buck and Christiane Wolf, whom I got to know and appreciate during my lectures at the University of Basle. As accomplished economists with many years of journalistic experience they well understood how to support me with the writing and editing of the original German edition of this book.

The English edition of my book is a thoroughly revised version of the original German text. A number of chapters have been enlarged in content and improved in style. This improvement would not have been possible without the professional expertise of my translator Brian Levin, who not only translated the text in a technically most competent manner but in addition proposed several improvements to the content and put them into effect.

Without practice, theory cannot progress. I owe a debt of gratitude to the participants of my courses from all over the world, whether they be diplomats or business managers. Without their constant feedback I would never have learnt what I know now.

Foreword to second edition

Several readers have asked me whether I could further develop the multilateral and multi-stakeholder aspect of international negotiations and shed more light on the complexities of today's international world. In particular, requests were made to add to the bilateral focus of the first edition a stronger focus on the multi-actor and multi-institutional realities of many larger conflicts, which need to be negotiated, often by several countries involving more than one institution.

The new edition responds to these requests for more information on the increasingly complex nature of international conflicts and international transactions. Chapter 10 (Interest groups and the public) has been expanded. An additional case example is given which describes the WTO negotiations on liberalisation of educational services. The case examples describes the convergent and divergent interests inside countries, between countries and also between institutions and ends with a chronology of initiatives taken by various interest groups ranging from NGOs to government ministries, country delegations and international organisations.

Chapter 6 (Strategy) has been broadened by the inclusion of a summary reflection on the strategic options and orientations available to negotiators. The goal here was to bring together the concepts developed at the start of the chapter and to show the consequences of the various strategic options.

Chapter 11 (Complex negotiations) takes a further step in describing today's complex negotiations. This chapter has been greatly expanded to include a discussion of the multi-actor reality of international economic negotiations. Actors involved in such negotiations are several namely Economic Diplomats, Commercial Diplomats, Business Diplomats,

Corporate Diplomats, NGO Diplomats and Transnational NGO Diplomats. The various roles are described in detail and examples are given to facilitate understanding of these complex negotiation realities.

The bibliography section is considerably broadened, and has been updated to give the reader ample opportunities for further research and studies in the main fields of negotiation and conflict resolution. May this new edition contribute to the search for negotiated and mutually beneficial solutions to conflicts, an approach preferred by the author in contrast to the bleaker options of war and armed conflict.

1 The theory and practice of negotiation

It all comes down to negotiation

Negotiation is all around us, all the time and at all levels. It makes up an important part of our daily lives, whether business or private. Let's take a simple example: in a marriage partnership, each of the partners needs to bring a willingness to live with both the similarities and the differences of the couple – a situation of constant negotiation. But when we argue with our neighbours about the garden gnome with flashing lights or the cherry tree on the boundary line between the two properties, then there is no negotiation, each wants what he wants and is not willing to make concessions. If one of the parties is intent on having his demands satisfied in full, he puts the other in the position of loser. Often enough, a court has to decide on a matter that could have been easily sorted out over a glass of beer across the garden fence – in a word, with negotiation. I get the cherries, you get the gnome. And business affairs are unthinkable without negotiation: just like before the court, it is less a matter of what we are entitled to, and more of what we can negotiate.

Understanding, not recipes

As with so much else, success in negotiation is often not a matter of chance, but the result of good planning and specialized skills. Some of these are inborn, some are learned. This book will show that two-thirds of skilled negotiation is made up of abilities that can be learned – a statement backed up by long years of experience as negotiation trainer and university lecturer. And yet, how few people are specifically trained in

this everyday task! The present volume is intended as a contribution to rectifying this omission. The approach followed here is to provide a useful, easy-to-follow guide, without sacrificing scientific accuracy. The majority of books on negotiating skills may be divided into two types. The first deals exclusively with the academic aspects of the subject, the second offers a wealth of over-simplified tips on successful bargaining in every imaginable situation. This latter type of book is particularly common at airport news-stands – a pocket-sized traveller's guide for the flight to Tokyo, for example, with a title such as *Making Deals with the Japanese*. Both types of publication are unsatisfying – the first is of no practical help, the other has no system. Nor is it advisable to try to mix the two types of publication, for such a compromise would not do justice to either the academic or the practitioner – and certainly not to the manager with some experience of the subject, who expects such a book to meet the demands both of accuracy and usefulness. So in accordance with the outline of the content just given, we need to combine the strengths of the two approaches, rather than evaluate their respective pros and cons. We shall therefore divide up the multifarious aspects of negotiating practice and study them in such a way that the general laws and principles gradually become evident.

The aim of this approach is to reveal the essence of negotiation through the experience of both the author and the reader. In so doing, emphasis will be laid on understanding the processes involved in negotiation. Such basic ground rules are of far greater practical value than a mere collection of recipes with no discussion of the underlying theory. Similarly, the most comprehensive treatment of the theory without reference to its application in practice would be only half the story. Wherever appropriate, the text is therefore supplemented by a series of illustrative examples and case studies. Some of these may appear simple and obvious at first sight, but a closer look will reveal completely new connections between the various elements involved. So let us start with a simple question.

What is negotiation?

Of course we all have our own idea of what negotiation is. But do we really know? Such a wide-ranging concept as negotiation is certainly no easy

matter to define. No single definition can possibly do justice to all of its aspects, for it would necessarily be either incomplete or too general. We have all been involved in various forms of bargaining at some point in our lives, and if you are reading this book, this is probably truer for you than for most. And because almost everything can be negotiated, everyone has a different idea of what it what the term means. Nevertheless, each definition will have important aspects in common, and these will serve well as a starting point for this book. So here is our suggested definition:

Definition

Negotiation is a process whereby two or more parties seek an agreement to establish what each shall give or take, or perform and receive in a transaction between them.

Important points of this definition are:

- two or more parties
- convergent and divergent interests
- voluntary relationship
- distribution or exchange of tangible or intangible resources
- sequential, dynamic process
- incomplete information
- alterable values and positions as affected by persuasion and influence.

All these qualities and their significance for negotiation practice will be dealt with in detail in the chapters that follow, and it is not necessary to go into them further at this point. A large number of researchers and practitioners have contributed to the modern understanding of negotiations (see Table 1-2 on page 20). From the above clarification of terms we can recognize how many possible approaches are available to us. If we take the premise that a better understanding will help change our attitude to negotiation and – with practice – to perfect our behaviour, then this definition is an excellent starting point. But before we get into practical details, a brief look at the history of negotiating seems very useful. However much may have changed over the years and centuries, an amazingly large number of basic insights still have relevance today. Many of

these insights go back to the great early strategic thinkers of the military and diplomatic worlds, who have also left us a wealth of documentation.

Negotiation in Attica

Sadly, we know very little about how the highly developed cultures beyond the confines of Europe and North America dealt with conflicts and negotiations, on account of the absence of written documents or a lack of adequate translations into English or other languages with international currency. The first recorded system of international relations involving elaborate negotiations and agreements was developed in ancient times by the Greeks.

As the British historian Sir Harold Nicolson related in the Chichele lectures he delivered at the University of Oxford in 1953, the Greeks recognized that trading and political relations between different states were best determined by the principles and methods of negotiation. Notions such as *alliance*, *conclusion of peace* and *commercial agreement* came into currency at this time, as did the ceremonious *truce* that applied at the period of the Olympic Games. Originally, diplomatic negotiations were carried on in public, in accordance with the democratic spirit of Ancient Greece. It was only once the Macedonians came to dominate the region that secret agreements became a common instrument of negotiation. The Romans further developed the Greek system by adding additional elements – for example the concept of setting a precise time limit. And it is from the Romans, too, that we have the notion that an agreement is ‘sacred’ and should be honoured under all circumstances, a concept that is still current today. This attitude is attributed to the extraordinarily elaborate legal system of the Roman Empire. Agreements were given especial emphasis in Roman law, where a strongly anchored system of values reflected the widespread taste for law and order and territorial power. In many ways, indeed, the Roman Empire was in such a strong position that it could dictate a large part of the conditions to its weaker neighbours.

Sleight of hand in Byzantium

The gradual decline in its power and the rise of numerous independent and often hostile tribes placed Rome in a completely new and much more difficult position. A number of small states with more or less equal strength faced one another in competition for alliances and trading partners. As the heir to the Roman civilization, but lacking its power, Byzantium found itself in a very weak position in the face of the encroaching nomadic tribes. When military victory over the onslaught of the nomads appeared impossible, the Byzantines invented the tactic of a show of strength – and survived. To offset their military inferiority they exercised a skilfully calculated diplomacy. Experienced negotiators were sent out as ambassadors to foreign courts, with the task of assessing the strength of the adversary and sending coded dispatches back to Constantinople, where the reports were carefully scrutinized and borne in mind in all foreign policy decisions. Commanders of foreign armies were invited to Constantinople, where they came under the rules of a strict protocol and were interned in a special building, which, while sumptuous, was cut off from the mainstream of events. Thus by dint of splendidly ornate ceremonies, the Byzantines were able to create an illusion of great might. The exalted guests were trapped in the golden cage of the state visit and had no chance of seeing through the charade. And so in the best theatrical tradition military reviews were staged in which the soldiers marched into the city through one gate and out of it through another, only to appear a moment later at the other side in a different type of armour. Masquerades of power such as these helped to stave off the fall of the Byzantine Empire for four hundred years.

Chaos in Florence

The seafaring Venetians brought the Byzantine art of diplomacy and negotiation to Europe and further refined it. For example, Venice would send its ambassadors regular circulars to keep them abreast of the latest developments and decisions at home. They were also the first to keep systematic archives, covering the years 883 to 1797 almost without a gap. The declining authority of the pope as arbitrator in the late Middle Ages

Table 1-1 Classics of negotiation literature	
Niccolò Machiavelli	<i>Der Fürst (The Prince)</i> , 1520
Carl von Clausewitz	<i>Vom Kriege (On War)</i> , 1830
François de Callières	<i>De la manière de négocier avec les souverains (The Art of Diplomacy)</i> , 1716
Baltasar Gracián	<i>Oráculo manual y arte de prudencia (The Art of Worldly Wisdom: a Hand Oracle)</i> , 1647
Sun Tzu	<i>Sun-Tzu Bing Fa (The Art of War)</i> , 490 B.C.
Musashi, Miyamoto	<i>Go Rin no Sho (A Book of Five Rings)</i> , 1645

forced the infant Italian city-states to make copious use of Byzantine deceptive tactics. In this age of interminable political upheavals and territorial conflicts, it was impossible to develop long-term strategies or have real confidence in one's negotiation partners. Short-term alliances and risky negotiation were the order of the day.

Niccolò Machiavelli (1469–1527), second-in-command in the Florentine chancellery, justified deceit and the breaking of one's word as a virtue by the argument that such otherwise unworthy behaviour was very useful to the weaker city-states in the tumultuous and often unpredictable struggle for survival: 'The security and interests of the State have priority over all ethical principles' (*The Prince*, 1520). To the art of negotiation they had inherited, the Italians added the method of provisional agreement. This consisted of a list of points on which the two parties were able to agree, which as a rule was not signed, but at best initialled. In many trade agreements, furthermore, a court of law was providently appointed to resolve any conflicts as might arise. Such clauses may be seen as the precursors of the much more comprehensive legal details embedded in our contemporary treaties.

Diplomacy in Paris

Seventeenth century Europe saw the rise of a highly centralized France under the political leadership of Armand Jean de Plessis, Cardinal Richelieu. A staunch nationalist and a realist, Cardinal Richelieu decided to bring order to the chaotic and short-sighted Italian-style diplomacy of the day. In negotiations, Richelieu consistently laid stress on the longer-term view: for him, this was more a matter of a durable, evolving com-

mitment than an opportunity for quick gain. He set great store by the utmost accuracy in the drafting of documents, so as to leave no scope for future evasions or misunderstandings. Richelieu grasped the concept of public opinion, and also understood how to influence it through elaborately devised propaganda. The style of French diplomacy that he spawned in the 17th and 18th centuries became the basic benchmark in Europe and was widely adopted by other states. French was employed as the international language of diplomacy, with the French names for diplomatic offices being used by virtually all the diplomatic services. In 1716, François de Callières (1645-1717) penned an excellent book on statesmanship, in which he stressed the importance of sincerity and trust to counter the damaging effect of bad faith and deceit. For him, the true secret of good negotiation was to harmonize the real interests of all the parties concerned. In this he saw eye to eye with Baltasar Gracián (1601-1658), a Spanish Jesuit, who also laid emphasis on the importance of honour in negotiating practice. De Callières's idealistic penchant for honest and fruitful collaboration was doubtless a result of the balance of power situation that prevailed in the Europe of his time. The rise of England, Prussia and Russia to great powers was later to disrupt the old balance between France and Austria. But the classic French system of a formal, step-by-step protocol held sway until the parliamentary democracies and industrial states of the 19th century had become established. And so it is worthwhile to spend a moment in the company of this remarkable text.

The negotiator

The diplomat must be quick, resourceful, a good listener, courteous and agreeable. He should not seek to gain a reputation as a wit, nor should he be so disputatious as to divulge secret information in order to clinch an argument. Above all the good negotiator must possess enough self-control to resist the longing to speak before he has thought out what he intends to say. He must not fall into the mistake of supposing that an air of mystery, in which secrets are made out of nothing and the merest trifle exalted into an affair of State, is anything but the symptom of a small mind. He should pay attention to women, but never lose his heart. He must be able to simulate dignity even if he does not possess it, but he must at the same time avoid all tasteless display. Courage also is an essential quality, since no timid man can hope to bring a

confidential negotiation to success. The negotiator must possess the patience of a watch-maker and be devoid of personal prejudices. He must have a calm nature, be able to suffer fools gladly, and should not be given to drink, gambling, women, irritability, or any other wayward humours and fantasies. The negotiator moreover should study history and memoirs, be acquainted with foreign institutions and habits, and be able to tell where, in any foreign country, the real sovereignty lies. Everyone who enters the profession of diplomacy should know the German, Italian and Spanish languages as well as the Latin, ignorance of which would be a disgrace and shame to any public man, since it is the common language of all Christian nations. He should also have some knowledge of literature, science, mathematics, and law. Finally he should entertain handsomely. A good cook is often an excellent conciliator.

(Quoted from de Callières, 1983)

Propaganda in Brest-Litovsk

The Russian Revolution and the Great War, coupled with the economic crisis and social upheavals of the years that succeeded them, transformed the face not only of governments, but also of relations between states overall. Completely new forms of negotiating behaviour emerged overnight. The Soviet strategist Leon Trotsky, for instance, used the Brest-Litovsk peace negotiations between Germany and Russia (1918) to foment unrest among the German proletariat in his propaganda speeches on the class war. His behaviour was deliberately rude, being designed to demonstrate to the international proletariat his indifference to and hatred of the bourgeois class, and his undiplomatic tactics were intentionally uncouth. Diplomacy and revolutionary fervour were now heavily entangled, and breaches of faith, threats and violence had become standard instruments of negotiation. Germany under Hitler and Italy under Mussolini followed the trend towards brash, Machiavelli-style power politics. Hitler in particular used negotiations with other states as a delaying tactic, so as to gain sufficient time for his large-scale war preparations. Diplomatic negotiations, once a respected instrument of peaceful conflict resolution, now became a mere overture, or even a formal precursor of war. Peace talks were thus devalued to a mere interlude between two wars, and conduct at negotiations once again fell to the

level of haggling or brute confrontation. The refusal on the part of the totalitarian states to pursue negotiations in the conventional manner was at the root of the disaster of the Second World War.

The Cold War power parity

The post-war years of the fifties and sixties saw a revival of conventional negotiation. The nuclear arms race on the part of the two superpowers created a balance of terror, which despite all criticism ensured a high degree of stability in Europe and the world. The traditional rules of conduct once again became the general foundation for civilized negotiations. Washington was determined that the strategic decisions of the coming decades should be made around the conference table, not on the battlefield. An extensive series of research projects were initiated and financed in the United States. Born of the Anglo-Saxon tradition of empirical social science, they paid attention to the observation and investigation of behaviour. Work in the fields of psychology, social psychology and sociology, the social sciences and game theory, process analysis and behavioural research in particular brought important insights into negotiating procedures. Our present knowledge of negotiation, including its use as an economic and social tool, stems largely from such empirical studies. But like the traditional texts on strategy and tactics, these studies failed to consider multilateral negotiations. The significance of such structures – the United Nations, the European Community and a plethora of international organizations – has increased enormously since the end of the Cold War, with a consequent need for new approaches to problem solving under these multilateral conditions.

The North-South divide

The strategic balancing act of the two superpowers, which gave rise to a completely new, but still bilateral, summit and disarmament diplomacy, came to an end with the break-up of the Soviet Union and – already quietly building up in the wings – the increasingly self-assured stance of a large number of Third World countries. The Vietnam War, the hostage

Table 1-2 Negotiation research (1955-1979) (source: Dupont, 1986)				
	Psychology, social psychology, sociology	Economic and game theory	Process theory	Case studies from diplomacy, law and management
1955-1959	<ul style="list-style-type: none"> Stevens (1958, 1966) 	<ul style="list-style-type: none"> Nash (1950) Douglas (1957, 1962) 		
1960-1964	<ul style="list-style-type: none"> McGrath (1963, 1966) 	<ul style="list-style-type: none"> Schelling (1960, 1966) Siegel/Fouraker (1960) Rapoport (1960) Harsanyi (1962) 	<ul style="list-style-type: none"> Iklé (1964) 	
1965-1969	<ul style="list-style-type: none"> Serraf (1965) Vidmar (1967) 	<ul style="list-style-type: none"> Coddington (1968) Cross (1969) 	<ul style="list-style-type: none"> Sawyer/Guetzkow (1965) Walton/McKersie (1966) 	<ul style="list-style-type: none"> Lall (1966)
1970-present	<ul style="list-style-type: none"> van Bockstaele/Schien (1971) Anzieu (1973) Loureau (1974) Spector (1975) Sellier (1965) Launay (1976) Serraf (1977) Louche (1977) Crozier/Friedberg (1977) Morphey/Stephenson (1977) Touzard (1977) Mastenbrock (1977) Adam/Reynaud (1978) Strauss (1978) 	<ul style="list-style-type: none"> Bartos (1974) Young (1976) Deutsch (1974) Dupont (1986) 	<ul style="list-style-type: none"> Zartman (1977, 1978) Druckman (1973, 1977) Ponssard (1977) 	<ul style="list-style-type: none"> Constantin (1971) Nierenberg (1973) Karras (1970, 1974) Fauvet (1973, 1975) Bourdoinseau (1977) Calero (1979)

drama of Teheran, the civil wars in Lebanon and former Yugoslavia, and the Gulf War, all waged with the barbarism of the Middle Ages, portended the imminent disintegration of the Cold War power parity. In retrospect, a very clear link can be drawn between negotiating behaviour and power. A stable balance of power appears to encourage styles of conflict resolution based on diplomatic conventions and negotiation principles, whereas an unclear or shifting situation is more likely to lead to confrontation, terrorism or war. Looking at our present situation in this light, it is impossible to put aside the economic inequality between the northern and southern hemispheres of the globe. The multinational concerns and industrial nations are seen by the developing countries above all in terms of the power they wield and are often compared to the old colonial rulers. So it is not surprising that confrontation – all too often with armed violence and war – is once again in favour. The major industrial powers in the world, the United States, Japan and Europe, offer no better example when they regularly threaten one another with trade wars.

War and peace

Such a development gives particular cause for concern in view of the great number of new explosive conflicts that erupt in the world each year. The huge increase in the mobility of populations, whether voluntarily or in the form of streams of economic refugees, is in danger of producing conflagrations and jeopardizing peace in many a corner of the world. Peaceful solutions around the conference table appear the most feasible in Geneva, which houses the headquarters of three organizations that are directly concerned with these problems – the United Nations High Commissioner for Refugees (UNHCR), the World Trade Organization, WTO (originally the General Agreement on Tariffs and Trade, GATT), and the International Committee of the Red Cross (ICRC). Nationalism and religious fanaticism, which are just as inextricably bound up with the problem, appear to be even less amenable to negotiation, and both are on the increase again. The war in former Yugoslavia is a clear example of this. Hence it seems important now to add a word of warning so as to correct overly optimistic expectations of negotiation as a panacea. In principle, conflict resolution can be sought through con-

frontation (war) or cooperation (negotiation). While it is clearly no longer possible today to maintain that war is 'a continuation of policy by other means', as the Prussian General Karl von Clausewitz (1780–1832) put it in his life's work *On War*, negotiation nevertheless cannot by any means be equated with peace. Rather, it constitutes a transitional and very unstable period of suspense between war and peace. In such a situation, the conflict can tip (or be tipped!) one way or the other at any time; ultimately, it will lead to one of these two situations. This is a lesson that the world had to learn in Yugoslavia, at a very high price. Another tragic and terrible example that negotiations are not always the appropriate means of avoiding war is provided by the Munich Conference of 1938. The analysis that follows is from Karrass (1970).

For example: The Munich Conference

In 1938, Prime Minister Chamberlain did an incredibly poor job at Munich. For three years Hitler had taken spectacular gambles and won. Against the advice of his generals, he had rearmed the country, rebuilt the navy and established a powerful air force. Hitler correctly sensed that the British and French wanted peace desperately, for they had chosen to overlook German rearmament and expansionism. Encouraged by success, Germany applied pressure on Austria and occupied the country early in 1938. Czechoslovakia was next.

Hitler was not fully satisfied with earlier victories, as they had been bloodless. He yearned to show the world how powerful Germany was by provoking a shooting war, and he did this by making impossibly high demands on the Czech government for minority rights and by establishing an October 1, 1938, war deadline. It was a ridiculous gamble.

As shown below, relative bargaining strength was overwhelmingly in favor of the Allies on September 27, 1938. Hitler was aware of his weakness and chose to win by negotiation what could not be won by war. The following events indicate why he was optimistic:

1. On September 13, Chamberlain announced a willingness to grant large concessions if Hitler would agree to discuss issues.
2. On September 15 the aged Prime Minister of Great Britain made a grueling journey to meet Hitler deep in Eastern Germany. Hitler had refused to meet him halfway.

3. Hitler opened the conference by abusing Chamberlain and by making outrageously large demands for territory, to which the leaders of the Western world immediately agreed.
4. Hitler was aware that Chamberlain spent the next four days convincing the French that Germany could be trusted. The Czechs were bluntly told not to be unreasonable by fighting back.
5. On September 22, Chamberlain flew back to eastern Germany and offered Hitler more than he asked for. Hitler was astounded but non-plussed. He raised his demands.
6. Chamberlain returned home to argue Hitler's cause while the German leader made public announcements that war would start October 1 if his moderate demands were not granted.

When the two met again on September 29, Hitler had little doubt of victory. Mussolini acted as mediator (imagine that!) and proposed a small compromise, which was quickly accepted by both parties. And in a few months Czechoslovakia ceased to exist. Chamberlain, businessman turned politician, had lost the greatest negotiation of all time. As a consequence, 25 million were soon to lose their lives. The unsoundness of Chamberlain's judgement is illustrated by a review of the negotiating positions of the two sides.

German vs. Allies

Relative bargaining strength

The German position

1. German generals reported that the Czechs were determined to fight. They told Hitler that Czech fortifications were sufficiently strong to repulse the Germans even without military help from France and England.
2. German intelligence reported that the French and Czechs together outnumbered the Nazis two to one.
3. The General Staff reported only twelve German divisions available to fight the French in the west.
4. In Berlin a massive parade was staged. William L. Shirer reports that less than 200 Germans watched. Hitler attended and was infuriated by the lack of interest.
5. German Intelligence reported that Mussolini had privately decided not to assist Hitler.
6. German diplomats reported that world opinion was overwhelmingly pro-Czechoslovakian.

The Allied position

1. A million Czechs were ready to fight from strong mountain fortresses.
2. The French were prepared to place 100 divisions in the field.
3. Anti-Nazi generals in Germany were prepared to destroy Hitler if the Allies would commit themselves to resist the Czech takeover.
4. British and French public opinion was stiffening against Germany's outrageous demands.
5. The British fleet, largest in the world, was fully mobilized for action.
6. President Roosevelt pledged aid to the Allies.

(from Karrass, 1970)

In the light of this situation it would doubtless have been preferable not to give up Czechoslovakia without a fight. Hitler was not yet equipped for all-out war and presumably could have been stopped with a fraction of the bloodshed that did occur. Certainly things could not have turned out worse than they did. (Pfaff, 1988).

Looking back over the last 3000 years of recorded history on negotiation behaviour, one can discern a pattern evolving over time whereby the existence of a power balance between countries was mostly conducive to principled or conventional negotiation behaviour, while periods of power imbalance between countries often resulted in non-conventional or non-principled negotiation behaviour such as deceit, kidnapping, murder, etc. (see Table 1-3).

The negotiation cycle

This description of the debacle of the Munich Conference offers a clear illustration of how negotiation may be anything but an all-powerful tool in conflict resolution. It is particularly unsuitable if the negotiator is ignorant of the decisive factors in conflict, underestimates them or just simply overlooks them. If he learns of the real issues at stake only once he is sitting at the conference table, his chances of success are slim indeed. Such mistakes might perhaps have been avoided by dint of more careful preparation.

Table 1-3 Negotiation behaviour through the centuries (adapted from Saner, 1991)									
	Ancient Greece	Roman Empire	Byzantium	Italian city-states	Medieval France	Europe between the wars	Cold War (until 1992)	EU EFTA	Post 9/11/2001 (USA Su-premacy)
Non-conventional negotiation behaviour			Power imbalance	Power imbalance		Power imbalance			Power imbalance
Conventional negotiation behaviour	Balance of power				Balance of power			Balance of power	
'Diktat'		Pax romana					Pax americana and Pax sovietica		

To judge from all the experience to date, planning is a very major element of negotiation, humble as it may appear in comparison with the more spectacular side of the face-to-face negotiation process. What people mostly associate with negotiations are the smoke-filled meeting rooms, besieged day and night by reporters and TV teams outside, eager to interview a couple of pale, blue-chinned negotiators about the progress of the talks, or best of all to hear a gleeful labour union leader announce his victory. What is missing here are the days and weeks of meticulous work in the background, the interminable preliminary discussions and collation of information, the evaluation and formulation of positions, and consultation of various interest groups. Are not these painstaking and time-consuming chores a job for the experts? Is not the time of the chief negotiators far too precious for that? Certainly not! Even such prestigious negotiators as the former US Secretary of State and national security adviser Henry Kissinger spend half of the time allocated to a negotiation on preparation and planning. That does not of course mean that they can do without aides, but there is no substitute for the negotiator's overall view of the situation. At the conclusion (or breakdown) of the negotiations a final evaluation is a must. Attempts are often made to economize on time in this phase as well, but here too this is a false economy. How can we possibly learn, if not from our own mistakes and successes? Good reason to apply ourselves to careful preparation and reviewing of the negotiations. The model of a complete round of talks outlined below will help us to put the proceedings into a useful order.

The following brief concrete recommendations correspond to the individual phases of the negotiation round represented in Figure 1-1.

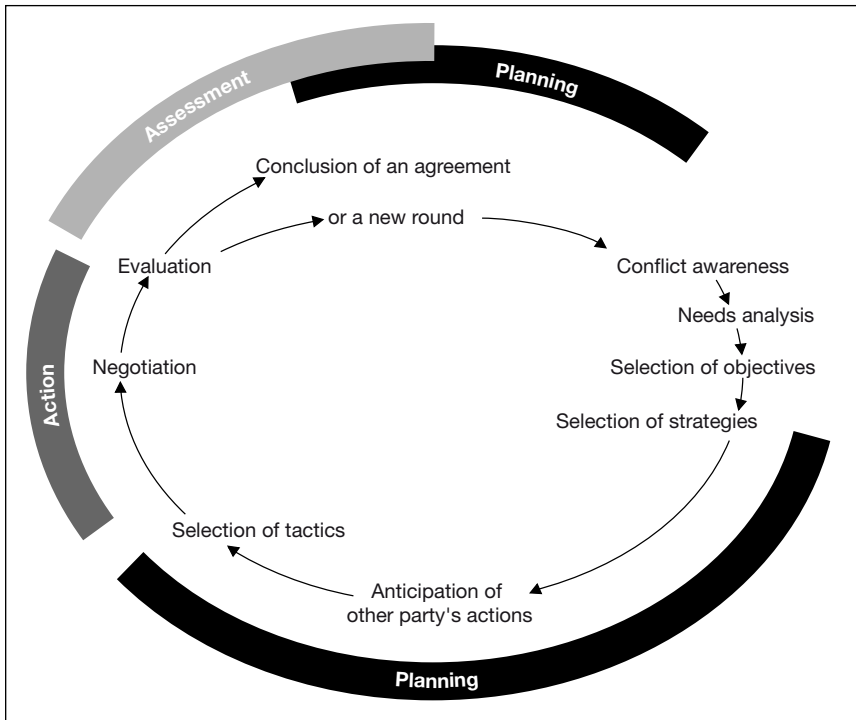
Planning

Research has shown that planning is the decisive factor in the success or failure of negotiations (Winham, 1979). So it seems appropriate to take a closer look at the individual tasks and phases in their preparation.

Awareness of the conflict

A problem has been recognized. Now it is a matter of working out various alternatives, even if one of them already seems to stand out above the rest as the perfect solution. For who knows, at the last moment that

Figure 1-1 The negotiation life cycle



precise option may not be available, or may prove too expensive. In addition, having a number of options at our fingertips enhances our flexibility in the negotiations. This is where the long view comes in: what impact will a successful outcome of the present exercise have on us in the future? What is the minimum we need to achieve? What does the other side want to achieve? Here, convergence of interests is more important than differences, yet it tends to be more readily overlooked or neglected. But it is the shared interests that bring us closer to a solution.

Needs

The man or woman who knows the wishes and needs of both parties has a trump card at the negotiating table. This begins with one's own needs – someone who does not know himself is an easy prey for his adversary. There is hardly anything better suited to manipulation than a concerted

accession to the other's wishes, or refusal to satisfy them. So the first question we must ask ourselves is, what is the point of these negotiations? What am I going to fight for? And then: why does the other side want to negotiate? What are they after? What can I do to satisfy their needs with as few concessions as possible? We need to keep one step ahead by constantly reviewing and adapting our appraisal of the situation as the bargaining progresses.

Objectives

So now we know our own needs and have put them together in the form of objectives. What exactly do we want to achieve, how many Euros, German marks or Swiss francs, what percentage of the market? What terms of delivery? We should not forget that we must also offer something of interest to the other side. For this we need to distinguish the important objectives from the less important. Where is compromise possible, and where not? What can we concede, and how much of it? What are we not able to concede under any circumstances? We might even want to sweeten the deal with things that don't cost us very much. Ultimately, successful negotiation depends on both sides coming to an agreement, so it is just as much in our interest to find ways of satisfying the wishes of the other party as to pursue our own. We need to think of that at an early date, otherwise the price we pay for an agreement may be much higher later on.

Strategy

The choice of a strategy depends primarily on four factors. First comes the power balance between the participants to the negotiation. Is one side stronger, or are both (all) on the same level? Then of course there is the question of how important the negotiation is for us and for the other side. Are we talking about a weekend off, or the future of our business? Or – as in our example above – is peace in Europe or the world at stake? The next question concerns our relationship with the other side. Are we friends (and want to keep it that way), or have we never met? Are we likely to find ourselves sitting down to negotiations together again? The closer the relationship, the more cautious we must be with our strategy. Finally, we must ask ourselves how many shared interests unite us with the other side. Do we pull together, or are we engaged in a tug-of-war? How can we avoid unnecessary confrontation? What can we do to

improve our relationship, discover our mutual interests and work together towards a solution?

The opponent

It is not enough for us to know and be in control of ourselves (although admittedly it is a good start). If we want to master negotiation we must know the other as well as ourselves. We have already touched on this question in the paragraphs above. Assessing our opponent is a constant task that should accompany every single step we take, like a shadow.

Tactics

The tactics employed in negotiation are simply the means with which we pursue our chosen strategy. And so it should be. We do not live for applause, but for the result. The public is very rarely involved to the point that we need to pamper to it. We must of course master as many tactical techniques as possible: they are the weapons of negotiation. But as in armed conflict, it is far more important that they be used correctly. There is no room here for personal preferences or vanities on the part of the negotiator. In the words of Miyamoto Musashi (1996, p. 71), surely the best-known Japanese Samurai, *'Horses should walk strongly, and swords and companion swords should cut strongly. Spears and halberds must stand up to heavy use: bows and guns must be sturdy. Weapons should be hardy rather than decorative. You should not have a favourite weapon. To become over-familiar with one weapon is as much a fault as not knowing it sufficiently well. You should not copy others, but use weapons which you can handle properly. It is bad for commanders and troopers to have likes and dislikes. These are things you must learn thoroughly.'*

Negotiation

Actions speak louder than words. Nothing is therefore more important at the negotiating table than to bring our conduct in line with our objectives and chosen strategy. You only need to break your word just once to destroy a trust that has taken much effort to build up. A good adversary will observe us closely during the negotiations – or have his delegation observe us. He will measure us by our actions, not by our words. The time for preparation is past; now everything must be right. This phase is

the shortest in our diagram; it is like the harvest. This is where all the preparatory work must find a payoff. But a certain reticence is also called for when everything has been perfectly prepared, for we want to learn as much as possible about the other party. Questions are therefore better than long explanations, friendly words more appropriate than threats. It goes without saying that in the midst of all our efforts to achieve a solution we are ready to put ourselves on the line both mentally and physically to the maximum possible degree. We have of course assembled our negotiating team well in advance and trained them carefully for the task in hand. In other words, the only thing that can surprise us is what we could not possibly have planned in advance.

Assessing what has been achieved

The assessment of a round of talks as an aid to decision-making can be divided into two phases: assessment of what has been achieved so far and a hard look at the conclusion.

Appraisal of the situation

The first round of talks is over. Before we sign, we allow ourselves time once again to evaluate the solution proposed. At this point it is very useful to compare it with the original aims we established objectively. If we then wake up with a shock, there is still time for a further round of negotiations and all is not lost. Once the agreement has been concluded, however, any regrets generally come too late. But we should not limit ourselves to looking at the content of the agreement, but should also appraise the behaviour that led us to it. What did we do that was successful, where is there room for improvement? This is also the moment to obtain a personal insight from the negotiations – even (or especially) if they have failed. In the long term our defeats can be very useful, provided we learn the lessons they are there to teach us.

Reviewing the deal

It is of course preferable to have struck a successful deal that is as favourable as possible to both sides. Here too, however, it is of considerable interest to look back on how it came about. Was it all because we

came in with a strong starting position, or did we turn a poor situation into a victory by clever strategy and negotiating tactics? Or was it simply a matter of luck? Honest self-assessment pays the greatest dividends here, especially if future negotiations are on the cards. For this reason we should always make a written note of the procedure that our opposite number employed, for we may find ourselves sitting down with him or her again soon. A glance at the file can then provide a decisive piece of information for our planning when that moment comes around.

... and in practice?

The course of a negotiation we have just described, from the initial plan to the successful outcome, is a highly simplified one. Designed as an exercise, the model used should not give the wrong impression that negotiation is a mere technicality that can be followed by rote. Technical skills are indeed essential, and we shall explain and develop several of them here, but the reality of a negotiation is determined in a large measure by imponderable factors. We should not forget that we are talking about an interplay between people. You may perhaps not even know one another – then it is also a first encounter. In that case, you are likely to have quite different opinions, interests or agendas.

A state of suspense

Negotiation is thus always in a state of suspense. At first the two parties know too little of one another to be able to evaluate the situation with any confidence. It is as though they were moving around a dark room, gingerly feeling their way from wall to wall, occasionally meeting one another. If they move too quickly or impetuously, then the chances are that they will knock into each other at some point. If neither of the two moves, then they will never learn where the other is standing. There may even be a hidden door through which one of them suddenly disappears! Gradually they begin to get familiar with their environment and each other; the room may still be dark, but they know where the other is. One of them strikes a match, and they both notice a lamp hanging from the

ceiling. Together they now go off in search of the light-switch – a successful outcome to the negotiation, which lights everything up at the touch of a button.

Validity of the agreement

Quite another problem in negotiating practice is the validity of agreements made. Even written contracts are not always worth the paper they are written on – we only have to think of the countless cease-fire agreements in former Yugoslavia. A settlement is thus only of value if it is adhered to, otherwise it is just a dead letter. For it to mean something, either mutual goodwill or an institution that will monitor and if necessary enforce the agreement is required. In this respect certain cultures make a strict distinction between a written and a personal agreement, a distinction that looks very different from place to place. In Asia, and especially China, a personal promise is worth much more than a written contract. A contract is often soon up for grabs again, while a relationship of trust is hardly ever breached. This has nothing to do with a disregard for the settlement arrived at and sealed with so much ceremony, but with a sense that such impersonal objects as contracts should adapt themselves to circumstances. If the situation changes, then better to drop the contract than the good relations. Without doubt it will be possible to strike a new agreement that suits both sides in the new circumstances. Such a standpoint would be quite difficult to imagine in Europe, and even more so in the USA. On both sides of the Atlantic the spirit inspired by Roman law (see above) reigns, that a contract is to be adhered to whatever the circumstances. This also holds true even if the conditions change, as otherwise according to the western way of thinking a contract would be quite superfluous. If nevertheless a contract is breached, in the West it is always possible to take action before the courts. In East Asia this occurs only in the most exceptional cases: first comes the relationship, and only after that the contract. No wonder that western and especially American businesspeople and diplomats often despair when confronted with such cultural differences. Many examples in our experience testify that they were less victims of another culture than ignorant of its ways. Towards the end of this book a specific chapter will be devoted to these problems.

Stress in negotiations

The effects of stress and fatigue on the ability to negotiate effectively also deserve to be dealt with thoroughly in a chapter of their own. Important negotiations often last right through the night, with a breakthrough being achieved at dawn – or not. The participants, completely exhausted but relieved, share a breakfast and then fall wearily into bed – or not. This laborious procedure can go on for days and weeks if the negotiations are prolonged. At some point, everyone just collapses and simply wants to go home. The only way out of the situation is usually to strike a deal. And so concessions are made that would otherwise not have been offered – mistakes too perhaps. The longer the negotiations last and the more stress they engender, the more likely it is that our behaviour will become emotional; we will then present a picture that is very different from the ideal of a completely rational and effective negotiator.

Logistics and communication

But that is far from the only thing that makes theory so different from practice. In the case of negotiations away from your usual environment quite strange things may happen that can jeopardize your success. Staying in touch with your head office, mandator or boss is of crucial importance. Are your lines of communication assured? It is important that the technical transmission of news, whether by mouth, fax or Internet modem, do not cost you an inordinate amount of either time or nerves, both of which need to be saved for the negotiations proper. Communications have indeed improved enormously in this age of mobile telephones and ISDN lines, but what about negotiations in Mongolia? And who knows, perhaps the digital data transmission system at the hotel where you are staying suddenly contracts an unfortunate little problem at just the wrong moment... There are no limits to the inventiveness possible in this domain. Or, much less devious, the contract requires regular consultation with different departments. In one of the four ministries involved the head of the unit responsible just happens not to be obtainable, has an important deadline, is out at lunch or off for the evening. To say nothing of the difficulties of different time or language zones. Even the most sophisticated mobile telephone is of little use here.

Changing environment – new positions

To conclude this chapter, let us look at one last aspect of conducting negotiations: the more time that passes, the more the opinions, aims and positions of the parties involved will change – the latest Uruguay Round of the General Agreement on Tariffs and Trade GATT/WTO lasted almost seven full years. Governments come and go, negotiators are replaced, alliances are formed and dissolve again. The situation needs to be continually re-evaluated, new information affects the positions and conduct of all the parties. Decidedly, things never get boring. This optimistic point of view is not of course shared by all the participants, especially those who would like to move quickly towards an agreement. The readiness and ability to achieve a successful deal are not always equally present on all sides. But a positive approach to all these imponderables is extremely valuable. Negotiating should not be a burdensome obligation. It is also a game that can be mastered with practice. True, it is only really fun if you win more often than you lose.

That is where this book comes in.

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2 Distributive bargaining

Negotiation often means distribution, 'dividing up the negotiating pie.' The procedure is therefore known as *distributive bargaining*. For example, when the negotiation is centred on the price of a car, one of the parties is set to gain and the other to lose. The two positions are diametrically opposed and in competition with one another. In this situation we tend to speak of a winner and a loser, although both partners might prefer to obtain an agreement (usually arrived at voluntarily), even if unbalanced, than to be without one at all. The terms *winner* and *loser* are purely relative. The winner is simply the one who gets closer to his objectives than the other. In distributive bargaining the size of the pie to be shared out is known from the outset and does not vary. In our example, whatever price is finally decided upon we are still talking about the same car. The buyer and seller negotiate around a price, and the one who bargains skilfully can gain an advantage for himself – admittedly always at the expense of the other. In game theory such an arrangement is also called *zero-sum game* or *fixed-sum game*, because losses and gains always cancel one another out, i.e. they add up to zero. That is the chief difference between distributive bargaining and integrative bargaining, which we shall be developing in Chapter 4. The principle of integrative bargaining is simple in theory, but complicated in practice; since a number of issues are negotiated at the same time, both sides can win on some points and give way on others. The creativity and skill of the two partners in such a transaction ultimately determines the size of the pie to be shared. In an ideal world, each of them will get what is important to him, so that a good conclusion to a negotiation means that ultimately both sides win.

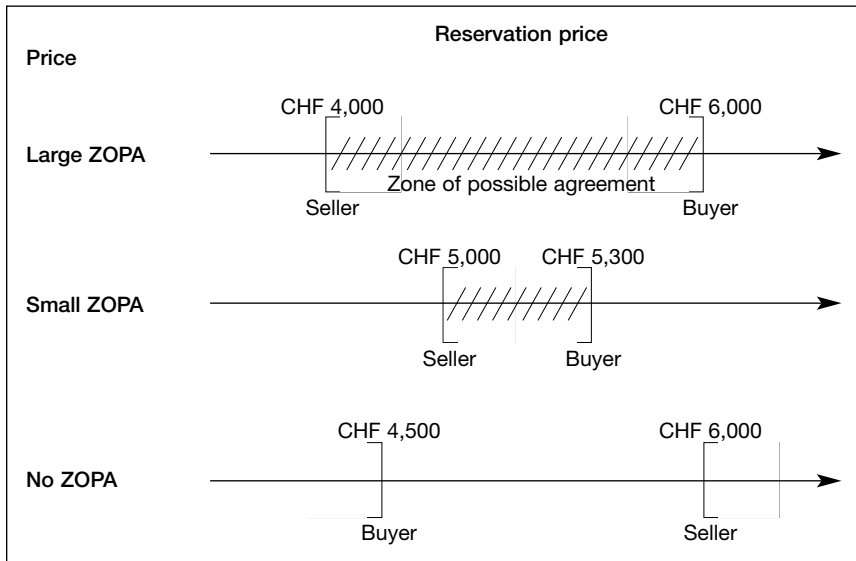
Adversary or partner?

Clearly, these two basically different ways of negotiating will require different approaches. To ignore this can be devastating for the result, but it all too often happens. Because in the distributive approach each negotiator is battling for the largest possible piece of the pie, it may be quite appropriate – within certain limits – to regard the other side more as an adversary than a partner and to take a somewhat harder line. This would however be less appropriate if the idea were to hammer out an arrangement that is in the best interest of both sides. If both win, it's only of secondary importance which one has the greater advantage. A good agreement is not one with maximum gain, but optimum gain. This does not by any means suggest that we should give up our own advantage for nothing. But a cooperative attitude will regularly pay dividends. What is gained is not *at the expense* of the other, but *with* him. More about this in Chapter 4.

The zone of possible agreement

Even the toughest battle for distribution, with which we shall deal first, starts with a common interest. Unless both sides are interested in hammering out an agreement, there is nothing to share. If the bargaining is to achieve anything, there may be no irreconcilable differences of interests, and they must overlap in some way at least. Very often there will even be a whole range of issues on which in principle an agreement is possible. This range is known as the *zone of possible agreement* or ZOPA (Walton and McKersie, 1965). It corresponds to the proverbial pie that can be shared.

The side that can claim more than half of the zone of possible agreement for itself gets the larger slice of the pie. How does this work? A good negotiator will first try to determine the ZOPA as accurately as possible. Until he has this information he cannot have a clear picture of the situation. He will regularly start by asking himself whether there is in fact any zone of possible agreement at all. Sometimes the ideas entertained by the different parties diverge so greatly that it would be a pure waste of time to enter in a negotiation. Perhaps the positions are reconcilable for a limited time only and could be brought closer together over a number of

Figure 2-1 **Zone of possible agreement (ZOPA)**

negotiation rounds – for example as the representatives of both sides are given more and more room for manoeuvre or greater powers of decision. But if there does not appear to be any chance of an agreement, other methods are likely to be more appropriate than negotiation – at least provisionally. Conflict resolution may then be replaced by either avoidance of conflict (the irreconcilable parties each go their way) or open war.

On war

In the present context the term *war* is used to describe not only military conflict, but all sorts of clashes. Typical examples are strikes, lockouts, boycotts, price wars, trade wars or the Cold War, or again the occasional minor war between life partners. In the words of Carl von Clausewitz (1780–1832), the Prussian general and strategist, ‘War is ... an act of violence intended to force our opponent to do our will.’ (Clausewitz, 1987, p. 63). Negotiation works through persuasion, war uses coercion. Both parties do not even need to prefer war to an agreement around the negotiating table. But if a meeting cannot be achieved with acceptable conditions, a

serious stand-off is sometimes more appropriate. The aim does not necessarily have to be the subjection of one's opponent – it is often sufficient to alter the balance of power in a significant way so as to *oblige the other to come to the negotiating table*. We certainly don't wish to defend war, especially the military variety. But it is essential to take all the alternatives into account whenever you negotiate. These almost always include war, whether military or economic, with its usually considerable and often incalculable costs. We should not forget that war itself uses up valuable resources and thus reduces the size of the pie available to be shared. But even if we would like to rule out all forms of war as an instrument of bargaining, whether we do so on the basis of ethical or practical considerations – why should we expect the other party to feel the same? We should never forget the bitter lesson of the Munich Conference we spoke of in the first chapter: it might be preferable to fight a small war rather than let a belligerent opponent who does not intend to negotiate gain time to build up a major war.

Know yourself...

So even when the peace in Europe is not at stake, it is the duty of the skilled negotiator to obtain as accurate a picture as possible of the other side's interests and options. At the same time he must study his own interests and positions carefully and keep them constantly in view. In this respect we could not find a better teacher than the venerable Chinese General Sun Tzu, who in the 5th century B.C. produced the standard work of strategy that is still the most widely read in China and Japan: *'If you know the enemy and know yourself, you need not fear the result of a hundred battles. If you know yourself but not the enemy, for every victory gained you will also suffer a defeat. If you know neither the enemy nor yourself, you will succumb in every battle.'* (Sun Tzu: *The Art of War*, ca. 490 B.C.)

Let's begin with the easier aspect. The negotiator knows his own floor or ceiling (how far he is willing to go in both directions), and this determines when negotiation becomes senseless for him, because he would either sustain a loss or could do better elsewhere. He will bear this ultimate position constantly in mind. In the case of price negotiations we call this the *reser-*

vation price. A good negotiator will never allow himself to go over his limit (when he is the buyer) or under it (as seller) for the sake of closing a deal. Generally speaking it is better to end up with no agreement at all than with a bad one. Our own position needs to be constantly reviewed as new factors emerge, and adapted to the new situation as appropriate. But this does not mean that we should be dependent on the one-sided viewpoint of the other person. His interests, we should not forget, are diametrically opposed to our own: his gain is our loss. Later we shall see how useful it can be to shake our opponent's own position. But before we resort to tactical manoeuvres of this type we must first know where he does in fact stand.

...and your adversary!

This step of the planning is somewhat more difficult than the first. Now it is a matter of estimating the other guy's ultimate position. This helps to delineate a zone of possible agreement and at the same time to determine the maximum gain that we can achieve from a deal. What would the other side like to get out of it, what is the minimum they are ready to accept? At what point does the deal become uninteresting for them? Like ourselves, they have a reservation price, and it is perhaps the most important task of price negotiation to find out what it is. Clearly, it is hardly possible to share out a cake that cannot be seen! How are we to know how big our piece of it could be? That would be just matter of chance. To go into a negotiation with no information on our adversary's intentions is a bit like flying on automatic without any instruments. But where are we to get hold of this information? Just as we will make every possible effort to hide our own bargaining position, so the other side is not going to divulge the information off his own bat. Our analogy to flying on automatic is not too far off the mark, for what we have at our disposal may be likened to the navigation instruments in the pilot's cockpit. A pilot reads his instruments carefully, while we study the environment in which we negotiate for signs and signals of all types. The pilot has a number of different charts: for day flying, landing, or commercial flights, for example. We can also get hold of similar material if, say, we want to buy or sell a car – specialized bookshops carry updated lists giving the current market price for every available model and an overview of supply and demand.

Similar market studies can be found for investment commodities such as real estate, for example in the form of land price or renting price indicators such as, which are regularly issued by any city or district. Publications of this type will generally give us quite accurate information with which to appraise the situation. Then there are the brochures and tables published by chambers of commerce, trade associations, government offices and ministries. It will be useful to sift through press records and to search for articles written by our opponents in specialized journals or speeches they have made at association meetings or conferences, which will generally reflect their intentions with considerable accuracy. A huge amount of up-to-the-minute data is now accessible rapidly and conveniently through the Internet. And there will surely always be someone in your own organization or company with some experience of the people you want to deal with. Obviously, we cannot possibly mention all the conceivable sources of information available, for they are as complex as the reasons that make us negotiate. The main point we want to stress here is the importance of accurate information to the outcome of negotiations. Unfortunately, not even the best sources of information can tell us everything we would like to know. There will almost always be an area of uncertainty that can only be reduced by experience, careful appraisal and skilful sounding out of the other party.

Uncertainty

Thus if our preparation has left no stone unturned that could enlighten us as to the position of the other side, we then have to give it a try. But we must be careful: with every step we give the other side new information about ourselves. If we make a proposal before the time is ripe we anchor ourselves into a position without knowing enough to proceed. So now what we need is to get into the discussion without giving too much away. How do we do this? At some point the moment of truth must come, and we cannot delay putting our first offer onto the table. But let's be clear from the start: the moment doesn't have much to do with truth. Basically, our first proposal only needs to satisfy two very simple conditions: it should not be too far off track, and it certainly should not be too modest. There is absolutely no point in putting a Volkswagen on offer for the price

of a Ferrari – unless the Volkswagen used to belong to Charlie Chaplin! But it would be disastrous to start straight off with the actual market price. The final price would then certainly end up lower than it might.

Let us summarize the important points of this chapter once again. If we ask too much, we risk offending the other party or even jeopardizing the whole business – the prospective client will just give us a smile of thanks and go off to look at another offer. But if we ask too little, he will laugh into his sleeve and make a killing. Even if we immediately realize we have made an error of judgement, there is practically no way back. We have missed the chance of a better deal.

At this point a most important distinction must be drawn: whereas we can as a rule correct the situation if our demands were too high – but not always, as we shall see in the next section – this is never possible when they were not strong enough. This means that in spite of all misgivings, when in doubt it is better to go for a price that may seem too audacious, if anything. The alternative can only be to our disadvantage.

So we have now made our opening bid. How do things go from there? Not much different than before, actually. Each successive step should in fact be easier, because the position of the other side and the style and pace of their reactions provide us with new information and thus reduce uncertainty. But in practice, it seems that things are sometimes quite the reverse, and a good start gets lost in the course of the negotiations. There are two main factors in this: negotiating technique and self-confidence, which are closely related. A technically superior adversary can destroy his adversary's confidence in his own position with one well-calculated phrase, even when in fact he is in the weaker position. The other will then often react with a last-ditch effort to save what he can. Here is a good example of such a situation.

For example: Civil suit settlement

Late one afternoon Bill and Connie Jones were driving home with their two-year-old daughter, Betty. A light rain was falling, and the two adults were chatting casually as they entered a slight, unbanked left curve. There is some uncertainty over what happened next. Bill stated that an oncoming car eased over into his lane, but his wife and other witnesses did not recall it. In any

case, the Jones's car skidded from the road on the right side, travelled approximately fifty yards, and struck a tree.

Before impact, Bill and Connie, both wearing their seat belts, braced themselves and were only slightly injured. Unfortunately, Betty was not so lucky. The seat belt constraining the chair in which she was riding broke, allowing her to be thrown through the windshield. Immediately she was transported to the hospital, where she had an arm amputated and then hovered between life and death for months. She won the battle for life, but the surgeon informed Bill and Connie that she had suffered severe brain damage and had no chance of functioning as a mature adult. In all probability she would need close medical and personal care for the rest of her life, the length of which was highly uncertain. In addition to these overwhelming difficulties, she would be severely disfigured with scars.

After a year and some intense reflection, the Jones's approached a lawyer, discussed the situation with him, and agreed to employ him on a contingency basis (30 percent of the award to the lawyer if the case were settled out of court, 50 percent if it were taken to trial, and nothing if the case were lost) in a \$3 million suit against the automobile manufacturer, who was allegedly liable for the faulty seat belt. The lawyer filed the suit, and the manufacturer employed a local lawyer to handle its defence. After nine months the case came before the bench, and the judge scheduled a pre-trial conference. One purpose of such a hearing is the establishment of the facts of the case; that is, each lawyer notes which points are agreed upon (for example, the wreck occurred, the child was thrown through the windshield, the seat belt broke, the seat belt had been worn or damaged prior to the accident, and the child's arm had to be amputated) ... and which points are in dispute (for example, that the father was at fault, that the seat belt had been worn or damaged prior to the accident, that the child had sustained permanent brain damage, etc.). ...

Having handled these affairs, the judge asked the lawyers whether or not they had considered settlement – negotiating an agreement out of court*.

In the conference, with the negotiation off the record, the plaintiff's (the Joneses') lawyer demanded \$3 million, noting that the seat belt had broken and failed to constrain a child of only about twenty-seven pounds, and thus the company was liable for the grave and costly damages. The defendant's (manufacturer's) lawyer opened with an offer to settle for \$50,000 dollars, noting that his client felt there was liability in the case but that the plaintiff

* Over 90 percent of the civil cases filed each year [in the USA] are settled out of court (97 percent in California). Thus, justice in the civil setting is usually determined by negotiation.

had been at fault, that the belt appeared to have been damaged prior to the accident, and that the child's brain damage was not as severe as claimed. He then pointed out that plaintiff's lawyers typically ask for more than they expect and that the negotiation would be expedited by the plaintiff's lawyers' quote of the amount that his clients really wanted. The plaintiff's lawyer then quoted \$1.5 million. To this the defendant's lawyer quoted some figures (lower than \$1.5 million) that insurance companies had previously paid in similar cases. After more wrangling back and forth, the plaintiff's lawyer quoted a rock-bottom figure of \$1 million. Here there was a stalemate, and the judge asked both lawyers to consult their clients and report back the next day.

In the next session both lawyers attacked the case of the other and defended their own. The plaintiffs' lawyer noted that juries were sympathetic to this type of case and would no doubt grant about \$1 million to his client if the case were taken to trial. The defendant's lawyer noted that his expert witnesses would undermine the plaintiff's case in any trial. Both sides conceded, the plaintiff's lawyer came below his 'rock-bottom' figure, and the defendant's lawyer rose to \$75,000. At this point one of the attorneys asked the judge for his opinion. He said he felt the case was worth \$100,000 and told both lawyers to discuss this figure with their respective clients. Subsequently, both sides accepted, and the case was not taken to trial. An interview with the defendant's lawyer revealed that he had been instructed to settle for no more than \$1 million. (The names, details and some figures in this case have been altered to protect the identities of all parties).

(Quoted from Wall, 1985)

Errors

Where did the plaintiff go wrong? It is true that an award of \$100,000 is something of a success when the evidence is not rock solid, but – as we now know – it was still only ten per cent of the sum that could have been obtained. Certainly the plaintiffs could have got a larger sum if the case had been handled more skilfully. Think about it for a moment before you read on – what would you have done differently? Let us go over the course of events once again. Many of the plaintiff's approaches were very unfavourable to him in this case, and should generally be avoided in negotiations.

Table 2-1 Course of negotiations for compensatory damages		
Jones's attorney	Manufacturer's attorney	Grounds
\$3m.	\$50,000	Damages claimed for equipment failure <i>Jones responsible for accident, plaintiff's claim excessive</i>
\$1.5m.	\$50,000	Second claim following concessions <i>Cites comparable cases with lower settlement award</i>
\$1m.	\$75,000	Declared to be minimum claim <i>Offer increased, but experts cited who demolish million dollar claim</i>
\$1m.	\$75,000	Negotiations deadlocked Judge proposes \$100,000
\$100,000	\$100,000	Both sides accept

No reservation price

In the case just quoted, the Jones's did not instruct their lawyer in advance of what minimum damages he was to press for in the event of an out-of-court settlement. Instead, they gave him a completely free hand in the proceedings. This is tantamount to a reservation price of zero. This omission is readily traced back to lack of adequate preparation. We have seen what the consequences were: for the lawyer it was obviously better to be assured of receiving a fee of \$30,000 (30% of \$100,000) than half of an unknown sum the court would have awarded. Not a bad result for so little work, even if more could have been got out of it. Why should he refuse? The situation of course looks very different for the Jones's, who in fact suffered an enormous personal and financial loss. In such a situation \$70,000 is a ridiculous settlement sum. From the start, they should have told their lawyer a minimum level that corresponded reasonably to the extent of the damage and to that awarded in similar cases – \$800,000 say. A reservation price of zero inevitably means that any offer, however bad, becomes acceptable, for it is always better than nothing!

Excessive demands

The sum demanded at the outset was way over the top. Three million dollars was far in excess of the sums paid in comparable cases. Such a high demand, when the evidence itself was rather weak, does not suggest very much specialized knowledge of the matter. There is no denying the impression that they were simply trying it on. If it doesn't work straight away, the position is given up as soon as resistance is met. But an experienced adversary is counting on just that – and successfully in this case and very many others. A demand of \$1.5 million would certainly have been more appropriate.

Concessions too large

Excessive demands, if they are not satisfied, inevitably lead to a further problem: to come down to any sort of reasonable level, enormous concessions become necessary. It doesn't make a particularly good impression if you suddenly halve the sum you are asking for. That shows your opponent how shameless your first demand was, and at the same time indicates a readiness to make further concessions. If such huge steps are possible, there is still more room for bargaining. Once such behaviour has been recognized, it will inevitably undermine your position. As the negotiations proceeded, it was in fact difficult to switch to smaller steps. On the second day at the very latest, after the plaintiffs had brought their claim down to under a million dollars, they should have made small stepwise concessions only – as their opponents did with their increases of \$25,000. It would then perhaps have been possible to meet somewhere in the middle, at say \$525,000.

One-sided concessions

In the case in point, however, the large concessions continued: the plaintiff's lawyer found himself obliged to go down to a million dollars unilaterally, and then on the next day to descend even further. Another mistake! The other side had not made the tiniest gesture in response to these concessions. Negotiation can be likened to bartering, where each party must offer the other something for satisfying his demands. Anyone who can afford to make presents without receiving anything in exchange must literally have something to give away. Why should the adversary believe that we are at our lowest limit if we offer him something without asking for anything in return? The reverse also applies: by the time we in fact arrive at our reser-

vation price, our credibility is well and truly shattered. Our behaviour no longer has any value as the most important purveyor of information.

The wrong mediator

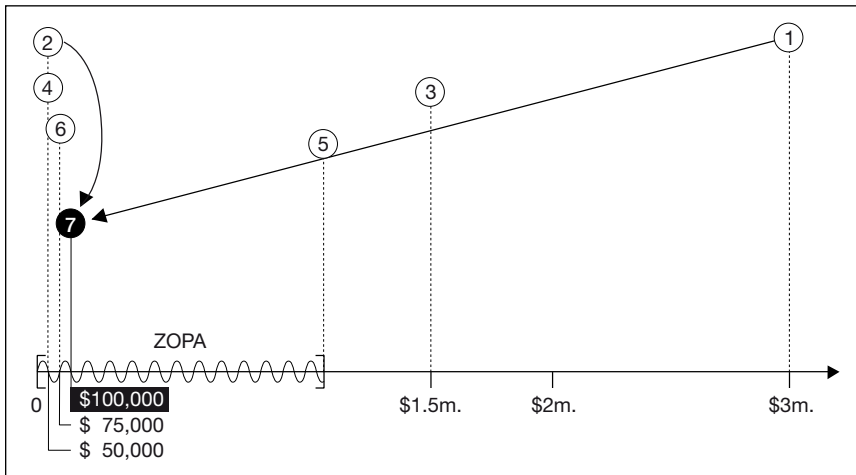
The last error our lawyer made is also by no means rare: in the hope of reaching an agreement, an appeal is made to a mediator. Very often the question of the person's suitability for the case in hand is never considered. In our example, the judge served only as a consultant. He would not have been the judge to rule on this case. Why was he asked to give his opinion in the first place? What possible benefit could it have had? Let us look back at the pattern of concessions, at the sequence of demands and offers, for that is what the mediator will do as soon as he comes onto the scene. The arrows in Figure 2-2 show how the positions evolved on both sides.

The mediator knows that both sides could bring the case before the court if they had evidence they could count on. He also presumes that both lawyers will pursue the interests of their clients to the best of their ability. In view of the large concessions made by the plaintiffs, these presumptions can only lead to the conclusion that they do not have very compelling evidence. Against this background, the outcome of the negotiation – the recommendation of \$100,000 by the judge – thus leads directly to the final agreement. A practised negotiator is quick to recognize such a state of affairs and will only turn to a mediator when the latter is likely to make a recommendation in his favour. But to accept a much higher final settlement would have been unrealistic in the light of the offers made by the two parties before the judge made his proposal. Why should the judge suddenly propose a settlement of \$850,000? His task is simply to help the two parties to come to an agreement and thus spare the courts unnecessary proceedings. As we said right at the beginning: in a negotiation you don't get what is owed to you, but what you can bargain for.

Making use of past experience

Now that we have seen some of the most common errors that are committed in the course of negotiations, let us look at the other side of the coin: what is the most effective behaviour for a good negotiator? The majority of studies confirm a number of fundamental rules that will serve us well.

Figure 2-2 Conclusion of the negotiations for damages



Define your target point

We have already encountered the concept of reservation price as a guide and psychological support during negotiations, and learned to appreciate it. Just as important, however, is to aim at a target point. And in view of the inevitable ambiguity of the situation, it is useful to set a lower and an upper limit to this target. The reservation and target prices provide us with a direction and an objective to aim at. Without such support, we would be exposed to the pressure exerted by the other side much earlier on.

Agreement at the mid-point between the initial bids

Surprisingly often, the result arrived at from negotiations is half way between the two opening bids. We can take advantage of this fact. When the other side has made its first bid, we place our own offer such that the mid-point between the two lies exactly in our target zone. With this signal we increase our chances of arriving there effectively at the end. If the negotiations start in the opposite order, we can nevertheless use the middle point between the two positions as a source of information. If it lies outside the zone of possible agreement, there is perhaps no sense at all in entering into negotiations. It is much easier and less consequential to break off the talks at this moment than at a later time when several different proposals have been bandied about and a personal relationship

has been established. But if we do want to continue with the negotiations, we must put a very firm brake on the concessions we make on our side. The only chance we have of finding the zone of possible agreement in such a situation is to demand more concessions from the other side than we ourselves make. The lawyer for the seatbelt manufacturer provides an excellent example of how to proceed in such a case.

Opening bid outside the zone of possible agreement!

Our opening bid should be situated outside the zone of possible agreement, that is to say above or below the adversary's reservation price. If we start out within the zone of possible agreement for the negotiation, we cannot exploit the whole zone and are thus restricted to only a small number of steps (concessions). To satisfy this requirement, however, we must know, or at least have a shrewd idea of, our adversary's position. In other words our aim must be high, but not too high. This is not so easily accomplished! Furthermore, different cultural settings have quite different ideas about what too high (or too low) means. While in Japan the very attempt to negotiate a price may be taken as an insult, in the Arab countries precisely the contrary is true. For our purposes, admittedly, the Arab interpretation seems to contain more learning possibilities. We shall come back to the particular features of Asian cultures later in the book. First we shall look at an example drawn from the Arab setting, where haggling over a price is not thought of as a burdensome obligation, but an indispensable prelude to the act of buying and selling.

For example: The Mediterranean vegetable market

There is hardly any other place where haggling goes on with such fervour as in a Mediterranean vegetable market. The markets are renowned for their expert bargainers, who revel in negotiating the price of their wares – be they spices or tomatoes – with a worthy adversary over a glass of fresh peppermint tea or coffee. Ask an experienced market expert how much two plus two makes, and he will retort with a smile: 'Am I buying or selling?' Even though haggling over prices is not a common practice in our climes, it is worth making an effort to enjoy it a little. And it certainly is not true to say that we do not go in for bargaining in Northern Europe – simply we usually bargain over something other than money: for example terms of delivery or

payment, or other conditions of sale. Even the enforcement of written agreements may be subject to negotiation in extreme cases before a court. But let us get back to our example of the Mediterranean vegetable market, where we propose to buy a kilogram of tomatoes. As Table 2-2 indicates, this week the market value of this commodity is six piastres.

No trader who is interested in selling all his wares before evening will mark them up at more than eight piastres per kilo. In this cultural setting (which when all is said and done is not so different from a Paris flea market or an English second-hand motor showroom) any seller whose first price is ten piastres is sure to be suspected of wanting to take his tomatoes home with him that evening. A sensible customer will see that straight away and look elsewhere.

A price of twelve piastres would cause him to wonder about the state of the trader's mind. Eight piastres, about 30% above the effective market price, on the other hand, is a feasible proposition. His first price will be lower only if he still has three carts full of tomatoes round the back, that he must absolutely get rid of. So how should we act in our situation of buyer? The Mediterranean traders are known to drive a hard bargain: should we therefore give it everything we've got and make a really low offer? That can be dangerous. To offer him one piastre, for example, would be to betray our complete ignorance of the market conditions, and he would simply turn away from us with disdain. Two piastres would not be very much better, except that the dealer would perhaps feel insulted and start up an unpleasant altercation with us. If we have a sense of the market price, we would do well to follow his lead and offer him about 50% of the going price. If we offer him more, we are sure to end up paying him more than necessary for our tomatoes. Given an opening price of eight and a first bid of four piastres, however, the objective of both sides is extremely clear. The friendly discussion that ensues, doubtless marked by a mutual respect between the two protagonists, will gradually bring buyer and seller closer together, finalizing in an agreement somewhere around the market price. Depending on who has the greater bargaining power, one or the other will succeed in wresting half a piastre out of his opponent.

(After Hall, 1973)

Tactics

The right opening in a negotiation may be decisive, as the example of the Mediterranean vegetable market has shown. For this first step, a number of different variants are available. The choice of which one is the most appropriate in a given situation will depend chiefly on the negotiator's

Table 2-2 Prices and their significance in the Mediterranean vegetable market (adapted from Hall, 1973)	
Piastres per kilo of tomatoes	Significance of demand or offer in the market culture
12 or more	Complete ignorance on the part of the seller, or doesn't want to have anything to do with buyer
10	Seller wants to insult or get rid of buyer
8	A high, but feasible asking price; bargaining can begin
7	Seller has three carts full of tomatoes and needs to sell them
6	Current market price (the pivot)
5	Buyer needs to buy, and is ready to pay more than the market price
4	A feasible offer indicating knowledge of market; bargaining can begin
2	Buyer wants to insult seller or provoke an argument
1 or less	Buyer shows complete ignorance of the market; seller turns away in disdain

relative strength and the level of information. Chapter 5 (*Strategy*) and Chapter 6 (*Tactics*) will go into these questions in more detail, but in the present context it is worth looking at the main options available in the opening and middle games of distributive bargaining.

A strong opening

He who aims high (but not too high!) shoots far. This simple rule of artillery is equally true for negotiation. A strong demand sends an arrow far into the enemy's ranks and thus demarcates the framework for the negotiation. The opposition then finds it difficult to keep an overview of this position. Unless, as may also happen, the arrow has clearly far over-shot the mark. To stay with the notion of artillery, each weapon has its maximum range and a corresponding optimum angle of elevation. If we point the cannon higher, the shot will not go as far as it might. Thus it is useful to have a realistic estimate of one's own position. We need to utilize our range to the full, but if we aim too far, we will not hit the target, but merely waste our energy.

Establish the framework/Anchor your position

A psychologically very effective measure is to present reality from the start in such a way that the adversary gets fixated on a certain price. The opening bid and other information (or even carefully targeted misinformation) set the scene for how he will proceed further. What we are talking about is getting a message across that '*this is possible, that is not*', even when this is not in fact the case. The main thing is, it is useful to us! A practical example of this procedure, widely used in seminars, is the exercise given to two groups to guess the result of a simple multiplication. The first group is given the task of estimating the product of $1 \times 2 \times 3 \times 4 \times 5 \times 6 \times 7 \times 8$, the second of estimating the same product, but in reverse order: $8 \times 7 \times 6 \times 5 \times 4 \times 3 \times 2 \times 1$. According to our past experience, the second group *always* presents higher estimates!

No opening

The opposite of a very far-reaching opening is no opening at all. A friendly chat, silence, waiting, a smile – whatever brings the other to opening the negotiation is permitted. This is an extremely popular tactic in Asia. Western negotiators who have their return flight booked in just a few days time often find themselves under great pressure to move at this point. What is behind such withholding tactics? Surely the one who challenges the other to take the first step gives over the initiative at the same time? In fact, it only appears to be so. For what he learns carries valuable information that can guide his own moves to their precise target. In addition, he causes the other to commit himself to a certain ballpark. His own response then simply needs to be chosen so that the mid-point between the two positions lies squarely in his own target zone. If he then continues as skilfully, he can hit this target, provided it is also acceptable to the other side. Otherwise even the best tactics will not get us very far – unless we can bring the other to change his reservation price.

Having the first and the last word

When one is in a clearly superior situation, there is also one first and last offer that is possible: *Take it or leave it!* End of story. Strictly speaking, we can no longer speak of negotiation here, if one side insists on having his demands satisfied and brooks no discussion about it. Then there are only two possible outcomes: the other either accepts the offer, or refuses it

under such conditions. Actually there may be a third possibility, to resume discussion of the bid once the ultimatum has passed without a decision being taken. But at that point credibility and negotiating position have gone by the board, a situation that any half-decent negotiator will be able to exploit immediately. You can't lose face like that and still expect to win. A risky business, if one's own power is not enough to secure the deal, or a conclusion is desperately needed. Even a good bluff is likely to be recognized for what it is. Such tactics all too easily lead to an impasse, without any chance of turning back.

Persuasion or influence

Most negotiators attempt more or less overtly to persuade the other of the rightfulness of their position. They have a whole range of possible discourses for this purpose, ranging from the technical arguments of the financial expert to the barrage of words from the vacuum cleaner salesman with his foot in the door. The particular cultural setting in which the tactic is used will be instrumental in deciding whether or not it works. In northern and central Europe, a decidedly technical tone is more appropriate, while Arab or Indian negotiating partners will prefer a much more flowery language. Many Indians are highly adept in a very subtle use of the English language, and also know how to butter you up. We shall look more closely at these aspects of the art of bargaining in a later chapter. But a word of warning is in place here, in respect of the use of psychological tricks. It is of course true that people may occasionally be subject to being influenced or even manipulated. But when such a manoeuvre, or worse, a bald-faced lie, is used, the weapon may backfire: if the liar is caught in the act, the way out of the embarrassing situation can be costly, since 'repairing' the climate would necessitate making extra concessions.

Salami tactics

The negotiator who wants to concede little of his position, but nevertheless knows he cannot remain completely immobile, will generally resort to the tried and tested salami principle. Every so often, when it can no longer be avoided, we will let a small concession slip out, so as to placate the other side for a little while longer. His own loss is relatively small, and he gains a lot of time for strategic manoeuvres. Japanese trade policy is a perfect example of such slice-by-slice concessions, especially when

it comes to importing agricultural produce. But there is no reason why we should not take advantage of a similar procedure ourselves to gain our own ends: rather than launching a frontal attack on the other and forcing acceptance of the majority of our demands, we cut them up into small, barely perceptible slices. Such small intermediate aims are achievable much more easily, and at some point they will all add up to the objective originally sought. Used in this way, the salami tactic is a sort of slow undermining of the other side. For example, we are negotiating a complicated deal with a computer salesman, and have already obtained the maximum rebate on each of the components (we are talking about a local network with six workstations) – not a bad deal so far. And now at the last moment we demand one more item of software of the somewhat worn-down salesman. Rather than jeopardize the whole deal, he rather sheepishly adds it to the package – something he would never have done if we had negotiated the whole package from the very start.

Watch out for behaviour patterns

Another useful way of controlling the negotiation is write down each of one's own and the other side's concessions and arrange them in a table or even as a graph – something like the one illustrating the compensation talks earlier in the chapter. Each move contains a certain amount of information, but you need the whole pattern of movements to be able to discern your adversary's strategy and tactics.

Table 2-3 shows various concession patterns. Which of these types would you be best able to deal with across the table? The first negotiator is a hard nut, which first has to be cracked. The second uses salami tactics – something we can live with too. In contrast, the third negotiator is something of a mystery: his concessions get larger and larger and so challenge you to ever greater concessions on your part. Where does he want to go, and why? Number four, on the other hand, is much more circumspect. His decreasing concessions send a clear message as to where the matter is going to end. The fifth negotiator appears to be acting without any plan whatsoever, at least none we can recognize.

Our partner will probably resort to a similar analysis (he may after all have read this book!), and so we can frame the pattern of our own concessions so as guide him in a direction that is favourable to us. This effective means of communication analysis must be exploited to the full.

Table 2-3 Concession patterns					
Negotiator	1	2	3	4	5
Concession 1	0	100	60	200	50
Concession 2	0	100	70	150	0
Concession 3	0	100	90	100	430
Concession 4	0	100	120	40	0
Concession 5	500	100	170	10	20
Total	500	500	500	500	500

Negotiating power

A major element of the struggle to split up the pie is the power parity. To determine this, we must first understand where bargaining power comes from. Firstly, it comes from the situation itself, through:

- a maximum number of *alternative options*: someone who does not depend on a conclusion with a specific negotiating partner can credibly threaten to break off negotiations (and indeed then walk out if he wishes)
- *Credibility* and integrity: only when a negotiator has credibility can he use a tactic so convincingly that it gives him additional control over the situation. Too many contradictions between words and actions undermine credibility
- Access to *information*: knowledge is power – whether it be an accurate knowledge of the adversary (reservation price, choice of strategy, number and quality of options available to him) or of the market conditions (the going price, offer and demand, turnover and saturation)
- *Definition of reality*: the person who is able to influence his adversary's perception or attitude by a skilful presentation of the situation can straightaway guide the negotiation in a direction that is favourable to himself.

In addition, the participants in a negotiation possess personal power as a result of:

- *specialized knowledge* and understanding: the individual who is a master in his field can put forward better arguments in negotiations and parry those of his adversary;

- *Legitimacy* and formal authority: official credentials are something that the other side cannot deny or change – although only in the realm of their competence, which may be quite narrow;
- The right to *reward or punish*: whether formally established or not – the side that can effectively impose sanctions on the other for their behaviour has an important edge;
- *Standing* and respectability: a high social standing confers personal strength and increases the possibilities of applying pressure.

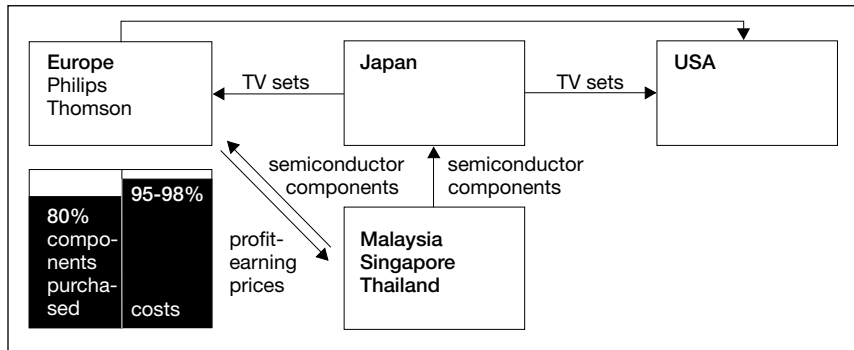
The long-term perspective

In this chapter we have presented the most important principles for conducting distributive bargaining. The aim, as its name implies, is to obtain as large a piece of the pie as possible. The negotiation techniques described will be very useful in a lot of situations and will ensure better results. In other cases, and there are several of them, a hard-hitting approach is not to be recommended in negotiations – not just on account of a desire to maintain friendly relations, but also in terms of enlightened self-interest. When long-term business relationships are at stake, in particular, it is worthwhile also considering the interests of the other party. What would we get out of it if we win today, but lose for the rest of the year? In such cases, a harmonious long-term distribution, or, better still, an integrative solution that satisfies all parties is clearly to be preferred. Why should we have to choose between short-and long-term gains, if we can have both? The next chapter will show how this can be achieved in practice. But before ending the present chapter, let us illustrate this important point with an example.

For example: Television sets

The manufacture of television sets, once the pride of every electronic concern, is now concentrated in a very small number of hands. The Japanese export offensive has been so effective over the years that today the United States no longer has any television manufacturers to speak of. In Europe, only Philips (of Holland) and Thomson (France) have managed

Figure 2-3 **Strategic dependence of European television dealers on Southeast Asian producers**



to hold their own. Even these two companies import up to 80% of the necessary components and parts, chiefly from Malaysia and Singapore. The manufacturers of semiconductors in those countries also supply their products to Japan, where television sets are constructed mainly from imported components as well.

The European television companies have considerable clout in respect of their Southeast Asian suppliers, but an over-aggressive pressure on prices would sooner or later backfire on them. Philips and Thomson have an enormous interest in their suppliers being able to operate profitably. Bankruptcy due to European pressure on prices would without any doubt drive them into the arms of the Japanese competition. But if the Japanese were to play the role of both component suppliers and competitors for sales, the strategic situation of the European companies would look very poor indeed. With a profit margin of as little as 2-5% the smallest increase in costs would mean the death knoll for the European television industry. For the Japanese it would then be a simple matter to wipe their European competitors off the map once and for all by increasing the price of semiconductors. Tough price negotiations with the suppliers might produce success in tactical terms for Philips and Thomson, but strategically speaking they would be tantamount to suicide.

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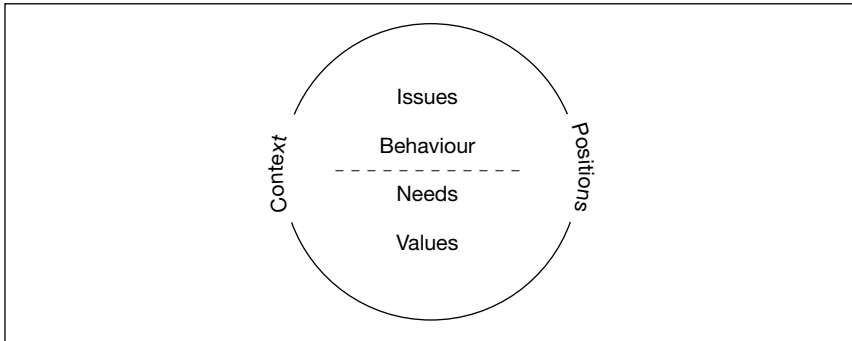
3

Needs and motivation

Every negotiation begins with a desire. One of the participants at least wants to achieve something he has not yet achieved. Why else would he want to enter into a negotiation? Often the motive is quite obvious, in the case of a purchase or a sale, for example. But even then there are underlying differences: how urgent is the sale or purchase for the other party? Does he have several alternatives? The balance of negotiating power depends significantly on the answer to these questions. The side that has more time and choice always has the edge on the other. That we all know. But the needs and wishes of the parties involved influence a great many other aspects of the course and outcome of a negotiation than the question of power alone. If these needs are accurately appreciated and accounted for by the other side, it is possible to pass from purely distributive bargaining to a mutually favourable exchange. The subject of the negotiation broadens from discussion of a single issue (such as the price) to several issues (the other desires). In terms of the behaviour involved, it passes from confrontation to cooperation. But for such an exchange to function, both sides have to harbour other needs that have not yet been satisfied, which may be spontaneous or have come about specifically on this occasion. The question can thus be formulated as follows: is the other party interested only in the main issue of the negotiation, or does he have other needs?

Meticulous preparation, attentive observation and skilful questions put before and during the course of the negotiations, or better still, over an informal meal together, will doubtless soon provide an answer to this question. This task will of course require a minimum knowledge of human nature and the ability to empathize with the other, plus a little imagination. The chief motivations, in fact, often have no apparent con-

Figure 3-1 **Negotiation in the force field of needs, issues and positions**
(Saner/Yiu, 1984)



nection with the current negotiation and first need to be put into the right context. The same is true of our respective values, what I and my opposite number consider to be good or bad, ethical or immoral, right or wrong. Once we have discovered the real interests, needs and values of our adversary, we come to what is actually the most important question of all: How can they be used for our negotiation, as far as possible to the advantage of both sides. This chapter will propose some answers to this question.

What do I need?

Everybody has needs – starting with the things that are essential to life: air, water and food. Without these we cannot survive. Equally fundamental is a need for peace, clothing, a roof over our heads, and the exercise of our sexual drive. Only once these basic needs have been met, according to the social psychologist, Maslow (1954), do people turn to other, less immediate desires. It has been said that man lives by bread alone only when there is no bread, but that if he regularly has enough to eat, hunger is no longer a real motivation. From this standpoint we can establish a hierarchy of human needs classified in descending order of their significance for sheer survival. Maslow divided these needs into five classes, which he represented graphically in the form of a hierarchical pyramid (Figure 3-2).

Figure 3-2 **The needs hierarchy** (after Maslow, 1954)

Maslow's needs hierarchy	Examples of how needs can be satisfied in the negotiation setting
Self-actualization needs Finalizing one's potential growth using creative talents	Challenging work, Responsibility, Participation in problem-solving
Esteem, status, respectability Professional achievement, recognition, prestige	Titles, deference, red carpet treatment, status symbols (chauffeur-driven limousine)
Social needs Love, belonging, Recognition as a person and member of the group; love	Receptions, entertainment, social participation, use of first names (US and English colleagues)
Safety needs Protection against danger, freedom from fear, security	Personal protection, armoured car and bodyguard if necessary, accommodation and negotiations at a safe place
Basic needs Satisfaction of vital needs: air, water, food, shelter, sex	Regular, wholesome food and drink, air conditioning in the tropics or in summer, (monetary) presents, 'escort' for the evening

In this well-known model, each step of the hierarchy can only be attained once the needs of the lower levels have been satisfied to some extent. Wishes that have been fulfilled then lose their impact on the behaviour of that particular individual. According to this concept, the question of the level of the pyramid at which a person is situated at any one time will decisively affect his behaviour.

In Maslow's concept, the second level represents the need for protection and security. The human being wants to know that he will have something to eat tomorrow, and to feel safe. At this level, it is a matter of reducing his fear of an uncertain future. Not, of course, that everybody is looking for a completely risk-free life. Each of us has a different idea about how much risk we are willing to allow into our lives. Security then becomes a significant motivation when we go beyond our own personal

risk limit. Translated into everyday terms, we are talking at this level of a regular income, the security of a job of our own, or fair treatment by our superiors. For example, to feel helplessly exposed to an arbitrary power would be an example of a brutal violation of this need for security. As such this step harks back to the lowest level of the needs essential to life, except that the threat is not quite so immediate.

Once our bodily comfort has been assured for the moment and in the predictable future, our needs are then, according to Maslow's theory, free to focus on our social environment. We all want to come into contact with other people, experience friendship and love, and be accepted by others. To belong to a group is in fact an important aim that all of us – consciously or unconsciously – pursue. Even the most inveterate loner and egoist wants to belong somewhere, if only in the group of inveterate loners and egoists. The particular forms this need for social connection takes vary enormously, being much more strongly marked in some cultures than others. In Japan, for example, the individual is not regarded as very important; he finds his identity only through the group. But even in societies where the personal development of the individual plays a predominant role, such as the United States, no-one wants to be alone all the time. It is not for nothing that long-term solitary confinement is considered a form of torture.

The next step along the road to being an integral part of society – the fourth level in the hierarchy of needs – is to strive towards a role with some standing. Acknowledgement of the person should now follow acknowledgement of his or her achievements and abilities. Respectability, status, a good reputation – the targets at this level have many names, but they all have something in common: to be respected by others increases our respect for ourselves. This is the real driving force behind our various efforts to obtain esteem. We feel better when we are successful or have been promoted, and can afford to buy a new car or a larger house. Money and power have a role to play here, for they impart prestige. Not everybody is of course interested in parading his prosperity or the high-ranking nature of his job through visible status symbols. But even a modest fortune discreetly managed by a Swiss bank provides its owner with a certain satisfaction and self-respect, even when it is not visible to his neighbour.

One step higher, at the very apex of the pyramid, we find similarly personal motivations, now no longer associated with society, but exclusively to the individual. At this level the yardstick is no longer the group, but the

individual's own potential. Here the needs a person strives to satisfy are self-fulfilment and self-realization. He wants to achieve everything he possibly can, and perhaps just a bit more. He wants to evolve as a person, possibly even beyond himself and beyond his death. The finest thing would be to be able to leave a lasting sign of his life on earth, a message to generations to come. A memorial wouldn't be a bad thing, either, although many are brought down again after just a few years. The public towards whom this final personal performance is directed may be very different from case to case – ranging from one's own ego to God. The individual needs at this level will thus vary greatly from person to person. But they all have one thing in common: they correspond to the specific life project of the individual in question, and therefore deserve to be taken extremely seriously.

Sleepless in Kuala Lumpur

Now, how can we apply Maslow's hierarchy of needs to conducting negotiations? Let us start right at the bottom, with needs such as peace and sleep. The buyer of a medium-sized business in the electronic sector undertakes a business trip to Malaysia, where he is to negotiate a new supply contract for a certain type of semiconductor. He is in fine fettle, and arrives in Kuala Lumpur feeling as fresh as a daisy. Unfortunately, it is the season of the unbearably sultry monsoon. He is picked up punctually at the airport and driven to his hotel. Unfortunately, the air conditioning just happens to need repairing, and the otherwise attractive room feels more like a sauna. Our man from Düsseldorf, already hampered by serious jet lag, does not get a wink of sleep throughout the night. The next day he is unable to concentrate on the negotiations and gives away important information. The manager of the supply firm asks solicitously about his health and is quite shattered to hear the truthful reply. He apologizes profusely and then personally goes about looking for another hotel – no easy task given that the trade fair is on. What a relief, when he is finally able to rustle up a room at the Hilton! The buyer is so grateful that for the rest of the week he feels obliged to maintain a very ingratiating composure. Did the supplier deliberately prepare the uncomfortable situation in order to get a favour or general goodwill from the guest? It's up to the buyer to find out!

Gunfire in Bogotá

The plight of his colleague on the sales side is even less enviable: his mission is to offer the Colombian government a distribution system for the drinking water supply of the capital. The situation in Bogotá is rather tense; a serious Zurich newspaper has just reported the kidnapping of a French executive. The hotel is indeed very comfortable, but its location is clearly unfortunate: in the night he hears numerous gunshots and police sirens. The salesman is not a coward – after all he served in the Swiss army as an officer. He blocks up his ears with cotton wool and tries to sleep. But the negotiations last for several days, and the nightly shoot-outs do not get any better. At some point the engineer, a family man, starts wondering if it is really worth risking his life for this deal. His head office is far away, and all it takes to clear the way to the airport is a brisk rebate on the usual price. He would be ready to make similar concessions for a bodyguard or police protection. His major concern is now no longer the contract, but his personal safety – something his negotiation partner very skilfully exploited.

Such rather crass examples illustrate very clearly the importance of an appropriate environment for a successful outcome to negotiations. It doesn't have to be tropical nightmares or armed riots – a lumpy hotel mattress in Marseilles or a dripping shower in Frankfurt may be enough to drive the traveller to despair.

Fine fare in Tashkent

Almost as important as our physical wellbeing can be the need for social connections, especially when we are in a foreign country. After a couple of weeks of Tashkent in winter, with its bitter cold climate, unfamiliar food and a language we don't understand, an invitation to a homely meal, perhaps even with acquaintances of the same nationality, or who at least speak our language, can work wonders for some people. During a cosy chat the constant tension of unfamiliar surroundings quickly recedes into the background, and it doesn't take more than a good home-cooked meal from the old country and a glass of wine imported from Europe to create a relaxed, intimate atmosphere. In most cases this is sim-

ply a friendly gesture on the part of the host, who is anxious to create a fertile atmosphere for the talks. But it may also be a highly sophisticated trap, as sometimes does happen. The guest drops all semblance of formality and takes his compatriot into his confidence, unaware that in truth the latter is in the pay of his negotiation partner. The desire for personal connections should in our opinion not be used as a weapon against another. This is a particularly perfidious way of exploiting the art of hospitality. Anybody who travels a lot appreciates genuine, sincere hospitality on the part of his business partner. And you can only fool somebody like that once – if we are at all interested in long-term relationships, such behaviour should never cross our minds. Indeed the satisfaction of social needs can on the contrary greatly contribute to establishing a good basis for the negotiations. This does not of course have to go so far that we offer our guest a willing companion for the evening, however much this particular service is perpetuated in many popular films about big business or the secret service. Naturally, an American partner will greatly appreciate having his host address him by his first name when invited to do so and introduce him (and his friends) in a similar manner, ideally in a relaxed atmosphere. Such attentiveness creates an atmosphere of trust that should not be abused.

Career promotion in Geneva

The upper echelons of the needs pyramid, too, can very often be relevant to conducting negotiations. So here we are again in an interminable round of meetings in Geneva – perhaps this time the subject is the protection and sale of intellectual property rights – across the table from a young woman diplomat from an even younger State. By all appearances, the outcome of these negotiations is very important to her. Lunching with a diplomat of our acquaintance on the roof terrace of the World Trade Organization, we learn quite by chance that other countries with a comparable size and history to hers have been very quick to promote their successful Geneva negotiators and entrust them with high-level ambassadorial missions. So it seems that we could help her advance her career by ensuring that she achieves at least a semblance of success. If her position does not really suit us, we can support her election to the post

of chairperson of the meeting – a job that gives her great prestige but deprives her of the possibility of advocating her own country's negotiation position and so in fact weakens her negotiating power.

In this way both parties come out as winners. The preferential treatment meted out to high-ranking guests in politics and business plays a similar role, it may be added: anyone who regularly receives red carpet treatment cannot afford to look less generous himself and thus is ready to return the favour.

Life's ambition in Reykjavik

Summit talks between heads of state and governments offer a similar, but much more far-reaching opportunity to shine. A head of state loses face if he or she has to return home with empty hands (as unfortunately is often the case when the preliminary diplomatic negotiations have not been sufficiently prepared). Here the desire for self-realization can play a decisive role. Just think back to US President Ronald Reagan, who made it his personal ambition to achieve nuclear disarmament (Kissinger, 1994). Although he failed to achieve this objective at the Reykjavik summit of 1986 (subsequent to which he built up the largest military establishment in the history of the United States), he did in fact live to see the fulfilment of another of his life dreams after his term as President, the fall of the Berlin Wall in 1989.

The hierarchically ordered needs mapped out by Maslow thus clearly have a strong influence on human behaviour. This also applies to negotiations: if you know the needs of the other side (and of course also your own!), you are at a distinct advantage.

Beware of manipulation!

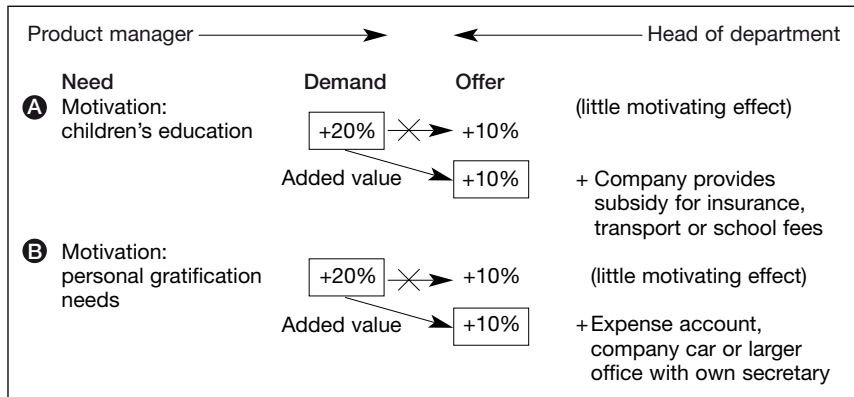
A word of warning needs to be interjected here. The theory put forward by Maslow we have just presented is most enlightening and has of course had an enormous impact on research in the social sciences. The field of business management in particular has thoroughly exploited his hierarchy of needs in its application to human resources management,

and derived a whole range of principles from it. Later commentaries (e.g. Müller, 1985) have nevertheless rightly pointed out that Maslow presents a very mechanistic and passive picture of the human being, and maintained that instead of following his own much more complex identity, Maslow's man simply reacts to pre-established needs, which are furthermore described in a highly simplistic fashion. The impression is created that people can easily be manipulated by targeted satisfaction or denial of their needs, and while this is in some measure true, such a means of obtaining control is hardly an appropriate instrument when managing negotiations.

This criticism is doubtless well founded. We need to take it seriously in respect of negotiation, too, and not think of Maslow's pattern of needs as a toolbox for the purposes of manipulation. Such an attitude would put our negotiation partner into the role of guinea pig, in whom a specific form of behaviour can be induced with a piece of cheese or an electric shock. Very importantly, if our opponent resorts to such means, we must appreciate that nothing weakens their position as much as being caught out using an underhand trick. As for ourselves, we would do better to employ our understanding of the other person's possible motivations in meeting him (or her) on most of these counts. Perhaps we can quite easily satisfy an important desire, without too much trouble, and in return receive something that is important for us. With that, both sides are happy. The following account of negotiation around a salary increase will provide a simple example of this.

Example: A salary raise

The salesperson for a very successful shampoo line goes to his boss one morning and asks for a 20 per cent increase in salary. The department chief feels very ready to acknowledge her hard-working employee, but finds 20 per cent just too much. If the news got around, soon all the sales staff would be knocking on her door with similar demands. What is she then to do? Without a doubt, she could beat him down to ten per cent. That would cost her an hour of rather unfriendly dialogue, but in the end the employee would have to grit his teeth and go along with it. That is one possible solution. But there is another much better solution. If the

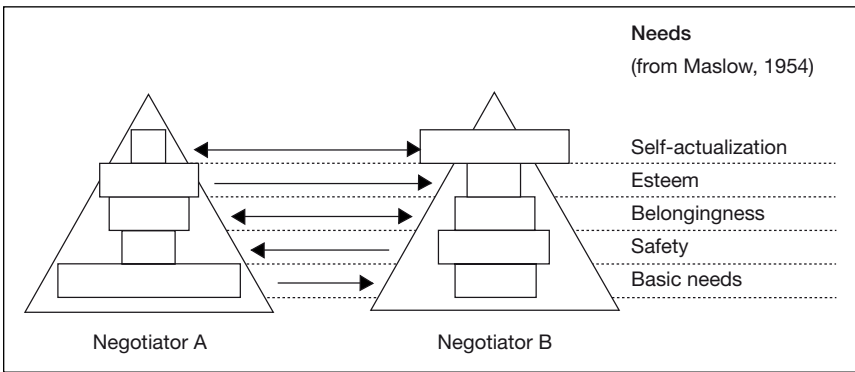
Figure 3-3 **Negotiating a rise in salary**

department head knew the reasons for the sudden demand, she could satisfy her employee's needs much more elegantly with other benefits and perks. A friendly chat would doubtless serve to clarify the question rapidly. Is the salesman feeling the crunch of his children's high schooling costs? Then perhaps he could be offered a ten per cent rise in salary and an allowance for insurance, transport or school fees. Or might it be a personal need to assert himself? In that case a generous expense account or a smart company car might be the right answer. Perhaps he is above all concerned with his standing in the organization? Here a highly visible move into a more comfortable office with his own secretary would perhaps do the trick. And who knows – perhaps he would then no longer insist on an increase in salary. That would be cheaper for the company, and the motivating effect of such obvious appreciation might even be greater. Thus both sides would be better served.

What do I have to offer?

We have seen how conduct around the negotiating table is affected by a variety of needs and wishes. Each individual offers a different combination of needs (see Figure 3-4). Once this has been recognized, the mutual satisfaction of wishes can become the basis for a profitable exchange. Respect and standing against security, basic needs against social integra-

Figure 3-4 Satisfying the needs of the other party



tion, self-realization against a reasonable agreement. The resulting give and take gradually puts the disputatious points into the background. The negotiation emerges from the dead-end of distribution and develops in a direction that is advantageous to both parties. To put that in the terms used in this book: distributive bargaining is transformed into integrative bargaining, which we shall discuss in more detail in the next chapter.

An exchange transaction not only requires a precise knowledge of the respective desires, however, but also the ability to satisfy them. To achieve this, both parties must be able to offer a sufficient quantity of objects or concessions that are of some value to the other. Before we can effect an exchange, we must therefore ask ourselves, what do I have to offer? The list of possible answers is endless and depends entirely on the needs of the other side. In the most simple case it is a matter of money or purchasing power, but the type of object to be exchanged may also be influence, personal relations or specific knowledge. Such a purpose can also be fulfilled by a form of conduct that the other side appreciates – of which the red carpet (whether it be real or symbolic) we spoke of earlier is an example. The more detailed information we possess on the needs and motivations of the other person, the more specifically we can accede to them. We can then look for the concessions that are useful to the other side as well as being the least costly to ourselves. As everywhere, careful planning is the secret of success here. The following section provides a simple but effective aid in this task.

A planning form

More even than in any other period of the negotiation it is valuable to write down important thoughts and insights during the preparatory phase. Although this action will not materially change the situation, it does contribute to a clearer understanding of it. The planning form illustrated in figure 3-5 has been found invaluable for this preparation. You can enlarge the form with the photocopier and then fill it out with the most important determinants on both sides. The list begins with the various needs and desires. It can be arranged and labelled on the basis of the hierarchy of needs described earlier – for example protection, prestige or self-realization. This list of needs, once they have been correctly identified, can then readily be translated into more precise objectives. Corresponding to the needs referred to above, these might be formulated as follows: guarantee of safety, more status symbols or a greater challenge at work. These aims are then worked out as precise negotiation positions, such as: two bodyguards and an armoured car, all trips for the company in Business or First Class, or responsibility for a specific project. And lastly, because we cannot have everything without giving something in exchange, we complete the form with the things that we can offer the other side in return, calling them tangible or intangible assets. To ensure that satisfying our wishes can be done as favourably as possible, we arrange our concessions in the order of what they cost us, starting with the simplest and least expensive, and then progressing up the scale.

The planning form also helps us to determine the intentions of the other negotiating partner. Our own needs and objectives that brought us to our present position are clear to us. We do not know those of the other side, but, if we look at the right-hand side of the planning form, their estimated negotiating positions will at least enable us to draw some conclusions as to their objectives, which we then write in. We can then use the concept of needs described earlier in this chapter to get a picture of their deeper wishes and motivations, and write these in too. With that we build up a mosaic so that gradually we can construct an increasingly complete picture of the overall situation. If we know – or suspect – the actual motivation of the other party, then we also know how we can edge them towards an agreement. At the end of the day, the aim of the undertaking is that our offer should bring the other side to agree on a

Figure 3-5 **Planning sheet for preparing a negotiation**

Own side		Other side	
Needs 1. 2. 3. 4.		Needs 1. 2. 3. 4.	
Objectives 1. 2. 3. 4.	Negotiation position 1. 2. 3. 4.	Negotiation position 1. 2. 3. 4.	Objectives 1. 2. 3. 4.
Assets 1. 2. 3. 4.		Assets 1. 2. 3. 4.	

favourable conclusion. Here is an example of a round of negotiations in a law office to show how the planning form can be used as an aid in practice.

Example: The law office

Maîtres Dupont and Blanc are partners and owners of a small but influential law office in a provincial French town. Monsieur Dupont is the founder and senior partner of the firm, which at present enjoys an annual profit of approximately one million French francs (FF). For this reason he receives a contractually agreed share of 80 per cent of the profits. The remaining 20% go to Monsieur Blanc, a young, ambitious lawyer who entered the firm only three years earlier. Both men are successful and their office is well established, but a number of newly qualified lawyers have recently been vying for part of their share of the market. It is not always easy for Messrs Blanc and Dupont to work together harmoniously. Monsieur Dupont was trained shortly after the war, and his attitude towards the profession and towards his junior partner is marked by conservative values and an authoritarian style of leadership. Apart from their

personal differences, the two partners occasionally disagree very fundamentally about the correct interpretation of legal texts. The partnership was established when the young Monsieur Blanc, from a family of *nouveaux-riches*, offered Monsieur Dupont to purchase a minority interest in the business against a one-off payment in cash. Being in need of a financial fillip at the time, Monsieur Dupont was happy to take advantage of the offer. Blanc chose the Dupont office because it was long established and had excellent relations with the French government. Monsieur Dupont Senior had played an important part in the Resistance, and memories in Paris were long in that regard. Blanc calculated that these political contacts would give him the best chances for his future career.

Now we come to the actual problem. Each lawyer is currently working for a very important client and both are always under great time pressure. The success of the two cases will decide whether the firm receives further orders from these two clients, or loses their custom. Monsieur Dupont has been charged by high-ranking government officials to examine France's regulations in the field of telecommunications, and to submit proposals for their reform. The hearing is scheduled to take place in just four weeks, and by that time a large part of the work needs to be completed. The commission would bring in a profit of something of the order of FF 100,000. Monsieur Blanc has a similar deadline to keep, but his client is a multinationally active concern that is being sued for damages by the Construction Ministry on account of its slow performance of a construction project. The construction company has agreed to a fee of FF 200,000 and the promise of further commissions if they win the case. Both orders are extremely important for the law firm, but it is impossible in the time at their disposal to take them both on with any chance of success. Now the question must be asked, which project should the two partners agree to work on?

Each of the two can produce good reasons why his own case is the more important. Blanc, whose commission would bring in a greater sum of money, wants to do business with multinational companies – something that would also be useful to his family. On the other hand, his family could then bring its connections with the governing party into play to help Monsieur Dupont in his desire to be nominated to a ministerial post as the crowning point of his lifetime career. Another exchange with Dupont would be conceivable, for he is on familiar terms with half the

staff of the national television network. A couple of telephone calls would be enough for him to ensure an invitation for Blanc to appear on a well-known talk show, something that Blanc had so far not managed to achieve for himself. Such a TV appearance and a successful outcome of his construction company case could further facilitate Blanc's future departure from the partnership, a step he has been thinking about because of his partner's authoritarian ways and the unequal division of the proceeds. Dupont for his part has quite different ideas. He is keen to bring the government job to a brilliant conclusion, as this would commend him for a position in the next cabinet. On the other hand, he would not like to be without the valuable support of the Blanc family with its considerable political influence. Blanc's new contacts with multinational companies would also be very useful to him, especially in the field of telecommunications. It would therefore be greatly in his interest, all the differences with his junior partner notwithstanding, to come to a mutually favourable agreement. In exchange, he would revive his connections with the TV network, tone down his working manner and be ready to discuss a different distribution of the firm's profits. Should the call from Paris effectively materialize, separation from his junior partner would not bother him – provided Blanc's family did not try to take revenge and sabotage his political career.

Let us now insert all this information into the planning form we have described above (see Figure 3-6). This provides us with an immediate overview of all the issues under negotiation and allows us to make a reasonable assessment of how the bargaining will continue. A number of different deals are conceivable; whether they can be brought to a mutually favourable conclusion depends on the skill of our two lawyers. Clearly they must drop one of the two cases – that is the distributive side of the affair. But each of them could sweeten the pill for the other by making a whole series of offers. Dupont could perhaps become a minister and Blanc a star lawyer with a face familiar to thousands of television viewers. On the other hand, they might quarrel and dissolve the partnership. Everything between the two extremes is a matter of negotiation. Finally, the direction the negotiation takes – and thus doubtless its outcome – will depend heavily on the ideas motivating the senior partner, Dupont. If his desire for self-realization dominates, he will probably persist in wanting to keep his case – for the government commission does increase his

Figure 3-6 Planning sheet for preparing a negotiation

Blanc		Dupont	
Needs			Needs
1. Esteem			1. Self-actualization
2. Safety			2. Esteem
3. Belongingness			3. Safety
4.			4.
Objectives	Negotiation position	Negotiation position	Objectives
1. Own law office	1. Multinat. case	1. Telecom case	1. Ministerial post
2. Status, esteem	2. TV appearance	2. Support from Blanc's family	2. Govt commission
3. Acceptance by society	3. distr. 50-50	3. Max. fee*	3. High fee
4.	4.	4.	4.
	Assets	Assets	
	1. Family connections	1. Decides on case	
	2. High fee	2. Decides on profits	
	3. Future commissions	3. TV contacts	
	4. Contact with multinat. companies	4. Adaptation of working style	
* (Concern) distr. 80:20			

chances of the ministerial office he covets. If on the other hand his need for security wins the day, he will prefer to leave the more lucrative case in the hands of his junior partner Blanc and insist on continuing the 80:20 profit sharing arrangement. You can never know how long you are going to remain a minister – some governments only stay in office for a few months.

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4 Integrative bargaining

Early on in this book we divided the virtually limitless variety of negotiation possibilities into two basic categories: distributive and integrative. Distributive bargaining we presented in Chapter 2. This is the best-known form of negotiation and as such most people have had experience of it. It goes without saying that here too the success rate can be considerably increased by thorough training and an improved negotiation technique. That is what we have attempted to impart here. But if that were the entire secret of the art of conducting negotiations, this book would be nothing but a manual on haggling techniques, and there would soon be nothing more to say. But that is not the case. While it cannot be denied that some form or another of distribution and hard bargaining may be involved in resolving conflicts, the real art of the process is to assure that all parties end up equally happy with the result. This chapter will take up and further develop the concept of the various needs and wishes introduced in Chapter 3, and use it to present the fundamentals of integrative bargaining.

No losers

A really successful negotiation leaves no losers. This is quite a high principle to aim at, and it will accompany us throughout the book, as it should perhaps in real life. Just think back to your most unpleasant experiences with negotiation. They are likely to be occasions when you had something of a sneaking feeling that you had been taken for a ride. One or another of your colleagues probably confirmed this with a knowing smile. Or you preferred to keep the whole thing to yourself, to avoid

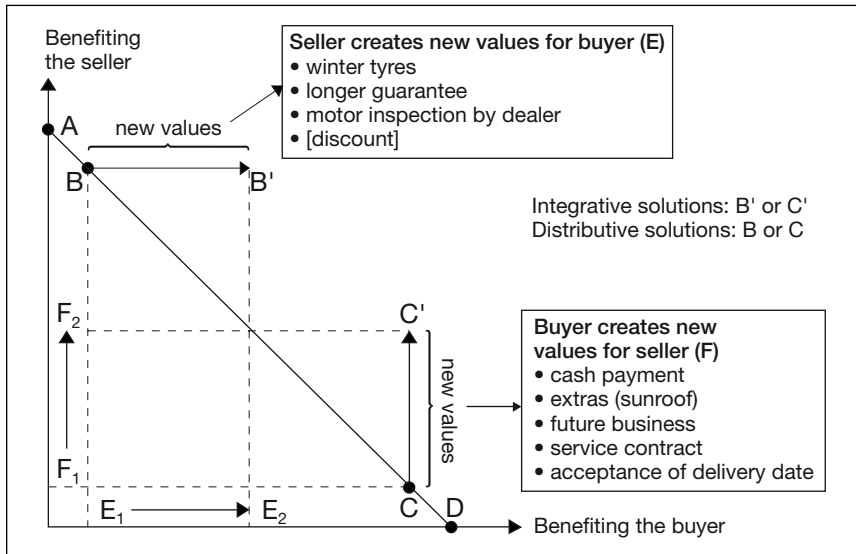
being made fun of. The fact that you can still remember it so well today, however little real importance it had at the time, speaks volumes. No one likes to be a loser. And especially so, when he (or she) can't or doesn't want to recognize the winner as being superior. But even if we consistently come out on top, because we have power or persuasion skills, confrontation is a risky strategy. Then there will always be someone else who loses out, simply the same thing in reverse. Others don't like to lose either, and are likely to keep out of our way in the future. In the long run, confrontation is not the answer, even if it regularly brings a short-term gain. How much better it would be for both sides if they could come to an agreement that makes both of them winners. But how does that work?

Give and take

The most important condition for an integrative solution is the presence of several issues that can be negotiated as a package. To come back to the example of buying a car, if we confine ourselves to the price, then it is impossible for both sides to win. Other elements that can be used as concessions against the price, or against one another, need to come into the picture. These other objects are not generally on the table as and of themselves, nor are they there at the beginning, but they have first to be created or brought in with intention. For this an important ingredient is necessary which is often neglected: creativity. Even when both sides are interested in shifting the emphasis of their negotiation from a difficult issue to a number of simple issues, these simple issues still have to be found in the first place.

It seems that the dealer who wants to sell us a car is unwilling to offer us more than the usual discount. The discussion does not seem to be getting anywhere. After a long pause, he comes out with the idea that he could offer us a set of winter tyres, or voluntarily upgrade the standard guarantee issued by the manufacturer. Both of these cost him less than they cost us; that we know. But neither the tyres nor the guarantee are something to be sneezed at. In turn we may then offer to pay in cash, and ask about the price of other extras, such a sunroof, which we had intended to order anyway. He is also clearly pleased when we talk of possible future dealings with him, especially since we need a new car quite frequently for business use. With so much willingness on our part, he suddenly

Figure 4-1 From distributive to integrative bargaining



remembers that the second inspection is free of charge if we decide to take a service contract. We express our basic interest in the idea and – against a small reduction in the selling price – are willing to accept a longer delivery time for the new model we are interested in. After half an hour's friendly discussion in the pleasantly air-conditioned office of the car showroom, sufficient offers have been put on the table for a package acceptable to both to be tied up. The target has now become clear, and it seems to be coming quite within our reach. The next step will again require a certain technical agility: in order to ensure that the package is right for both parties, we must now find out what combinations of the various concessions we have just outlined is optimal. This phase is the key to all integrative bargaining: this is where the parties leave the narrow path of distribution and create new values through reciprocal give and take.

Mutual gains though an exchange of concessions

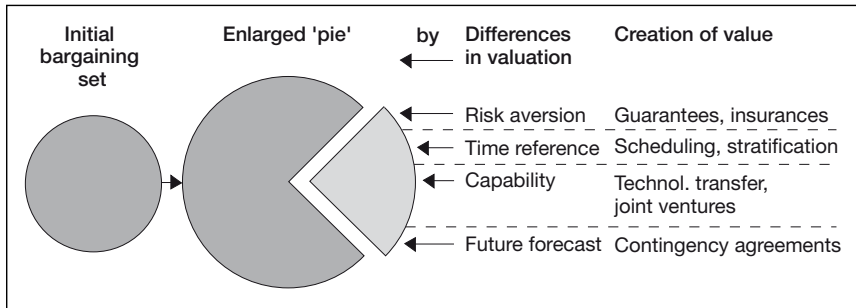
But where do these values come from? The answer is, through the process of integrative bargaining. For it is in its nature to enquire which

of the parties appreciates which commodity more. Everybody has a different valuation of what a particular commodity or service means for him. Its initial configuration is a given, and depending on this personal assessment it has a certain value. We can increase its value to us by exchanging those features we are less interested in for some that are more attractive to us. Our partner to the transaction may value the features in the precisely opposite way, and in any case differently from ourselves. If we both had exactly the same views, we would not voluntarily enter into a trade-off. After an exchange has been transacted each of the two has enhanced the value of what he possesses; in other words, new values have been created.

These new values consist of the accrued gain in benefit that the new owner of the commodity that has been exchanged enjoys as a result of the trade-off. Something that may seem strange in theory, is in fact completely natural in practice. We may for example assume that the person who acquires an insurance policy is more interested in the additional security it gives than the premium he has to pay for it. The insurance company, for its part, can compensate for the various risks in a large measure by grouping them together, so that selling the policy is also a profitable matter for them. Such dovetailing of needs is seen even more clearly on the stock exchange. There, buyers and sellers have quite different intentions or a different attitude towards the risk they run. The composition of their investment portfolios will also generally be dissimilar and as such the requirements will vary. Trading in securities, especially high-risk derivatives, is therefore advantageous for all rational participants. Using the same logic, it is not at all surprising that casual speculators who do not have access to reliable information lose out on the markets. They easily overestimate their real readiness to take risks and thus act against their actual needs. In addition, the small investor will not as a rule have a balanced portfolio that would compensate for the new risks he is taking on. Under such conditions, however, no new values whatsoever that could be split up are created. Integration has once again reverted to distribution: the informed adversary gains what the amateur loses on the deal.

A good example of a mutually profitable trade-off is the granting of credit to an entrepreneur by his bankers. In such a case, the two sides have completely different agendas: the entrepreneur wishes to construct a new branch factory, for which he needs a large loan of venture capital, while

Figure 4-2 Trade-offs increase the size of the pie



the bank is interested in investing the many small deposits of its customers in a profitable way over the long term. If these two objectives are brought together in a single transaction, new values are created that are beneficial to both parties. In this the bank takes on above all the role of intermediary, replacing a great number of individual transactions and contracts and reducing the risk of their performance.

Risk and time are not however the only differences that two parties to a negotiation can bring to the table. Differing skills have a much more immediate effect on our daily lives – why else would I have chosen a different profession from my neighbour? Why does the pilot of the commercial aircraft that brings me back from Hong Kong to Switzerland not sit in my place and I in his? Simply because the present distribution of labour is without a doubt better for me and the other 380 passengers the way it is. But let us come back to the question of conducting negotiations and put the difference between distributive and integrative objectives in a nutshell.

The difference

A person engaged in *distributive bargaining* is striving for the greatest possible profit for himself; this automatically means the greatest possible loss for his adversary. There is only one item of the negotiation to be split up between the two parties. Because no new values are created and gains and losses will always add up to zero, this type of bargaining is also known as a *zero-sum game*. The only alternative is to break off the negotiation.

Integrative bargaining enlarges the scope, in that it deals with a number of issues simultaneously and thus makes exchanges, or trade-offs, possible. The objective on both sides is maximum profit for themselves with the smallest possible loss for the other. To this end, concessions are exchanged between them, whence new values are created. The optimum solution can then be chosen from a great variety of alternatives.

The following examples should provide a picture of how the trade-off can facilitate a transition from one type of negotiation to another.

Example: environmental protection

Economy and ecology – are they irreconcilable? Not at all! The conflict between industry and environmental protection can be readily resolved if the municipality sets up the right inducements, taking economic considerations into account, rather than merely handing out prohibitions right and left.

The head of a regional water board in the centre of Europe is keen to subscribe to this modern principle of environmental policy. The authority run by this committed environmentalist has targeted a paper mill that is polluting a beautiful, ecologically unique lake. The new environmental laws certainly give him the option of simply closing the factory down, but ultimately no one would be served by such a decision. The region is classed as economically depressed, and the mill offers 450 jobs to the small town on the lake where it is situated. Such drastic action on the part of the water authority could also enrage the local population and cause considerable trouble for the environment ministry. On the other side of the coin, the discharge of toxins into the lake must decidedly stop, with no ifs or buts. The water board is in need of a victory that will bring it back the support of the various environmental groups and associations, having suffered a reverse in the matter of the construction of a waste plant. How can all these different objectives be catered for in a single arrangement? The departmental head has done his homework and has had an order prepared under which the paper mill could provisionally be closed down. The paperwork necessary to initiate a shutdown procedure is sitting ready on his desk. In a courteous but firm letter, he has indicated the two options to the owner of the mill. Responding by telephone, she now assures him that the factory is no more interested in a spectacular and unpredictable power struggle in the courts than he is. And so they both agree to table their respective positions to one another in an informal negotiation and then to seek a joint solution that does justice to both the ecological and

economic issues in question. The great variety of imaginable alternatives leaves sufficient leeway for a session of integrative bargaining. Two different technologies with different degrees of efficiency are available. The authority could make a gesture towards the paper mill by offering to subsidize the better (but more expensive) installation. To get the best press, they could close down the plant, recognized as a polluter, until the filter has been installed. Given that there is a temporary fall in demand for its products, and that its present stocks are quite high, the factory would not have any great objection to a temporary break in production. A public relations campaign on the part of the water authority could serve either as a threat or, if it were to present the paper mill as a model undertaking, as a reward for voluntary compliance with the official order. For this purpose a subsidy pool is available from which the authority could offer financial inducements for the incorporation of a novel filter technology. The official thus has a variety of instruments at his disposal. These represent a considerable gradient in terms of their cost to the public authority, because a subsidy could be regarded as a precedent and thus bring many other claims in its wake. A public relations campaign, on the other hand, could do a lot of good with a relatively small outlay. In the negotiations that follow an attempt is made to put together those combinations of concessions that offer both sides the greatest possible benefit at the lowest possible cost. Table 4-1 shows a direct comparison of the costs and benefits of various concessions from the point of view of the two parties.

From the figures given in the Table, it will be seen that the water board could put through the installation of a standard filter if it threatened the factory with the alternative of permanent closure. The authority is however greatly interested in an installation with state-of-the-art technology, as this would win the approval of the environment lobby. But direct subsidization of this advanced technology would be relatively expensive, as it would serve as a precedent for claims from other businesses. Other concessions would be much less onerous for the authority, e.g. a public relations campaign in which the paper mill is put forward as a model of ecological production. Another possibility would be the provisional closure of the works for three months: this would illustrate the determination of the water board and save the company twice as much in salary costs but would result in social costs in the form of social assistance payments since the company would be temporarily closed. Under such circumstances the negotiation has a fair chance of success, if the broad range of alternatives available is utilized to the benefit of both partners.

(After Lax, D. et al, 1985)

Table 4.1 Costs and benefits of concessions (authorities)			
Alternatives	Costs for paper factory	Costs for authority	Cost/benefit
Shutdown:			
Don't shut down	1.5m. (making loss!)	0	Cost 0.5m.
Shut down for 3 months	0.5m. (savings on wages)	0.5m. (social assistance)	Benefit 1.0m.
6 months Full closure	1.5m. 25m. (total write-off)	2.0m. 15 m.	C/B = 0.5
Subsidy (very expensive: every € gained costs 2 €)			
0.5m. 1.0m.	(0.5m. benefit) (1.0m. benefit)	1.0m. (precedent) 2.0m.	Cost 1.0m. Benefit 0.5m. C/B=2.0
Public relations (very favourable: every € of costs brings 5 € benefit!)			
0.1m. negative	0.5m.	0.1m.	Cost 0.1m.
0.1m. positive	(0.5m. benefit)	0.1m.	Benefit 0.5m. C/B = 0.2
Incentive payment			
0.2m. 0.5m.	(0.2m. benefit) (0.5m. benefit)	0.2m. 0.7m. (precedent)	Cost 0.2m. Benefit 0.2m. C/B = 1.0

Example: Auto-Moto Ltd

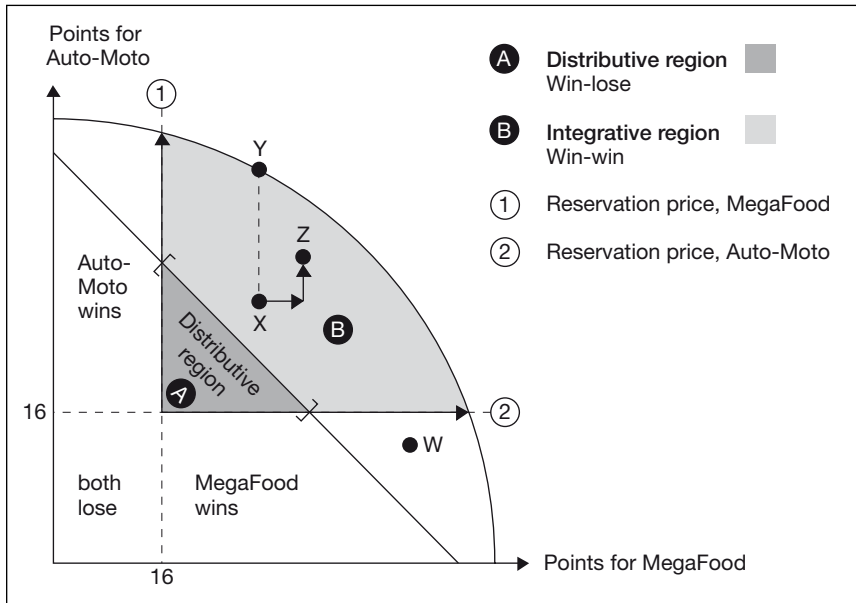
Auto-Moto Ltd is a German manufacturer of utility vehicles. In Switzerland, unfortunately, this company of repute does not yet have a well developed sales and service network, but plans are afoot to build up such a service. In the course of the campaign a salesman from the company visits a prospective customer in Zurich, the fast food restaurant chain, MegaFood. His visit to the MegaFood office was preceded by an offer for six large delivery vans. Auto-Moto had calculated the offer as tightly as possible on account of the prevailing local price war, and told the salesman to try not to reduce the price any further. MegaFood is however known in the trade as a tough customer, and Auto-Moto is thus expecting a demand for more favourable conditions. The forthcoming negotiation, in which both parties are basically interested in reaching an agreement, is designed to hammer out an optimum package. Both seller and buyer have their particular ideas about how much each of the concessions on the list (see Table 4-2) is worth to them.

Each side wants to accumulate as many points as possible, of course. Both negotiators also know that the less their demands hurt the other party, the more they will get. During the negotiations these items of information, each of which is known to only one side, are exchanged in a series of questions and answers. Appropriately, everything takes place in the conditional tense: *If we paid half of the purchase price up front in cash, would you deliver the vehicles in our company colours?* Such language does not commit the participants at this juncture and they can continue to probe until they have found the optimum combination. In this way, too, the individual bargaining points are not inextricably linked up with one another, and flexibility is maintained. When it comes to their rock-bottom limit, on the other hand, both parties will absolutely not budge. The salesman from Auto-Moto has clear instructions that he must achieve at least 16 points. MegaFood will buy the delivery vans only if they make at least 16 points on the basis of an in-house assessment. In technical terms, these figures may thus be regarded as their respective reservation prices.

Let us now take a critical look at various possible solutions. To start with, Figure 4-3 indicates very clearly that cooperation and integration would be to the advantage of both negotiating parties. Both will achieve more than they would have done in distributive bargaining concentrating

Table 4-2 Costs and benefits of various terms of delivery			
Item	Auto-Moto (seller)	MegaFood (buyer)	Total
<i>Company colours</i>			
yes	0	5	5
no	8	0	8
<i>Delivery site</i>			
ex-customs	12	0	12
3 cities	6	4	10
6 cities	0	8	8
<i>Delivery time</i>			
120 days	11	0	11
90 days	7	5	12
30 days	1	8	8
<i>Rebate</i>			
none	15	0	15
1%	10	4	14
2%	0	12	12
<i>Service contract</i>			
all-inclusive	-8	8	0
motor only	-6	6	0
none	0	0	0
<i>Guarantee</i>			
standard	7	0	7
+1 year	-3	4	1
+2 years	-10	12	2
<i>Payment</i>			
cash	12	2	14
half in cash	7	8	15
12 months	3	12	15
[optimum alternatives are printed in bold ; they do not however necessarily imply a fair distribution]			

Figure 4-3 Comparative outcome of negotiations



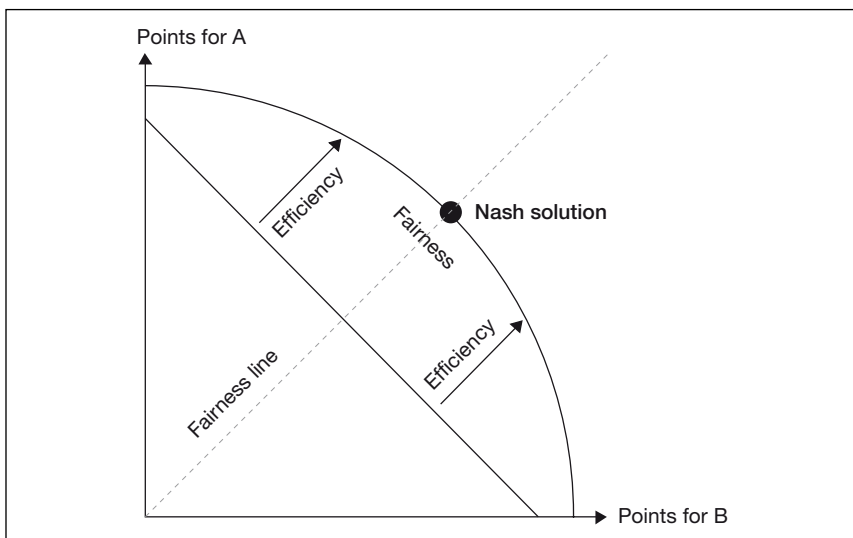
solely on the question of price. And new values are not only created, they are also split up. For MegaFood it is of no consequence whether they reach point X or Y, but they would certainly prefer point Z. Best of all, of course, would be point W, which however is not acceptable to Auto-Moto. Their representative instead proposes point Y (which he greatly prefers!) and bases it on a financial argument: the points lying on the arc-shaped efficient frontier are optimal in the sense that they take advantage of all the profitable possibilities of exchange. In this way, all the imaginable gains are effectively created. This remarkable concept was developed by the Italian economist and sociologist Vilfredo Pareto (1848-1923), which is why we say that all results that satisfy this condition are *Pareto-optimal* or *efficient*. The buyer at MegaFood must have gone to a few lectures in economics in his university days and is therefore able to follow the logic at work here. Nevertheless, he feels is being taken advantage of at point Y and therefore proposes point Z as a compromise.

Having read a textbook about negotiation he imagined integrative bargaining very differently – now once again everything seems to boil down

to a simple distribution. What has he done wrong? Nothing, actually. Certainly he should not expect too much from the integrative solution – and above all that each party automatically receives an equally beneficial share.

Figure 4-4 shows at a glance why this should be so. The possible outcomes will lie at various distances from the dotted diagonal fairness line. This line passes through all points at which each of the negotiating partners obtain an equal benefit. For simplicity's sake, we shall regard any such distribution as being a fair one. Which solution then is the best? Strictly speaking, there is only one point that is both efficient and likely to be supported by both parties on account of the fair distribution it represents – the so-called Nash solution. This was named after the American economist and games theorist John Nash, who in 1995 was awarded the Nobel Prize in Economic Science together with Professor Reinhard Selten of Bonn. This is the only point at which both conditions are satisfied simultaneously; in terms of our own definition, only this outcome is both optimal *and* fair. But this does not in any way imply that in reality such a solution necessarily exists. Indeed there is none such in our example – the optimum, point Y, in Figure 4-3 favours Auto-Moto. In this case, a solution more directed towards fairness would be reached at the expense of efficiency.

Figure 4-4 **Fairness and efficiency**



Fairness and efficiency

This example teaches us an important lesson: *optimal* is far from being the same thing as *fair*. In point of fact, the two terms have nothing to do with one another. Here, *optimal* means that no opportunities have been missed. Expressed graphically, it is not possible to make the pie any larger than it is. *Fair* in this context, on the other hand – see how we have drawn in the fairness line –, means that each party receives an equal benefit. That is to say, the pie is sliced right down the middle. It is very unlikely that each of these aims can be fully achieved at one and the same time. In the final analysis, we have to choose which is the more important to us: fairness or efficiency.

Rather than a philosophical discussion on the concept and importance of fairness, interesting though it might be, we should like at this point to propose a purely practical solution. If both sides first make an effort to achieve the most efficient solutions possible, then in a second phase they can concentrate on the matter of choice. In the course of this selection, the question of distribution will of course be prominent once again. But nevertheless some of the alternatives are better for both parties than the possible outcomes of distributive bargaining. As such, even an unfair result is favourable to both parties, provided they both go for a result that is better than their reservation price. Certainly, however, if both sides insist on having the larger slice of the pie and cannot agree on some way to split it up, the most elegant integrative solution possible will collapse like a house of cards. Whenever it is a matter of distribution, cooperation will always be the decisive factor.

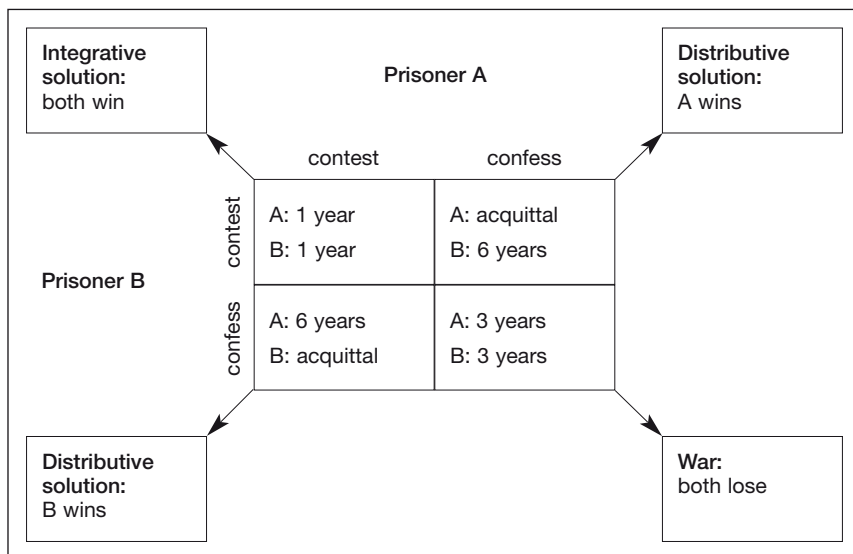
The prisoner's dilemma

This fact becomes still clearer against the background of the so-called prisoner's dilemma. In this classical example from game theory there is from the outset no solution that satisfies the two conditions.

The original story that provided the name for the game tells of two prisoners in custody. Following an armed robbery in which they were both involved they are caught by the police and questioned separately. Both are confronted with the same decision: confess or contest. If both contest the

accusation, they will be sentenced to only one year in prison, on account of the weak evidence against them. If they both confess, they can be sure of getting a three-year sentence. At this point the decision is easy: both will of course refuse to admit being the culprit. The police detective has already worked that one out too, and has arranged a deal with the investigating judge. If either of the two testifies against the other (who continues to keep his mouth shut), the former will immediately be released as a crown witness and the other is condemned to six years behind bars. The temptation is enormous. So enormous in fact that both prisoners finally testify and are sentenced to three years' imprisonment. This dilemma is again bound up with the name of the Nobel Prize winner John Nash, and is called the *Nash solution*. From the standpoint of each individual suspect, it is always better to give evidence than not to do so – whatever the other does. If the other says nothing, the possibility of an acquittal looms; if he talks, the penalty is still only three years behind bars instead of six. So both talk, since they are both faced with the same choice and the same temptations. It would of course have been better for both, indeed even best, if they had credibly committed themselves to silence. But how could they do that?

Figure 4-5 Prisoner's dilemma



Trust

The two prisoners would need a great deal of trust in one another to be able to resist the inspector's clever ruse. For each of them has a good reason to betray his companion! It would take a considerable amount of honour among thieves to remain loyal to the other under such circumstances. But such justified mistrust is by no means restricted to the criminal world, and should be at least as interesting to us honest bargainers. Just think back to the OPEC cartel, the organization of oil-producing countries, which provoked the first oil crisis in 1973. For the first time in history the oil countries managed to agree among themselves to limit the quantities of petroleum sold by all OPEC members. Since there was no decline in demand, the price of crude oil very quickly tripled. Instead of black gold it was now money that flowed in to the oil producers – in the form of petrodollars, so named on account of the sky-high price of petroleum. But the masters of crude soon found themselves in a sort of prisoner's dilemma: at the current inflated prices, even a small increase in output, virtually imperceptible on the world market, would be extremely profitable to each of them. Some of them did give way to the temptation, and pumped more oil into the pipelines. The result was an increase in the quantity on offer, and the artificially high price of oil dropped back to normal. If they had all maintained their solidarity, they would all have done a better deal over the long term. Mutual trust was unable to compete with a selfish desire for profit.

Now it doesn't always have to be a matter of billions of petrodollars: how can we in fact know whether the other side is worthy of our trust? They may abuse it in the hope of getting some advantage for themselves. And why should they trust us? They know that we are faced with enough temptations to make us betray them to our advantage. But integrative bargaining lives by mutual trust – the information it requires could never be put on the table if matters were otherwise. And if there is no trust, so there cannot be integration. We are left with distribution, however tough it may be. And that is just what we want to avoid. We should regard mutual trust as an extremely valuable commodity, one that is absolutely necessary to our success. This has nothing to do with weakness or excessive friendliness, but with far-sightedness. Trust is all too easily lost, and virtually never regained. There is just no useful pur-

pose in pulling a fast one on a business partner – it is just not worth losing your own good reputation for all time for the sake of a one-off victory. However, sometimes negotiators do break their word for unilateral gain, as described in the example below.

Example: Reynolds

What is our word of honour worth, when it comes to the crunch? Not necessarily that much, if a large enough amount of money is in the balance. That was a lesson America's largest cigarette manufacturer, R.J. Reynolds Industries, learned to its dismay in 1971. The company had entered into negotiations with its South African competitor Rothman's World Tobacco Group and was looking for a merger of the two tobacco giants or at least a takeover of Rothman's International, a division of the company from Stellenbosch with its registered office in England. The American cigarette market was becoming increasingly difficult on account of a growing health awareness on the part of the public, and its prospects of growth were virtually nil. A merger with Rothman's would not only open up attractive foreign markets for Reynolds, but would also greatly improve the position of the company, promoting it from the fourth to the second largest in the sector. The move would at last allow Reynolds to evince its arch rival Philip Morris from this position. The negotiations for Reynolds were conducted by no less than the CEO, J. Paul Sticht in person, while Rothman's sent the controller of the Holding Company, Anton E. Rupert, into the field. So as to forestall rumours of a takeover and a subsequent reaction on the stock exchange, the meeting between the two men was arranged most discreetly and shielded from the public eye. The quite conspiratorial precautionary measures went so far as having the location of the talks changed every few days to a different European city. Both sides had agreed to conduct the negotiations on an exclusive basis, that is to say, not to hold any talks with other interested parties at the same time. When in early April 1981 an agreement was only a hair's breadth away, news of the negotiations was announced at a press conference. Reynolds' shares rose sharply on the market, and there was jubilation in Winston-Salem that day. It soon turned sour when just three weeks later the bombshell exploded: Rothman's had made a surprise deal, estimated to be worth 350

million dollars, with Philip Morris instead of with Reynolds. The day before, Reynolds chief Sticht had simply received a brief note from his negotiation partner Rupert that the talks were over. His astonishment changed to indignation when he heard of the deal with Philip Morris. He was shocked that Rupert had gone behind his back and broken the exclusivity agreement. Trust went out of the window, as did the deal, too. It must be admitted that Sticht overlooked two important signs – an indication of poor preparation. In the first place rumours had been circulating on the stock exchange for months that Rothman's was holding talks with several tobacco companies. The other mistake – which seems far more portentous – was the failure to know his opponent. The negotiator from South Africa had been featured years before on the title page of *Business Week* as a *buyer* – not seller – of businesses in the tobacco sector: Rupert did not want to sell, but rather to buy instead.

(after J. Wall, 1985)

An eye for an eye – The Tit for Tat tactic

Apart from errors such as these, how can a breach of confidence like that committed in the Reynolds case be prevented? In the case of a one-off transaction, when the parties are never likely to sit down together at a table again, it is virtually impossible. We saw this in the prisoner's dilemma. Even when the negotiators can count upon being judged by their actions at a later date, as was the treacherous negotiator Rupert in the Reynolds case, betrayal and disappointment will occur if one of the sides sees an advantage in it. Nevertheless, the majority of negotiators would prefer to have well-placed confidence in their partner across the table. And even when good faith is present on both sides, there is still no guarantee that the dilemma can be resolved – only a justified hope. Both parties must however first earn a reputation of credibility. To this end the strategy known as *Tit for Tat* has proved very useful. Here something that at first sight looks more like instructions for a blood feud, in reality describes an extremely peaceful and cooperative form of behaviour.

At bottom, the strategy outlined in Table 4-3 may be formulated simply in the form of, *As you do unto me, so I do unto you*. In spite of – or perhaps on account of! – its simplicity it is very effective and came out on

Table 4-3 Eye for an eye: the strategy of Tit for Tat
Definition: Begin in a cooperative spirit and always do what the other does
Other rules: <ul style="list-style-type: none"> • Be courteous, never be the first to break off the cooperation • Be quickly provoked and strike back immediately as soon as the other does not cooperate • Be reconciling, and immediately go back to cooperation once the other cooperates again • Be clear and predictable in your conduct, don't play tricks

top among 200 simulations using a computer model of the prisoner's dilemma (Axelrod, 1984). In so doing, this good-natured although anything but gullible approach has demolished a considerable number of the much more sophisticated rivals that have occasionally been pitted against it. But the actual advantage obtained was not worth the candle, for the partner quickly became distrustful and cooperation went out of the window once and for all. In this stand-off, both sides were the losers. The success of this strategy lies in its ability to give signals. A constant, predictable demeanour is going to inspire more confidence than a complicated one that is difficult to understand. And it must be added that the exponent of the tit for tat tactic is never the first to play tough – so if the partner is playing the cooperation card himself, he need never be disappointed. But if ever he does side-step and show an excessive interest in his own gain, he will be paid back in kind without further ado. The lesson has been learnt, and the game can begin again, on friendly terms so long as the wayward partner is willing to cooperate. One is always given the chance of reforming after receiving punishment. The following example shows how extraordinarily effective this strategy can be.

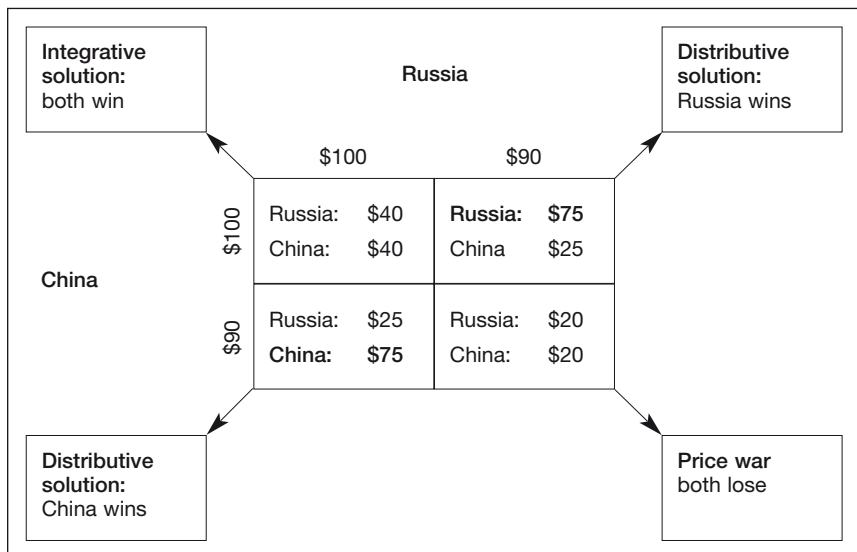
Example: Palladium

Russia and China are the world's major suppliers of the precious heavy metal palladium. This rare element is used primarily in dental technology and the electrical industry, and in the motor industry for the production of

catalyzers; it comes about as a by-product in the manufacture of nickel. Both of these countries export palladium to Japan, whose motor industry makes it completely dependent on the importation of this raw material, and which is thus one of the largest consumers. Already by virtue of their geographical proximity, Russia and China are the major suppliers. As long as they ask the same price, their market share remains the same. By undercutting its rival, however, one of the suppliers can increase its market share at the other's expense. But at the same time the total amount of profit to be had will diminish. Prices are fixed every month, in each country independently of the other; the amount and distribution of the profits each month derives from a combination of both producers' prices. Naturally, both governments want to make the greatest possible profit from the palladium business, but unfortunately there is very little ground for mutual trust between them: diplomatic relations between the two countries have been broken off on several occasions over the past few decades.

As part of their training in international relations, a group of diplomats were given the task of managing the two palladium monopolies – purely as an exercise, of course. They were divided up into two groups,

Figure 4-6 Profits of palladium suppliers relative to its price



each kept in isolation from the other, and instructed to make their monthly price decisions. The starting price was \$90 per fine ounce and the rules allowed them to increase it to \$100. The profits resulting from the various combinations of these two prices are illustrated in Figure 4-6.

The exercise was duplicated in a number of groups. The following Table shows two typical, but very different, results. The superiority of the tit for tat strategy used in the example below cannot be denied.

Table 4-4 Palladium: Confrontation and cooperation								
	Both groups constantly attempt to outbid the other				China Plays Tit for Tat; after a while, Russia follows suit			
	Price		Cumulative profit		Price		Cumulative profit	
Round	Russia	China	Russia	China	Russia	China	Russia	China
1	90	100	75	25	90	100	75	25
2	90	90	20	20	90	90	20	20
3	100	90	25	75	100	90	25	75
4	100	100	40	40	100	100	40	40
5	90	100	75	25	90	100	75	25
6	100	90	25	75	100	90	25	75
7	100	100	40	40	100	100	40	40
8	100	90	25	75	100	100	40	40
9	90	90	20	20	100	100	40	40
10	90	90	20	20	100	100	40	40
11	90	100	75	25	100	100	40	40
12	90	90	20	25	100	100	40	40
Total			460	465			500	500

Integrative tactics

The basic tenets of integrative bargaining have been thoroughly presented in this chapter through examples. Now it is a matter of ensuring that you apply them effectively. What type of demeanour is more suitable to creating the right atmosphere for the open, constructive resolution of problems? How do we get out of a deadlock situation? And by no means least: how do we get the largest possible share of the enlarged pie? A number of techniques will be presented here, while others will be proposed in subsequent chapters.

Building up trust

Start with a few simple aspects that both sides could agree to. That helps to create trust and facilitates the entry into negotiations. The broader the possible common ground, the better.

Separating problem-solving and decision-making

An approach that has been found valuable is to keep the search for alternative solutions separate from choosing and decision-making. The objectives of these two stages of the process are too different to be dealt with in a single phase. It may also be useful for different people or different teams to undertake these tasks. In foreign policy negotiations, for example, it is common for professional diplomats and secretaries of state to hammer out prospective agreements and conventions beforehand, before the ministers or heads of government step into the arena to decide between the alternatives and validate the documents with their signature. These officials are less subject to the pressure of expectations from the public, and this permits them to be more flexible in their approach. They can accommodate setbacks much more easily than the politicians, for whom a failure can have a devastating effect on the public opinion polls. This procedure also has a corresponding application in the market economy. If for example a joint venture is to be agreed between two companies, the two managers charged with the affair are first given a limited mandate, which makes it possible for them to elucidate all the problems and sound out the other party without the need for over-hasty decisions. They may also work around various alternatives, without at this stage involving any obligation on either side. Only once this basic groundwork

has been completed and it is time for decisions to be taken do their respective division managers come into the frame. This step-by-step process has proved valuable, as it considerably reduces the chances of an embarrassing mistake. The public – which in the private economy takes the shape of boards of management, shareholders, the financial press, and so on – is made privy to what is happening around the negotiating table only once a successful deal seems to be in the offing.

Linking concessions

The search for a mutually advantageous trade-off is facilitated by the use of interconnected concessions: if A, then B. In order not to commit ourselves before the time is ripe, questions are asked – and answered – in the conditional tense: *If we go along with your request regarding X, how would you come towards us in respect of Y?* If one particular pair of concessions does not lead to the result hoped for, the next pair is tried out – until all the combinations of linked concessions have been exhausted. Finally, when all the pairs of offers are on the table, the best of them can be selected and put together into a mutually acceptable package.

Smoke screens

However cooperative the negotiation may be, we should not neglect to think a bit about the eventual distribution of the pie. To this end, it may be useful to make a point sound more important than it really is to us, so as to be able to sell it to the other side for a high price in concessions at a later time. But covering up our real priorities in this way does carry the risk that the partner will take us very literally and shift his demands to other areas that are of real importance to us. Then we may be saddled with something we don't want!

Mediators, conciliators, arbitrators

Any negotiation can find itself in a dead end, with the parties no longer able to extricate themselves from it. In an attempt to bring the deadlocked talks back on track, an independent third party is often then called in. This may be a mediator, a conciliator or an arbitrator – but the duties and competencies of the three vary considerably. While the mediator has only advisory functions and can be dismissed summarily at any time, the arbitrator has somewhat more authority. And if the parties

entrust themselves to an arbitrator, they are basically relinquishing their own decision-making powers. This decision puts them at the mercy of the third party and his arbitration. However useful the good offices of a third party may be (who, it is to be hoped, is genuinely impartial!) there is no substitute for a careful definition of his or her mandate beforehand. Conciliation is a quasi-judicial process by which a third party (or group of parties or international organization) attempts to broker a solution to a dispute by assisting the parties to it to define the facts of a dispute and to reach agreement on the trade-offs necessary to resolve it., Unlike mediation, conciliation presupposes that the conciliator is impartial, has no direct interests of its own at stake in the dispute, and will not itself intervene to alter the calculus of the parties (Freeman, 1997).

The one-text procedure

An extremely constructive and practical aid when a common solution is being sought is a single text that circulates between the parties. Each side is free to make suggestions without any obligation, and the contributions from both sides gradually come together in the form of a mutually acceptable solution. In this way, although both are working with the same text, neither of them is committed to it. Accuracy is enhanced, but not at the cost of unduly limiting creativity.

Creative grey areas

A problem should never be brushed aside with a makeshift solution just to get it out of the way. That hinders the creative search for the *optimum* solution. New solutions sometimes have to be invented from scratch – any conventional remedy will then only partly fill the gap. The existence of grey areas, a sort of state of suspended animation consciously introduced or at the very least tolerated by both parties, allows both of them to become more aware of the other's needs, and thus to create new values. The price of such creative grey areas is the uncertainty that attaches to them: how do we know that the other is going to keep his promise and not trick us? If however sufficient trust has been built up, the usefulness of these grey zones will often outweigh their cost.

Sources used in this chapter

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5 Strategy

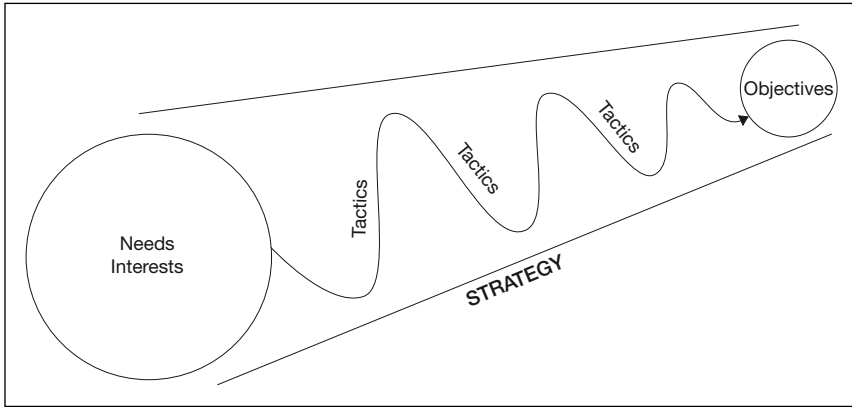
We have now staked out the framework for a successful negotiation. We know our needs. We know exactly what we want. We also have an idea what our negotiation partner wants of us, and what we can offer him. To put all this together in a single package will require considerable patience, creativity and cooperation. We are clear about that. So we can start preparing for the first meeting. First of all, we need to make a careful decision about strategy and tactics. These are familiar terms, but what exactly is the difference between them? And above all, which of them is the more important?

Strategy and tactics

Both are necessary, but a clear distinction needs to be made between them. Strategy is the overall guideline, indicating the direction we need to take from our wishes and needs to our objectives. If, given a set of specific interests and objectives, we choose the wrong strategy, we will be setting a wrong course from the very start. We would then be very lucky to get where we want to go.

Tactics, on the other hand, always follow after strategy, fleshing it out with a concrete line of action. If strategy is the thought, then tactics are its formulation. If we are going to get our message across, both will be necessary – but the thought comes before the word. Tactics should not be directly oriented towards the objectives, but towards the strategy. For this reason they may sometimes take an unexpected turn, which may appear to be at odds with the general direction we are going. But as long strategy has been served, the choice of tactic will have been a good one.

Figure 5-1 Strategic context of negotiations

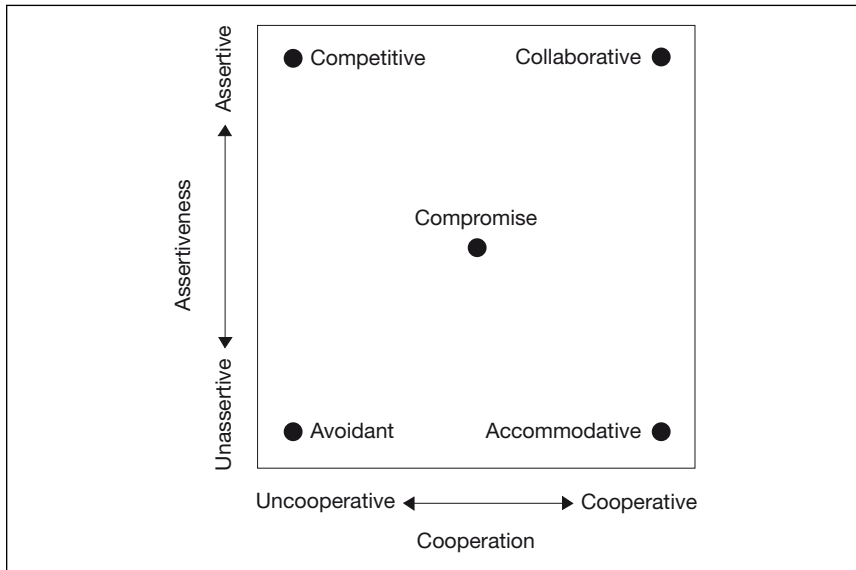


Nor is the shortest route necessarily the best – sometimes we first need to overcome an obstacle, or work our way around it. Any tactic is suitable, as long as it achieves its aim – ideally of course with the smallest possible expenditure of time and effort. Tactical action is considerably more flexible than strategy in this regard: it is also correspondingly more versatile and adaptable to changing conditions, as we shall soon see in Chapter 6.

Positions in the conflict

In the case of strategy, our room for manoeuvre is considerably narrower. Blake and Mouton (1964) have developed the *managerial grid*, in which various management styles are represented. Each position in a conflict can be charted along two axes: assertion and cooperation. The assertion element describes the fervour with which someone goes about having his wishes satisfied, while his readiness to cooperate will bring the interests of the other side into the equation. We can construct a grid based on these two axes, which allows us to define five different behaviours in conflict management (see Figure 5-2).

On account of the major significance they have on the course of negotiations, these positions and their advantages and drawbacks will be discussed in detail in the sections that follow. The choice of which of the five basic positions is the most appropriate for a given conflict depends on

Figure 5-2 **Modes of conflict management** (Thomas and Kilmann, 1974)

the type of task at hand, the situation, and the personality of the negotiator (Thomas and Kilmann, 1974, Dupont, 1982). Later in the chapter, we shall see how this choice is made, using different examples. So let us start with the five basic positions in a given conflict.

Competition

To push hard to get what we want may be effective, but it is not cooperative. Its thrust is to put through our own aims exclusively, without heed to the other, in the shape of a distributive result, a zero-sum game. Such power-oriented behaviour uses all available means to attain the goal sought after – persuasive powers, pulling rank, or quite simply a stronger economic position, for example. We might fight for our rights, for a good cause, or simply for our own profit. Nothing is more appropriate if it is a matter of demonstrating our own strength, stamina or authority – even if we don't really have them. Such conduct has all the romance of the Wild West: a real man wins against all the odds! This may indeed be impressive,

but it is also extremely disturbing, such as when a street trader or door-to-door salesman just won't give up and obdurately pressurizes his hapless victim into a sale. Nobody likes that. The person who advocates his cause energetically will have the advantage of initiative – like the white pieces on the chessboard, which are always one move ahead. But such hectic pressure and activity gets in the way of receptivity. It leads to impatience and loss of flexibility. The warrior obsessed by the pursuit of victory in his campaign is also at risk of missing important signals from his adversary. He wants to exert his will and master the other. If both parties resort to such tactics, the inevitable result is confrontation, a battle of wills. One of them must give way or be bettered in the final showdown. In certain cases such stubborn maintenance of a position may be a good idea, but it leaves little room for cooperative approaches and a constructive solution to the conflict.

Collaboration

Constructive collaboration is also demanding in its way, but it is much more than that. It represents an attempt to find a solution in tandem with the other, that takes full account of the desires and interests of both parties. In the terminology expressed in this book, it corresponds to integrative bargaining. Collaboration simply requires that both parties familiarize themselves thoroughly with the conflict and its causes, and work towards finding a joint approach. This is almost always possible: there is a creative solution to be found for most problems if both sides pull together. With a little goodwill they can work through the differences that separate them and – without losing sight of their own principles – learn something from the other's point of view and experience. They might consider specific points as a separate issue, or put them to one side straight away, so as to open up the way to an overall agreement. As we have already seen, a decisive factor in such an agreement is to satisfy at least some of our partner's wishes. This implies the greatest possible understanding of the other's needs. Why should the negotiating partners not address their personal differences and clear them up in a climate of cooperation? Such a strategy creates mutual trust and has the great merit of far-sightedness. It does not have any real weaknesses, but does require a readiness to collaborate from both parties.

Compromise

A compromise is possible when each party meets the other half way. Something is demanded, but it is not absolute. Some cooperation occurs, but not the whole way. The purpose of compromise is to achieve a solution that is tolerably acceptable to both parties, that is at least partially satisfactory to each of them. Splitting the difference also lies halfway on the assertion and cooperation axes – illustrated by the diagonal from top left to bottom right in Figure 5-2. When we reach a compromise we don't relinquish everything, but nor do we get everything we want, either. Such a solution will lie between the positions of avoidance and collaboration: it does not avoid the conflict, but nor does it go so far into the sort of detail a readiness for new alternatives would require. It is much more superficial. The compromise also lies at the centre point of the other diagonal. This aptly illustrates the expression, *to meet one another half way*, where the parties make moves towards one another or look for a rapid agreement that is just about acceptable to them. At least then, some agreement will have been struck. The compromise is widely used as a device in politics and diplomacy, where it is highly esteemed as the *art of the possible*. If neither side is able or willing to make further concessions (because his mandate is limited), it is often the only option, which by definition is therefore the best. In another context a mixture of cowardice and avidity may lead to a *bad compromise*, where the partners apparently did not have the courage or the generosity of mind to look for better alternatives, even though their mandate would have allowed one. A compromise may well be the best solution in many cases, but it is more likely only to appear so.

Avoidance

Avoidance is always possible as a no-win solution. Instead of insisting on his demands or cooperating, the negotiator withdraws from the conflict and forgoes an agreement. In this he is serving neither his own interests nor those of his opponent. He simply avoids coming to grips with the problem; perhaps because his opponent seems too powerful and a confrontation does not appear to have any prospects of success. In such a

case a tactic worth recommending might be to let the opponent thrash about in the air for a moment – similar to the technique used to such effect in the Japanese martial arts *aikido* and *jujitsu*, which indeed constitutes a favourite ploy of Japanese management. The avoidance strategy may have a very diplomatic quality, with awkward issues being put on ice and postponed until a more favourable moment. If an agreement does not yet seem possible, conscious avoidance may help to prevent damaging an otherwise good relationship with the other party. It is far better to duck away at the right moment than to experience disappointment later, or set it up. But avoidance may also come up in the shape of the *ostrich policy*, when one of the parties sticks his head in the sand and plays the waiting game. This is one way of deflecting a situation that threatens to be dangerous, but it will rarely be sufficient to defuse it completely. In cases such as this evasive action is a very circumspect and conservative way of responding. It does not involve much risk: nothing is ventured, but nothing much is lost. It also has the characteristic of covering up one's own interests or positions quite effectively. It forestalls the sort of discussion in which the other side might be apprised of important information. Certainly, such an attitude does not exactly make a friendly impression on the partner at the receiving end of the rebuff, but to opt out at a later date could cause much greater damage. Avoidance is an extremely versatile and thus useful position to take in such a situation. But like the other positions, it should only be used in a very targeted manner. Certainly, it should not be seen as a stock solution. The over-frequent avoidance of conflict whittles down our own expectations and thus minimizes the chances of truly satisfactory results in the future.

Accommodation

Accommodation is the opposite of competition. It is not assertiveness, but rather it is very cooperative. The negotiator renounces most of his objectives. In order to satisfy his opponent, he sacrifices his own interests – either from selfless generosity, munificence or forced obedience. Were the arguments of the other side so convincing, that our negotiator could only be convinced? Was he perhaps even converted? Straightforward capitulation is an effective strategy in its way, when it's a matter of defus-

ing an escalating conflict or simply to re-establish a friendly atmosphere. But it may be read as an invitation for more demands, as our example of the Munich Conference in Chapter 1 showed. Giving in may also frequently be interpreted as weakness and as a sign of naive gullibility (or a just punishment for it!). But as a strategy it should not be rejected out of hand – everything depends on the objective and the circumstantial details.

Which position, when?

Since these various positions are diametrically opposed to one another, the question automatically arises, which position should we adopt in a given situation? Although as a matter of principle cooperation is the best choice, it is not always available as an option. In this section we present four important criteria on which to evaluate strategies when confronted with a specific problem.

Let us begin with the vertical axis in Figure 5-3. How do we know how far we can go with our demands, and how forcefully we should present them? How much cooperation should we offer, and how much can we expect from the other side?

What is at stake?

The first consideration underpinning this decision is: how vital is this negotiation for me? What is at stake here? If a failure would drive me to the wall, I am going to want to put more of my energy into it than if it were just a matter of buying a new telephone answering machine. I will want to fight every inch of the way to maintain my position or, better, work together with my opposite number to achieve an optimum outcome. At the very least I will want an acceptable compromise, if that is the best alternative the circumstances have to offer – always a better solution than to give up an important negotiation without any agreement at all. But one thing is certain, I am not going to give up if the outcome means everything to me, or when a precedent would be established. For if I give way now, then other people are going to expect a similar deal in compa-

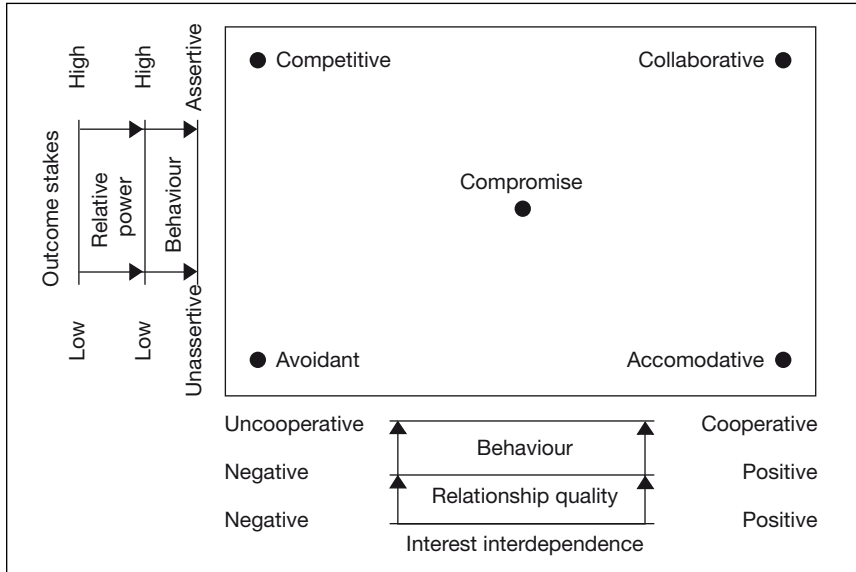
nable cases in the future. To give way now would mean to give way again, and again, ... and again?

Power play

The power balance between the participants has a similar impact on the course of events. This is something of a self-evidence: the one who has the power to impose his demands is in general likely to do so. Unless of course he is pursuing a quite different objective. The mere availability of power thus does not necessarily mean that it is going to be brought to bear in a given case. But clearly the very possibility that it might – whether on our own part or that of the other – is going to have a considerable or even decisive impact on the choice of strategy. For the side that has the power in its hands can resort to it at any time. That is the principle of deterrence. There is no point in attacking an adversary who is stronger than you. As important as an accurate assessment of one's own power, therefore, is the most accurate possible assessment of the adversary. For this, we need to understand the sources and basis of power (see Chapter 2).

Common interests

Let us now turn our attention to the horizontal axis in Figure 5-3, which introduces two new variables that affect the level of cooperation: common interests and the quality of the personal relationship. Let us start with the first of these: it is natural to expect that the more the interests of the parties coincide, the more they will want to cooperate. If both are going for the same objective, they are more likely to pull together than if their aims are diametrically opposed. Conversely, the fewer interests the two sides have in common, the less cooperation will be an ingredient of their bargaining efforts. We don't need to dwell on that. But it is a good idea to be clear about even such simple steps of logic when we are devising our strategy. A similar situation obtains when it comes to adapting our own position in the course of the negotiation, as we shall see later in the chapter.

Figure 5-3 **Determinants of conflict behaviour** (Gladwin and Walter, 1980)

Relationship quality

The scope for cooperation also depends on the quality of the personal relationship between the negotiating partners. This too is such an obvious point that it sometimes risks being forgotten. Clearly, all of us behave differently towards a friend than we would towards a completely unfamiliar discussion partner, not to speak of a notorious double dealer in the trade. If we have had positive experience of a negotiating partner, who has proved himself or herself to be serious and reliable in our eyes, the way is wide open to cooperation. And of course the converse is equally true: our partner is going to need to feel that we are sufficiently trustworthy before wanting to cooperate with us. Both parties have to earn their right to cooperation. But there is of course always the possibility that despite a good personal relationship too many differences of interest stand in the way of an agreement being obtained through cooperation. In such a case the result is likely to be a compromise, or one of the parties will give way in order not to sully the good relations. Both may even choose to side-step the conflict between interest and relationship, and not pursue the deal. As we have

seen, each position on the grid described by Gladwin and Walter (1980) can be defined by four readily assessable criteria – relative power, outcome stakes, interest interdependence and relationship quality. On this basis, we can plot our own position on the grid as well as that of our partner in terms of demands and cooperation. True, this is not enough to resolve any conflicts that may arise, but an appreciation of the positions on both sides may be quite valuable when it comes to developing an appropriate strategy.

For example: Business lunch with IBM

The following example will show how effective it is to cultivate good personal relations. The movement along the horizontal axis in this case made it possible to pass from *avoidance* (on the part of the IBM representative) to *collaboration*.

Long before she became president of the advertising agency's North American operations, *Ogilvy & Mather's* Rochelle Lazarus had a sense of personal relations with clients. For several years she had lunched every day with former or current clients, cultivating relationships and the proverbial good connections, and not only at top executive level. In every company that she worked for – in the first third of her career, that included *American Express* – she knew armies of people in influential positions at all levels and in all sorts of departments. This enormous effort – to say nothing of the restaurant checks – paid off after several years for her company: in 1992 she won back American Express's charge-card advertising account for *Ogilvy*. But the really big deal came two years later, when her good relations enabled her to reel in the \$400 million-plus account of the computer giant IBM. She would of course never have landed such a prize without the qualifications and proven successes of her employer. But an internal note at IBM indicated that the contacts of many years standing between Ms Lazarus with IBM president Louis V. Gerstner and his vice-president of corporate marketing, Abby Kohnstamm, were instrumental in swinging the giant's decision to put the account in the hands of *Ogilvy & Mather*. Ms Lazarus's relations with client executives went a long way to making IBM feel that the risk of investing in a new campaign was considerably less than it might have been. Indeed she had begun to cultivate her good connections with her

clients Gerstner and Kohnstamm when they were still on the payroll of American Express. At that time she could have no notion of the exceptional deal with IBM she was to snare years later.

In addition to illustrating the important role of good personal relations with major negotiating partners, this example once again demonstrates the strategic significance of the long view.

(based on Wall Street Journal, 1994)

For example: Perestroika

The example that follows illustrates movement along the vertical axis. The Soviet Head of State and Party Chairman Mikhail Gorbachev received a warm welcome from the Western world shortly before he was installed as General Secretary in 1985. The American news magazine *Time* even featured him as *Man of the Century* on its front cover. After years and decades of confrontation, there now stood a man at the helm of the Soviet Union whose ideas of reform brought a powerful and welcome wind of freedom and democracy into the eternally repressed giant empire, long eschewed by the rest of the world. Real cooperation with the West, or at the very least an end to the arms race, now appeared to be a viable prospect. But was Gorbachev really the man to push through the results of negotiations with the West in his own country? For all the appeal of the new policies of *perestroika* (restructuring) and *glasnost* (openness), the capitals of the Western world could not rid themselves of the justified worry that the long-hoped-for change might be blocked by tough resistance from groups who sensed a risk to their personal privileges. Against this was the backdrop of a population that was body and soul behind the new man in the Kremlin. Numerous strategic analyses were undertaken with a view to pinpointing the individual groups involved.

Table 5-1 provides an illustration of the groups among the Soviet population that supported or opposed Gorbachev's reformist policies. This analysis was required if the Western governments and their various organizations were to address the supporters and opponents of perestroika with carefully defined measures. The intention was to shift relations with the Soviet Union away from competition (at top left in Figure 5-2) towards

Table 5-1 What Soviet citizens thought about Mikhail Gorbachev's reform policy (Source: Group of Thirty, London, 1989)

Positions towards perestroika

Social strata and groups	Initiators	Advocates	Allies advocates	Quasi-observers	Observers	Neutral	Conservatives	Reactionaries
Leading industrial and collective farm workers								
Political and economic managers								
Intellectuals (soc. sciences and humanities)								
Small business								
Majority of industrial and collective farm workers								
Intellectuals (sciences and technical disputes)								
Managers								
Officials in the commercial and service sectors								
Privileged workers								
Members of organized crime								

Figure 5-2 Preferred conflict positions, Switzerland (Saner and Yiu, 1993)

Swiss Average score (N=184)	Swiss Federal officials (N=37)	Swiss Bankers (service sector) (N=24)	Swiss Managers (transport sector) (N=25)	Swiss University economics students (N=37)	Highest average score ↑
Compromise -7.14	Compromise -7.16	Avoidance -7.04	Compromise -8.20	Compromise -6.7	
Avoidance -6.46	Avoidance -6.78	Compromise -6.38	Avoidance -6.12	Avoidance -6.46	
Collaboration -5.56	Competition -5.58	Collaboration -5.75	Accommodation -5.72	Collaboration -6.40	
Competition -5.53	Collaboration -5.51	Accommodation -5.58	Competition -5.48	Competition -5.54	
Accommodation -5.22	Accommodation -4.31	Competition -5.25	Collaboration -4.32	Accommodation -5.46	↓ Lowest average score

collaboration (top right). For this, it was necessary not only to refurbish diplomatic relations at the protocol level, but for there to be a genuine convergence of Soviet and American interests. That, at bottom, was what *perestroika* and *glasnost* were all about. But the leaders of Western governments were well aware that to maintain the new General Secretary, regarded as a progressive, in power would require weakening the reactionary forces in the Soviet Union and supplying support to Gorbachev's followers. When it came to the crunch, however, this support was not forthcoming, and Gorbachev fell from power.

Choice of strategy

We have now studied the basic positions and looked at their application through a number of examples. Which brings us to the important question of which position that *we* should adopt in a given situation. There is no all-embracing answer to this question. First, our own personal disposition will have a definite influence on the strategy we choose. A good negotiator will master the whole gamut of possibilities, and be able to put himself behind any one of the five basic positions. But each of us has

his individual preferences – one likes to push his way through, another will tend to draw back, while a third is more comfortable looking for new alternatives. This personal aspect should not be underrated, as the following example illustrates:

For example: Switzerland

“The Swiss go into a negotiation with a compromise and finish it with avoidance or confrontation.” This less than generous judgment of the abilities of the alpine republic is doubtless formulated a little too harshly, but it is not without a grain of truth. The reader will perhaps brush off this statement as a self-effacing remark from an author who is himself Swiss, with considerable experience of negotiating in his home country. But we have in fact accumulated empirical evidence to support this statement (Saner and Yiu, 1993). The instrument used was MODE, Management of Difficult Exercises, a questionnaire developed to determine the preferred positions taken up in conflict resolution (Thomas and Kilmann, 1974), which we submitted to 184 diplomats, senior civil servants, managers, bankers and students. The results showed a distinct preference for compromise and avoidant behaviour.

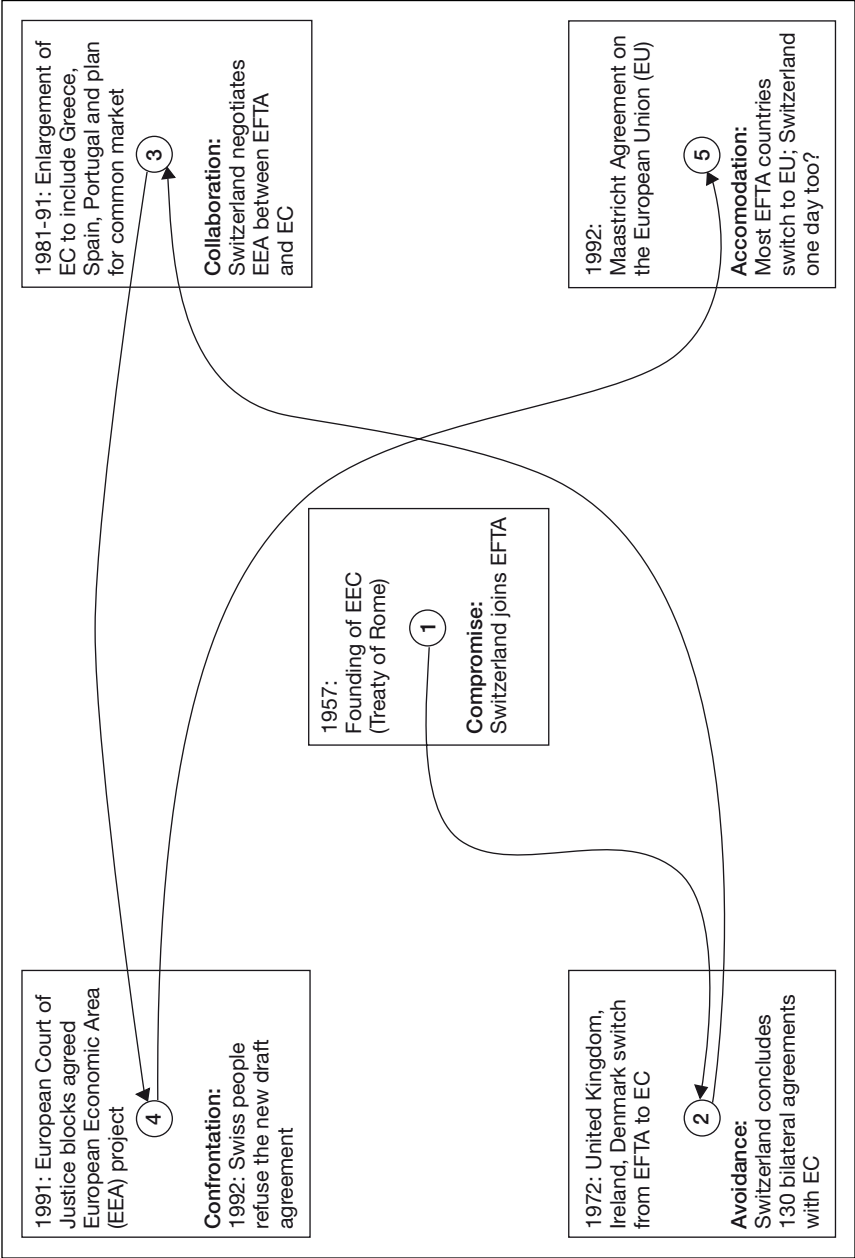
This result, which was obtained uniformly through all the occupational groups investigated, seems logical in a country that not only depends on various neighbouring countries and their markets, but is divided up internally into several disparate ethnic, cultural, religious and linguistic communities. Without a predilection for compromise and avoidance of conflict on the part of the population, civil war is a far from remote possibility. This basic attitude is also recognizable in the government of this federal state by consensus of the seven members of the Federal Council (government ministers), who are nominated by the main political parties using a highly detailed key. A similar mentality is found in the industrial sector, which is dominated by cartels, or in the collective wage rounds, which for decades have guaranteed the country absolute social peace. Switzerland's position in diplomatic negotiations, for example with the European Communities, also reveals a natural tendency towards compromise. In the face of its far larger and more powerful neighbours, Switzerland has no negotiating power to speak of, yet the agreements debated often have major signifi-

cance for the Swiss economy. The country's interests rarely coincide with those of the large European states, and relations with individual neighbours may not be too close in consideration of the various ethnic and linguistic groups of which Switzerland is composed. Otherwise there is a real danger that the federal state could break up. Active neutrality is the logical conclusion of this careful balancing act.

An interesting example of how Switzerland deals with conflict is given by the many negotiations it holds with the European Communities. These are succinctly illustrated in Figure 5-4. In the first phase from 1957 to 1972, the EEC was seen as a threat; membership would therefore never have been accepted by the people. In its search for a solution, Berne chose to participate in the establishment of the European Free Trade Association, EFTA. At the same time a free trade agreement was signed between EFTA and the EC countries, which made it possible for all EFTA countries, including Switzerland, to remain immune from the discrimination brought about by the EC customs union. With the switch from partnerships with major nations from EFTA such as the United Kingdom, to the EC, a new balance of power came into being between EFTA and the European Communities. Switzerland set its course on the avoidance of new discriminations and in the space of a single year concluded more than 130 bilateral agreements with EC countries (for example in the fields of research cooperation, improved market access for specific agricultural products, etc.). Between 1989 and 1992 this course changed from avoidance to active cooperation, when membership of the European Economic Area appeared inescapable. But the hard-won agreement was then turned down by the people of Switzerland in a popular referendum in 1992. Since that time, tension has reigned between Switzerland and the European Union. The situation was largely remedied by tough sectoral negotiations, which were concluded in 1999.

The Swiss people voted in May 2000 and accepted the bilateral agreement. Subsequently to the positive Swiss vote, the 15 EU countries accepted the bilateral agreement as well and it went into effect on June 1st 2002. The reason for the two-year delay in ratifying the bilateral treaty was due to the lengthy and varied process of treaty ratification by the different EU countries. In some EU countries, ratification was in the hands of the presidency; in others it was a matter of parliamentary approval.

Figure 5-4 Relations between Switzerland and EEC, EC and EU (Saner and Yiu, 1993)



While this ratification process was under way, both sides already started to discuss a possible second round of bilateral negotiations, which would focus on additional sectors and issues, which were not part of the first bilateral negotiations. Such a second round of bilateral negotiations was undertaken soon after ratification of the first round and consisted of nine additional negotiation dossiers. In early 2004, an agreement was reached and Switzerland and the EU member countries initialed the second bilateral agreement. The full ratification by all parties involved might take until 2006 or 2007 due to the complex ratification process, which differs from country to country.

The future will tell if the enlarged EU and Switzerland will agree to a third bilateral negotiation. After two bilateral rounds of negotiations, Switzerland is moving closer and closer to the European Union. At some point, full membership might be easier than starting a third round of negotiations. The future will tell what will be the next step in this increasingly closer relation between the EU and Switzerland.

Strategic analysis

We have seen the role played by individual disposition in the choice of strategy in the example of Switzerland. While it is necessary to take the subjective inclination towards a particular position into account, we need to look at it critically: is the preferred strategy really suited to solving a specific conflict? It feels much more important to regard the objective side of the matter, provided that the negotiator is able to distance himself from his personal preferences. Each conflict demands a completely new assessment of the situation, just as does each change in the position of the other side. The following section will deal with the adaptation of a chosen strategy to changing circumstances. At this point we would like to present a useful decision tool, with the help of which we can readily define our initial position.

When all the questions have been answered carefully for each of the four determinants addressed, the checklist reproduced in Table 5-3 provides a very informative figure. But just what information this number conveys becomes clear only when it is entered into the corresponding scale in Figure 5-5 as a vertical or horizontal line.

Table 5-3 **Strategic Analysis Checklist** (Yiu 1987)

Instructions: First, circle the appropriate assessment of each individual factor on the 4-point scale. Then add up the score for each factor and plot each result as a horizontal or vertical line in Figure 5-5. The plane of intersection of the lines represents your initial strategic position.

1. Outcome stakes (OS)						
Impact on corporate strategy	negligible	0	1	2	3	substantial
Financial condition	sound	0	1	2	3	unsound
Sunk costs	negligible	0	1	2	3	high
Precedents	existing	0	1	2	3	none
Accountability	low	0	1	2	3	high
Urgency	low	0	1	2	3	high
Options	none	0	1	2	3	many
Total						OS score

2. Power position (PP)

Size	small	0	1	2	3	large
Financial base	limited	0	1	2	3	substantive
Additional manpower	unavailable	0	1	2	3	ample
Expertise	insufficient	0	1	2	3	sufficient
Leadership	poor	0	1	2	3	excellent
Prestige	low	0	1	2	3	high
Communication/ Persuasion	poor	0	1	2	3	excellent
Access to media	lacking	0	1	2	3	multiple
Cohesiveness of org.	low	0	1	2	3	high
Experience handling conflict	negligible	0	1	2	3	substantial
Commitment	low	0	1	2	3	intense
Legitimacy	ques- tionable	0	1	2	3	unques- tionable
Risk-taking ability	inadequate	0	1	2	3	adequate
Potential coalition	unavailable	0	1	2	3	ample
Alternative options	none	0	1	2	3	many
Capability to reward	weak	0	1	2	3	strong
Capability to coerce	weak	0	1	2	3	strong
Total						PP score

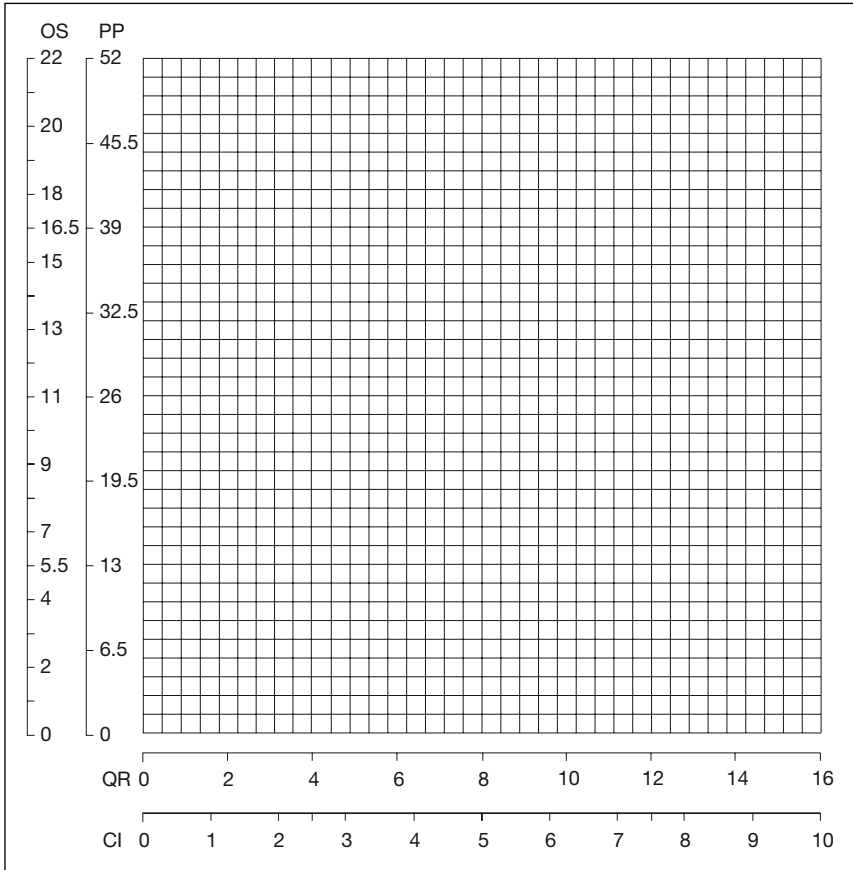
3. Common interests (CI)						
Goal compatibility	not at all	0	1	2	3	very much
Approach compatibility	not at all	0	1	2	3	very much
Resource interdependency	not at all	0	1	2	3	very much
	Total					CI score
4. Quality of relationship (QR)						
Quality of past relationship	poor	0	1	2	3	excellent
Mutual understanding	poor	0	1	2	3	excellent
Mutual willingness to help	weak	0	1	2	3	strong
Quality of communication	defensive	0	1	2	3	open
Value orientation	divergent	0	1	2	3	compatible
	Total					QR score

The checklist answers thus produce two horizontal and two vertical lines. We now turn our attention to the rectangle enclosed by these four lines. It may be useful to highlight it by colouring it in. Referring back now to the diagram by Thomas and Kilmann (Figure 5-2), the position of our rectangle will show us where we stand in respect of the five fundamental positions in the context of the conflict we are at present dealing with.

Adapting strategy

We now have a clear basis on which to define where we stand – but that by no means implies that we have to remain in this starting position. Depending on the position adopted by the other side, we will want to vary our own as the talks progress. The strategy may even be defined by a movement from one position to another: *“The true policy is to confront power with power at a selected point where a decision in a military sense is possible, and then to use the delicate and unstable equilibrium as an opportunity to be seized for constructive and magnanimous negotiation.”* (Walter Lippmann, 1946)

Figure 5-5 **Strategic Positioning Grid**



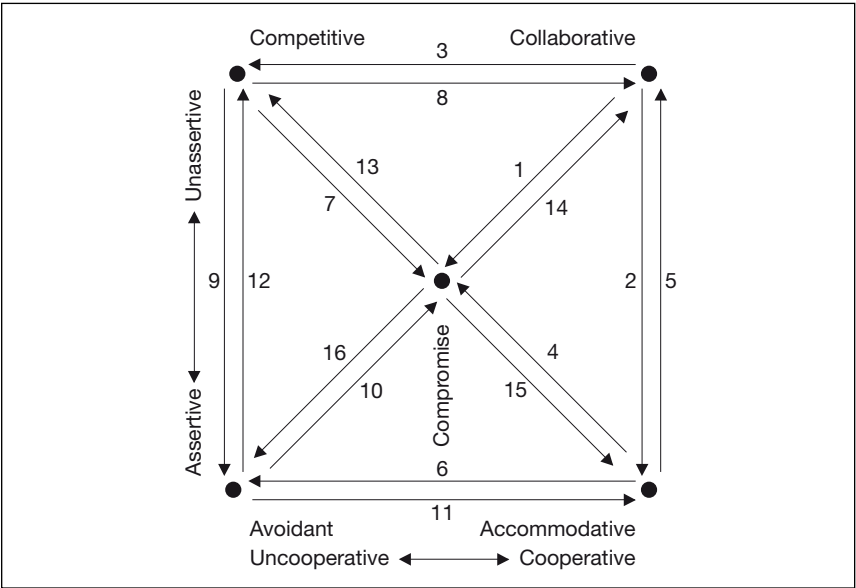
OS = Outcome stakes
 PP = Power position
 QR = Quality of relationship
 CI = Common interest

The sequence and timing of the various positions may have a conclusive effect, as a famous example from Japanese management philosophy shows: *“When the enemy attacks, remain undisturbed but feign weakness. As the enemy reaches you, suddenly move away indicating that you intend to jump aside, then dash in attacking strongly as soon as you see the enemy relax. This is one way.”* (Musashi, Miyamoto, 1982)

The author of this directive, Miyamoto Musashi (1584-1645), is a very interesting man. He was a Samurai whose writings are still used as the theoretical basis for countless management seminars. Translated into marketing terms, the above principle could represent a skilful strategy for introducing a new product. The tentative introduction of a relatively unimportant or an inferior product (signalling weakness) is merely a feint to mislead the competition. While they lean back and relax, the real product is put onto the market, with full power behind it.

Starting from the five positions presented earlier, there are a total of 16 possible routes linking each pair (see Figure 5-6). I leave it to the reader to interpret what each of these signifies in practice. All the options are open when it come to deciding whether to pass from a confrontational stance to one of evasion or cooperation. Depending on the circumstances, any of the routes shown may constitute the optimum strategy.

Figure 5-6 Sixteen strategic paths



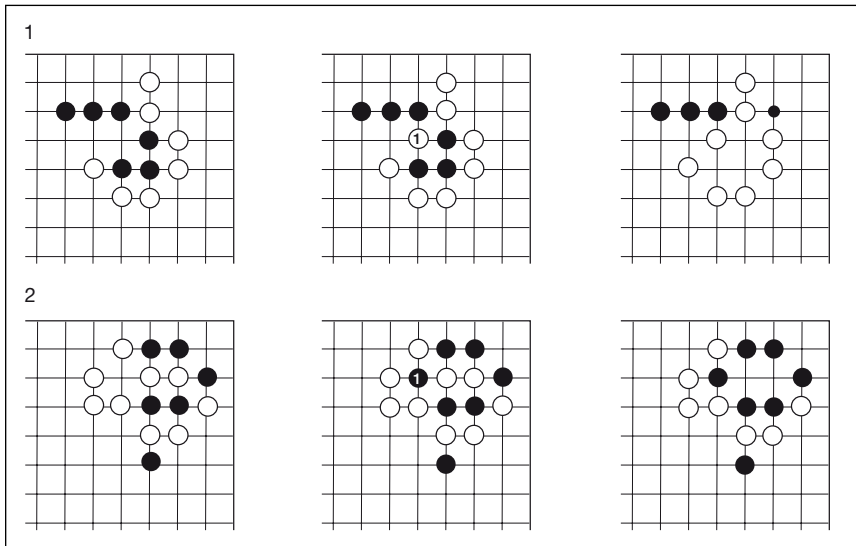
For example: Go

i-Go, generally known simply as *Go* in the West, is an excellent school for tactical thinking and especially flexible strategy. Unlike chess, this strategic game, which has been played in Japan and China for centuries, does not comprise a hierarchy of strengths or a linear confrontation between the armies. The players move alternately, each laying a black or a white piece (called a “stone”) on any of the 361 intersections of a board composed of 19x19 horizontal and vertical lines. The aim of the game is for the players to control the largest possible area of the board with the stones of their own colour. Once a stone (or several stones) has been surrounded, it is removed from the board. Otherwise all the stones remain where they were placed on the board, making up a complex network of local battlefields. A good player will evolve sophisticated strategies from the respective positions of the stones in relation to one another, so that at the end of the game he is in control of more than half of the free points (known as “liberties”) remaining on the board. The individual groups or chains of stones (“armies”) can form alliances to enable them to move in on the enemy forces and finally capture them. They can also limit themselves to securing their own territory by establishing an effective and invincible barrier around it. It is also possible to make forays behind the opponent’s lines with the aim of linking up with other friendly stones and so to capture enemy territory from behind.

Figure 5-7 presents two simple examples of strategy and tactics in *Go*. The three diagrams along the top row show how the coordinated placing of his stones has permitted white to surround and capture three black stones. By placing a white stone on 1, white has surrounded black and is able to take out three black stones. With this strategy white has won territory for himself and has established a superior and invulnerable position. The situation is quite different for black in the second example (bottom row): while he is able to capture two white stones, he then finds himself threatened by the remaining white stones. Black needs to secure the point marked with a 1, if he is to protect himself from the forthcoming white offensive.

At first glance the similarity between this extremely exciting board game and conducting negotiations will perhaps not be very obvious. But anyone who needs to bargain frequently with partners from the Far East

Figure 5-7 GO: Japanese game of strategy

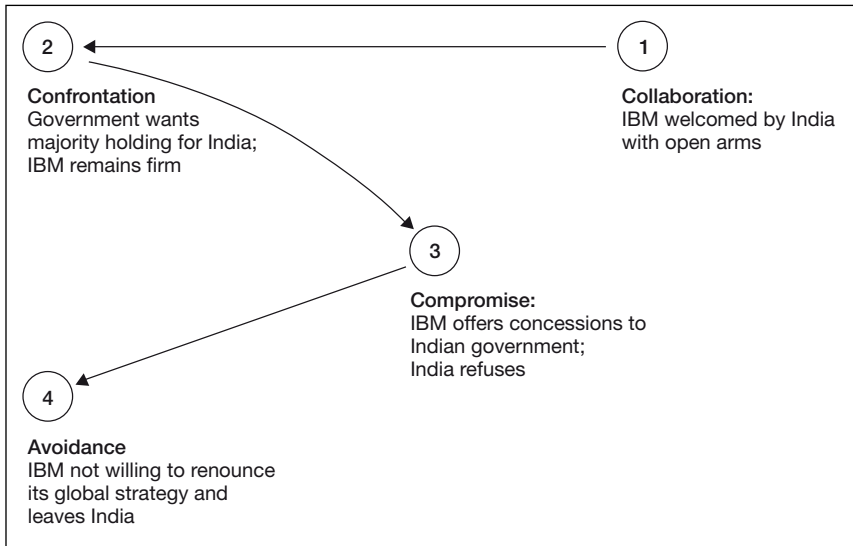


will rapidly find a study of the game invaluable. For all its exotic airs – and in passing, it is regarded as the world’s oldest board game – it is able to reflect each and every one of the strategies we have spoken of in this chapter.

For example: IBM

To conclude this chapter, the following example shows how a multinational corporation was obliged to harmonize its strategy with the position held by the government of a host country, and immediately adapt it to any new position taken up. It contains many of the elements presented in this chapter and so serves as an excellent application of the theories dealt with here. Once again we are looking at the computer and office machine producer, International Business Machines, known the world over as IBM.

Since the nineteen-seventies, multinational concerns such as IBM have found themselves faced with an increasingly tougher stance on the

Figure 5-8 **Strategic position of IBM in India**

part of many emerging nations on the political and economic fronts. Whereas in 1951 IBM could still be invited to India and received with open arms by Prime Minister Nehru, twenty years later the wind had changed radically. In the interval, IBM had succeeded in achieving almost complete control of the Indian computer market. The Indian government felt this to be a dangerous dependence from the strategic standpoint and pressed the firm to reduce its 100 per cent ownership to 40 per cent, a holding that still constituted a blocking minority. IBM was also enjoined to extend its computer design and manufacturing operations in India for both the domestic and export markets. IBM was highly reluctant to deviate from its traditional global policy on account of a new attitude on the part of the Indian government. So the concern changed its position towards India from collaboration to heavy confrontation. The equity dilution demanded by India could not be countenanced at IBM. However, a similarly rigid position on the part of the Indian government forced IBM to propose a range of concessions in the hope of a compromise.

But India rejected IBM's proposals. This led the computer giant to adopt a position which was as unfortunate as it was surprising for the Indian government: IBM considered the Indian demands to be a serious threat to its global strategy and renounced its activities in the subcontinent. When finally there was no longer any hope of compromise, the concern decided to turn to a policy of avoidance: on 15 November 1977 it announced its complete withdrawal from India.

(Source: Gladwin and Walter, 1980)

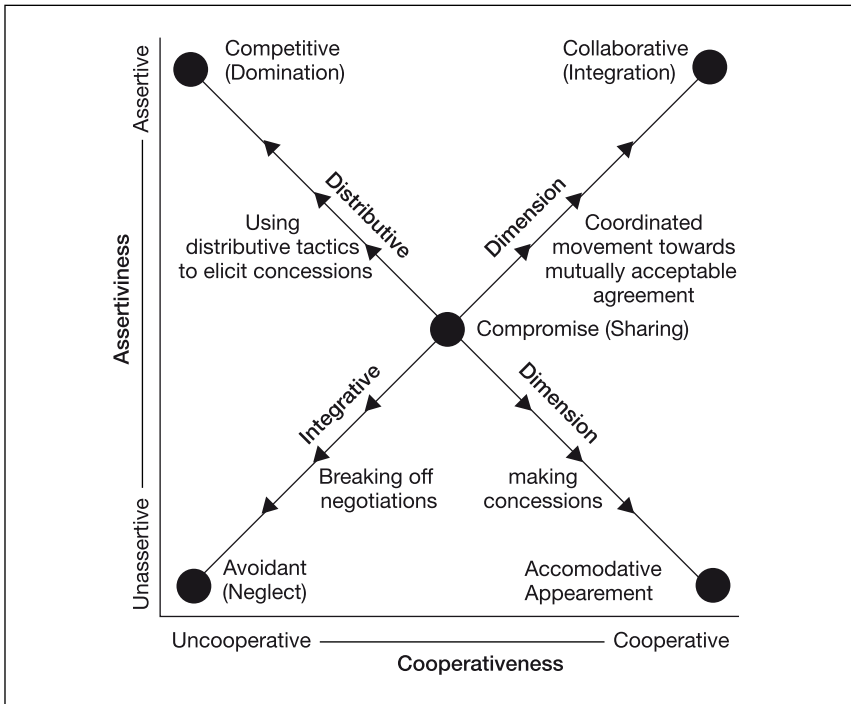
Strategic Orientations

In conclusion, negotiators should constantly be aware of their own strength and of the strength of their opponent. Power shifts over time and relations might suddenly become more cooperative or more hostile. Such shifts could occur for various reasons, the most common being a change of leadership or the emergence of new partners or new competitors.

Playing tough (competitive, dominant) forces the other party to make concessions or to give in hence accepting a win/lose outcome. Negotiators should always ask themselves what if the other party does not accept to lose? Will it break off negotiations (avoid, neglect)? If so, the tough acting negotiator might have only won at surface level. Below the triumph might loom the uncomfortable realisation that the whole process has to be started anew and even more disturbingly, a new negotiation partner has to be identified to replace the previous one. This is often not so easily possible especially not if the current negotiation has been critically covered by the media. Other potential partners might not be willing to take the risk of facing similar tough negotiations and negative outcomes.

If the situation at hand permits, why not steer the negotiation towards a collaborative and integrative agreement which would be good for both or all parties? If so, both parties would have to engage on the difficult but possible journey of coordinating their negotiation movements away from maximising (win/lose) towards mutually acceptable agreements, which can be acceptable to both or all parties and which will be implemented on a sustained basis.

Figure 5-9 **Strategic orientations**



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6 Tactics

Once the optimum strategy has been decided upon, the practised negotiator has a wide range of tactical approaches at his fingertips. But even if he is a very able tactician and can call upon a vast repertoire of techniques, he will nevertheless use them only to underpin his strategic plan. It is often difficult to resist the temptation to try out some new ploy. A number of tactics are however much less suited to the cooperative approach than to confrontation. The major decision that needs to be taken at this point is whether to go for a distributive or integrative strategy, and this has the priority over the choice of tactics.

The use of tactics makes serious demands of the negotiator: while some of the many techniques available are readily learnt, others depend almost completely on a particular mind set or talent. So the reader must decide in how far he is interested in familiarizing himself with these basically technical skills. You will need to be particularly careful the first time you put them into practice, for a poorly prepared tactic can play havoc with even the best strategy and spoil the cooperative climate of a negotiation. But there is no denying that a polished tactic can be extremely effective. For example, it can make it possible for a negotiating partner to appear accommodating, while in fact he remains as hard as a rock. Japanese foreign policy regularly provides striking examples of such an approach, supplemented by all sorts of additional tactics, presented in masterly fashion.

Example: Beef, snow and cheesecake

Apart perhaps from Switzerland, there is hardly another country in the world that is so well protected from the harsh winds of the world economy as Japan. In order to protect the rice growers at home, virtually no rice may

be imported into the country – except in particularly bad years when the local harvest is not sufficient. Such a policy is hopelessly inefficient, for it means that the Japanese consumer has to pay four times the world market price for a kilogram of rice.

But few nations are as adept as this at finding creative reasons why regrettably it is impossible to import certain goods. Beef provides an excellent example of this. For several years the United States has been demanding the removal of trade barriers on purchases of foreign beef – but always in vain. Meat is not good for the Japanese, diplomats from Tokyo patiently explain to their American colleagues. The traditional diet of the island population consists of fish dishes, and Buddhism even forbids all eating of beef. The former minister of agriculture, Tsutomu Hata, went a step further still, claiming that the Japanese anatomy is different from other anatomies: the alimentary tract of the Japanese being much longer, it is not suited to a carnivorous diet. The then US trade envoy, Clayton Yeutter, had heard many things in his time, but this argument was a new one for him – and at a steak dinner offered by the farmers' lobby in Washington of all places. But he used the press to toss the ball back cleverly into the Japanese court: the *International Herald Tribune* illustrated the article on the Japanese argument with a picture of the Japanese ambassador, Watanabe, eating a large steak with relish, and thereby contradicting and ridiculing the claims made by Mr Hata.

Only a few weeks earlier a representative of the Tokyo trade ministry had issued a statement to the effect that Japanese snow had quite a different constitution from that of Swiss snow: skis manufactured in Switzerland were therefore quite unsuitable for Japanese skiing conditions and so could not be imported. The German and Austrian ski manufacturers were fed the same story. Under increasing pressure from abroad, the Japanese government then offered occasional small concessions in their import regulations – as a token of good will. Adding insult to injury, this included allowing American cheesecake to be sold by mail order in Japan – total estimated annual sales: 15,000 units!

(Source, *International Herald Tribune*, Agence France-Presse)

Tactics you can expect to meet

As we have seen, a good negotiator must basically be ready for all sorts of moves on the part of his opponent – and that of course includes the polished application of tactical manoeuvres. The sections that follow will

briefly illustrate the negotiating tactics most currently in use today. These descriptions should not be regarded as a mail order catalogue from which to choose tactics for your own use. The experienced negotiator who already has something of a tactical repertoire of his own may find this chapter a useful refresher that perhaps offers him a few new ideas. But the neophyte reader should be warned that to take over unfamiliar techniques without a sure footing is a risky undertaking to say the least. Not all of us are natural actors, and not every tactic is suitable for any type of personality. In case of doubt, it is always better to stay away from a tactic which, however attractive, is too uncertain in its effect. But all sorts of tactics may be levelled against you, and for this reason alone it is well worth while studying these methods in depth. Here too the rule applies: he who can see through his opponent's game plan has not only got rid of a disadvantage, but has actually gained an edge. In this spirit, the catalogue that follows may be seen at least as an overview of the possible tactics we may expect the opposition to use.

Agenda control

The side that can set up the agenda, or at least have some sway in establishing it, will have an inestimable advantage. Here we are speaking not only of the issues that will be on the table, but also the order in which they are addressed and especially the delicate matter of timing. At ten o'clock in the morning, a powerful case could perhaps be completely demolished; held back until midnight, it might have chances of reversing the whole situation.

But it is usually much simpler matters that make the agenda a powerful instrument. Even the way the time available is organized into formal negotiations and the social programme – meals at restaurants, a visit to an opera premiere or an extensive tour of the local nightlife – all these can have an effect on the outcome.

To return to the many obvious tricks, we need to be particularly watchful when the agenda is set up without our being consulted. Does it include subjects that we have no desire to see on the table? That may be the precise reason for their inclusion in the programme! In such a case we must immediately insist on their removal. Or the converse: are all the

matters that are of importance to us addressed, or has one or another point fallen by the wayside, just by chance, so to speak? Thus in the preliminary round of talks, the first point to be discussed is the agenda itself, before we get down to the nitty-gritty of the meeting. This too is a matter for negotiation.

Time constraints

Together with the agenda, time is probably the most important element in negotiations. However much time is actually allotted, it is possible to limit the useful time available to serve a particular strategy at one side's convenience. Let us for example start with the artificial limitation of the negotiating time – a very effective tactic. We arrive in New York after weeks of thorough preparation, intending to negotiate our proposal with as much determination. Our hotel has been reserved for four days, and we have wiped all other engagements from our diary in favour of this important occasion. And now we are horrified to learn that *Madame l'Ambassadrice* has only a few hours that she can devote to us, after which – a thousand pardons – she must unfortunately fly to Geneva at short notice for consultations there. And here we have just flown in from Geneva! All the security of our careful preparation has gone by the board; we have planned for negotiations centred around several meetings of much longer duration. With all due respect, Her Excellency was less well prepared than we, and has used this tactical chess move (for how can we know whether she really does have to fly to Geneva?) to keep the initiative for herself. As mistress of the time schedule she has thus wrested all control of the content of the negotiations out of our hands. In such a case we have few alternatives available to us. At best perhaps, we may suggest an adjournment to a later date. In other cases, where the power is not so clearly on the other side, we should simply refuse to accept such apparently arbitrary time constraints. Having said that, it is clear that we should never voluntarily reveal our own *genuine* time constraints (for example our return flight home). That would put a powerful weapon into the hands of our opponent.

Delaying tactics

Delays are the corollary of imposing time pressure. It is hardly necessary to point out that these tactics are not designed to serve the cause of cooperation, but they do exist. Our negotiation partner has flown in from Chicago for a week and is hoping to go back home with a contract in his pocket. We can easily put him under pressure by dragging out the negotiations until Thursday and use up the rest of the time with all sorts of formalities or social occasions. By Friday at the latest the other man is keen to get the contract together and ready to make concessions, so long as he can make his plane in the early afternoon. But if we want to engender a spirit of trust, we need to make a rather greater effort to satisfy the other's needs. We are painfully familiar with the even more extreme delaying tactics used in the conflict over the former Yugoslavia (strategy of confrontation), in which Serbia in particular drew out the negotiations with the various parties to the conflict, the European Union and the United Nations, for months and years without any conclusions being arrived at, all the while continuing to fight on all fronts. The reasoning behind this ploy is obvious: anyone who prefers to keep the status quo has absolutely no interest in negotiating – there is no cheaper or better insurance against the imposition of sanctions than ongoing talks with one's opponents.

Adjournment

Adjourning negotiations is another way to play for time. But this does not necessarily have to be a tactical ploy designed to confuse the other side or gain an advantage: in a stalemate situation, adjournment may be the only reasonable decision to take. No other recourse can provide sufficient time and space for the different parties to review their strategic positions and adapt them as the situation demands. In the meantime, it might be possible to arrange informal contacts or some form of mediation. Thus adjournment is particularly suited to forestalling a confrontation or a walkout by one of the parties, paving the way for an integrative solution. On the other hand, of course, it can be used in the service of purely distributive strategies, for instance to make the other party ner-

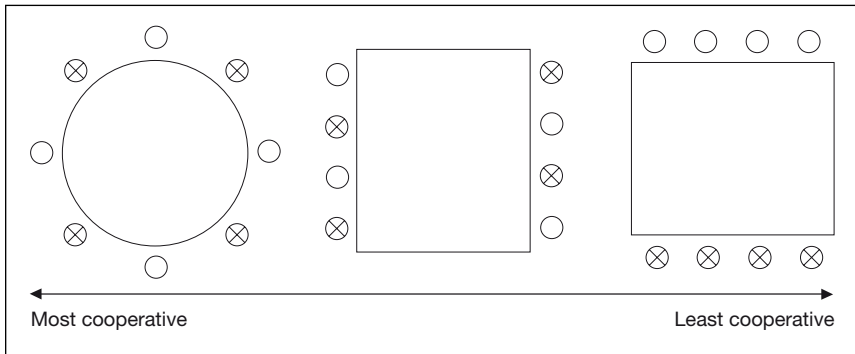
vous, impatient and consequently ready to make concessions if time is not on his side. It is worthwhile taking a close look at the interests of the various parties to see the real intentions behind this tactic.

Taking a short break

A short break can play a similar role to an adjournment, with the difference that the time scale is smaller and there is no let-up of the pressure to resolve the situation. The negotiations might be interrupted for half an hour or an hour without the parties going separate ways. This gives the participants an opportunity to redefine their own positions and adapt their approach accordingly. Such a break also permits the disputants to meet in a less ceremonious fashion than is possible around the negotiating table, and an impasse can be averted much more easily than in the strict battle order of a formal bargaining round. Short breaks such as this will always be built into a well planned agenda; coffee and biscuits are great for calming down a turbulent atmosphere. They give the blood sugar levels a boost and can ease an aggressive discussion back to a more technical level.

Location of the talks

The placing of the meeting and the seating arrangements are also important determinants of events. Everyone savours the advantages of an 'at home' game in a familiar environment. A lot of energy is saved if you don't have to travel afar and acclimatize yourself to different time and climate zones and an unfamiliar diet. It is also possible to turn this argument round and say: the manner in which we receive our negotiation partners arriving from abroad and help them to get over the strains of the journey will set the stage for the negotiations that follow. We saw a number of examples in Chapter 3 in which the main aim was to soften the other party up. Fortunately, most travellers will experience exactly the opposite – a comfortable environment adapted to the guest's needs will lay the right foundations for an integrative, cooperative meeting of the parties. The tactic of using space and placing, understood in the broadest

Figure 6-1 **Cooperative and non-cooperative seating arrangements**

sense, thus has many sides and can be used to support a great variety of strategies. The choice of placing made by one or more negotiating parties tells a lot about their intentions.

Even the way the seating arrangements are conceived, or, more fundamentally still, the shape of the table, provides a great deal of information about the relations – existing or desired – between the parties.

In this context, we may recall the months of discussion that went into the question of the shape of the negotiating table at the Vietnam peace talks (although this was more of a delaying tactic than a genuine concern!) while the famous round table in Poland or the GDR spoke quite a different story from the long, uncomfortably wide conference table on the 38th Parallel between North and South Korea. When finally the two Korean delegations did appear for the occasional meetings set up for this extremely difficult dialogue, they sat squarely facing one another. Once or twice, nevertheless, things progressed to a hesitant handshake, but to achieve it the negotiators had to lean their bodies out far over the table, which appeared to be specifically designed to prevent such a gesture.

Limits of authority

Everybody has his limits, and the usual negotiating powers may be subject to greater or lesser limitations. But in negotiations, it is often not so much the actual commitments and limitations but the apparent ones that

play the major role. In principle, we should always be on our guard when our opposite number speaks of limited powers of decision or pre-existing commitments. If such a limitation is to our own disadvantage and benefits the other side, it is worth considering how genuine it is. Limitations may be at the financial level (*I can't make a decision myself about such a sum, and my boss is unfortunately on a safari in South Africa. I can only go up to...*), or they may relate to corporate strategy (*I'm sorry, as a matter of principle we can only buy German steel. You would have to offer really good terms...*); they might cast doubt on the technical feasibility of a proposed solution (*That wouldn't work with the present output at our factory; unless...*) or give too much weight to legal constraints on one side (*Our legal department will really rap my knuckles with this proposal. We're going to have to change something in point 3...*). All such expressed limitations have one thing in common: they are designed to stampede us into accepting a less than satisfactory solution. If however you do see through the trick, you can call the other man's bluff and turn the situation around with a reaction such as (*Well, that's a pity. I suppose I'm going to have to look elsewhere...*). The other guy now has to give way at this point, or lose the deal. If he is really interested in doing business, he will have to pay for his attempted deceit with expensive concessions.

The precedent

One of the standard tactics used by many negotiators is to allude to a precedent. They do this by comparing the present negotiation to earlier agreements (*In the past we've always had 25 per cent off...*) or other offers currently available to them (*X & Co. is offering us a comparable product that is five per cent cheaper than yours...*) but only of course when it suits them. Man is a creature of habit, and can easily be led in the desired direction when told of such conditions. The tactic is easy to use, but because it is so widespread it is just as easily rumbled. Admittedly, it isn't likely to do any harm: it was always worth a try. It is also relatively easy to counter: you only have to demonstrate with some credibility that the present situation is not really comparable to the case held up as precedent. Either the conditions have changed, or the offer referred to has other disadvantages. Why should anyone want to continue negotiating with you if he

supposedly can get a much better deal from the competition? He must have some interest in dealing with us, otherwise he would have transferred his business elsewhere a long time ago.

Regulations and standards

A similar tactic is found when people insist that products, components, or even agreements in international law need to satisfy certain standards. In line with this ploy, bilateral agreements must be *Europe-compatible*, or be able to withstand scrutiny by the High Court or a referendum. Such insistence on existing standards or regulations can bring in all sorts of concessions. Whatever cannot ostensibly be changed (whether it really could is another matter) has to be accepted by the other party, if he is really keen on striking a deal. With that the blame can be put squarely on someone else's shoulders (*I'm really sorry, but you know how strict our national regulations are...*), while the profit goes into your own pocket. Not a few national regulations have been created with this very consideration in mind.

Threats

Threats against people – such as violence, terrorism or war – are an instrument from the arsenal of unconventional negotiation. Under normal circumstances we shall never find any reason to use such a tactic, and hopefully we will never find ourselves confronted by them. But in certain segments of society threats are the bread and butter of negotiation – for example the police, the military, secret service or even organized crime. To deal confidently with such situations, which may sometimes even be life endangering, requires special training that is beyond the scope of this book. So here we shall limit ourselves to material threats (*If you don't accept my offer, I'll buy up your whole company...*). They serve as a tactical confrontational tool, an instrument of a strategy that uses pressure and exhortation. In any other strategy the use of threats would be completely out of order, and even in situations of real confrontation or war the use of threats is only judicious when it has credibility. This

requires a corresponding position of power and the willingness to exercise the threat if it came to the crunch. Nothing is more harmful to a position than the threat of a sanction that is then not put through. The European Union was to learn this bitter lesson on several occasions in the conflict around the former Yugoslavia, when it put neither its military threats against the Serbs into effect nor – once the war was over – its threat against the Croats to withdraw the EU administration from the divided city Mostar. With that its credibility was well and truly *kaputt*.

Promises, promises...

'Les promesses n'engagent que ceux qui les reçoivent' (Promises only commit those who expect to benefit by them). This fine French proverb is one to savour on the tongue – exemplifying as it does the complete disregard for honour and trust so prevalent among the proponents of *Real-Politik*. This should not be read as contradicting the emphasis we have put on mutual trust in negotiations earlier in this book. On the contrary, we should always make every possible effort to establish a relationship of trust. The results of our negotiations will finish up all the better for that. But nor should we forget the old Russian proverb: *Trust, but check it out!* – or the Sufi adage that enjoins you to *trust in God, but tether your camel*. Trust is not the same thing as naivety. Basically, it serves only as early evidence of goodwill, so long as there is no reason for mistrust. But it is only possible to know whether one's trust has been abused by keeping a close watch on your adversary's actions and his interests and options. In the context of negotiation, this means: make promises only when you can keep them and are prepared to do so. Promises made by the other side should be appraised critically and not automatically taken at face value.

False compromises

In Chapter 5 we discussed the disadvantages of the compromise solution. Sometimes, however, it is the only, and therefore the best, option available to us, but note that the so-called fair compromise (*What do you say? Let's split it down the middle*) may be a carefully devised tactical move.

Three questions immediately come to mind. First, why should the middle point necessarily be fairer than another? Most people simply seem to have a particular predilection for symmetry and equal distribution. And when it comes to it: what is fair? Second, the middle point always lies between two extremes, one of which will have been set by the other party. With a little forethought almost anything can be achieved in this fashion. And third, the proposal may come at a moment when the other side already has the larger portion of the pie. To agree to such a compromise when the advantage is on their side would then be tantamount to making yet another concession –in a word, a false compromise.

Flattery and charm

We don't need to spend too much time on this tactic. It is as effective as it is simple. The use of charm is a legitimate tactic in human relations, and is generally present on both sides. It is like salt in the somewhat insipid soup of interminable negotiations. The smile of the attractive woman diplomat from Copenhagen or the well-oiled businesslike appreciation on the part of the practised Indian negotiator is like balm to the soul. And it is only natural that we should show our appreciation to the stressed-out interpreter whom we had already met at an earlier meeting, for whom a few kind words during a break or at the end of the day will never go amiss. I am not being flippant here, and this is where the difference between the natural use of personal charm and the tactical use of flattery comes in. Considerable care is called for: if as so easily happens we lay it on too thick it will not achieve its purpose, if only for that reason. More important still is to be alert to attempts from the other side of the table to butter us up. A professional negotiator owes it to himself to be able to resist even the most pleasant of adulations.

Interpreters

The use of interpreters in international negotiations is often clearly required, but it may be subject to a certain abuse. It is no rare occurrence for a negotiator to hide the fact that he has an excellent knowledge of the local language, and to leave everything to be translated by the inter-

preter. Except for the cost of the interpretation, such a tactic may have several advantages. The negotiator hears and understands the original statements made – including any imprudent asides between members of the other delegation that are certainly not addressed to him. While the interpreter is translating, he has extra time to think about how to respond. And lastly, he can pay careful heed to his adversary's reactions as the interpreter translates his words into the other's language. He thus gains precious time in both directions, something that in the dense situation of negotiations means a better overview and greater control.

Some European managers make the mistake of not using an interpreter of their own when on an important negotiating tour in Asia, but rely solely on the one provided by the other party. That may well save on expenses, but it is a very short-sighted policy. Not only does the negotiator miss out on the advantages we have just spoken of, but he hands them all over to his adversary – not to speak of being dependent on a translation that is perhaps not completely unbiased. In such a situation much more risks being lost than his own interpreter would have cost him.

Body language

The role played by body language in communication can never be emphasized enough. It is far more important than spoken language, however much this fact is ignored by the rational paradigm of our Western culture, to its loss. By the very act of coming together, people communicate, even when not a single word is spoken. The body often speaks louder than the voice, although we are not always aware of it. Anyone who can read these signals has a definite edge in terms of information. But the conscious *use* of specific body language tools for communication is very much more difficult to learn than their interpretation. Their tactical use is something that must be left to the experienced professional and those with a natural gift. Every negotiator should however make it his duty to study body language, ideally through special courses on the subject, or by reading the extensive literature available – quite apart from the personal benefit that this can provide.

Impasse and deadlock

Not every deadlocked situation is inevitable. If a deadlock (and of course the remedy later proposed to break it!) is going to benefit one of the parties, why should they not employ it to their advantage? Consequently, ready-to-bake solutions to a 'hopelessly stuck' situation should always be received with a dose of healthy caution. Whenever a negotiation gets seriously mired down, it is useful to wonder why. Is the other side really unable to progress further, or is it choosing not to?

Holding the initiative

The side that takes or wrests the initiative will control the situation, and negotiation is no exception to the general rule. It also makes life difficult for the police: the criminal is usually one step ahead. Not that anyone is chasing criminals around the negotiating table, but the side that acts first and determines the tempo and possibly even the agenda can pull, push or steer the negotiation in the direction of its choice.

Deliberate mistakes

It is not uncommon for a negotiator quite deliberately and consciously to make a mistake. There may be a variety of motives behind this. Firstly, it may be a test to see how much the other knows. Will he correct us, or not bat an eyelid – out of ignorance or self-control? Or it may give the impression that our delegation is confused and weak, and so induce the other side to become careless or take risks. There is almost always an advantage in being underestimated. Finally, a deliberate mistake may also be a trial balloon (see below) with which to test how far we can go.

A flood of information

Information is essential to success. But like everything else, too much of it can be frankly damaging. A favoured tactic that can be very effective is

to supply the other side with all sorts of information and data, the more the better. While this may appear to be a sign of trust, it may in fact be a frankly unfriendly measure designed to confuse the other and distract him from the central issues. Everybody of course welcomes openness, all those files and diskettes containing data and facts. But if we can keep the other person busy in his hotel sorting data every evening, we will have gained the upper hand and drowned him in a flood of information. This leads on naturally to phase two: pulling a simple solution out of the hat. This takes the form of a presentation in which we have of course neatly organized all the most important information. The other party may have seen the raw data, but cannot make such a clear and convincing picture of them. There seems to be no call for mistrust – we have shown how open we are about everything – so that our proposal sounds quite acceptable. But once again it is not a matter of the quantity of the information, but of its quality and relevance.

Lying with statistics

This is a very widespread practice, and the ease with which data can be prepared and presented with modern software makes such manipulation considerably easier and more appealing. But you only need an elementary understanding of statistical methods to see through the most common of these tricks. Huff (1985) offers an entertaining overview of the subject. The simplest and most effective method is the choice of scale: a graph can be made to mean almost anything by distorting the various relationships. So a look at the way the axes are subdivided should be a matter of course. It is a curious fact that most people will take statistics at their face value – especially when they are well presented. A similar phenomenon occurs with televised news reports, which are generally taken to be true and complete, and even official. Hardly anyone thinks of asking who owns the TV channel, who the editors and correspondents are and what restrictions they are subject to in the country being reported on. Questions such as these have an important place when we are confronted by statistics, which may often be a very dubious carrier of information.

Secrecy

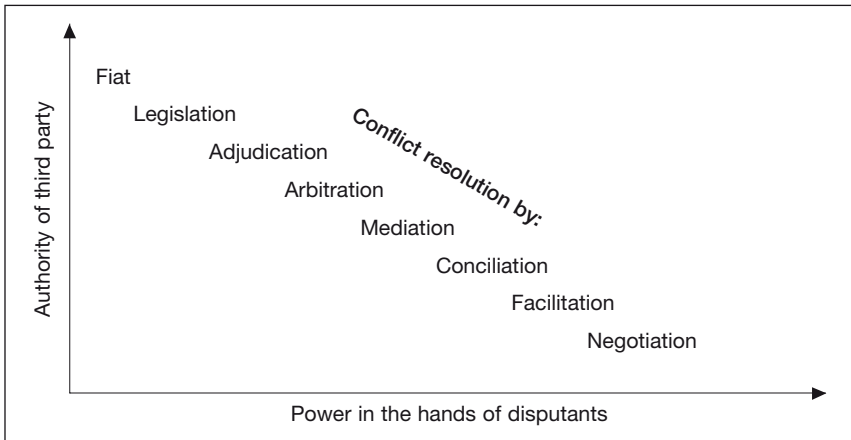
Discretion in most negotiations is not only a matter of honour, but is a condition for their success. But it can also be used to obtain a tactical advantage, for example to prevent the opposition from mobilizing third party support (and thus an additional power base). Conversely, it may serve to shield a party from elements in society, politics and the business world that do not wish it well. Secrecy may also be used to camouflage irregular dealings with other partners – this was the tactic used in the Reynolds example we referred to earlier. Lastly, secrecy makes it possible to implement a tactic that is closely allied to it: the leak. Carefully placed indiscretions in the proper quarters – reliable journalists, managers or representatives of the authorities – can serve as a trial balloon (see the following section) to test the reactions of the other side.

The trial balloon

Trial balloons are a tool in meteorological research, where they are used to study the temperature, pressure and atmospheric composition at various altitudes above the earth. Their purpose in negotiations is a similar one: to find out, with a minimum of cost and risk, where the other side stands and where they might possibly be induced to go. If the balloon bursts – for example in a storm – not too much has been lost. But usually it comes safely down to earth again and the desired information can be downloaded. Politicians regularly test new laws in this manner by calculated leaks. If they get a negative reaction from the public, the project can be dropped or postponed, while if there is not too much resistance, it can be pursued.

Mediators and arbitrators

We have already briefly reviewed the use of mediators and arbitrators. The degree to which such outside parties can influence the proceedings – depending on their authority and the nature of the conflict – can vary enormously. Figure 6-2 shows a range of possibilities. Certainly, the role

Figure 6-2 **Conflict resolution and authority of third party** (Gladwin, 1982)

the outside party is to play should be thoroughly thought about and discussed by the parties to the negotiations before the mandate is given.

Switching negotiators

There may be several reasons for putting in a new negotiator. The original negotiator may indeed have fallen ill – but then again he may have gone beyond his brief, and his principal has preferred to substitute someone else for him than to have to honour the concessions he has made. This is naturally most vexatious for the person across the table, but he has no choice but to accept the new negotiator or give up on the negotiations. Another reason for such a switch may be that there has been a breach of trust. In such a case – and it is of no consequence whether the responsibility lies with the negotiator himself or his office or department – a new person must come to the negotiating table. The old one would be a constant reminder of the broken agreement and would also be in an embarrassing personal situation. A good example of this is the role played by the Swiss negotiator in the talks around the European Economic Area. Switzerland was always an awkward party to deal with, doing its best to exploit the negotiator's room for manoeuvre to the full. After long and difficult talks, a package was finally tied up. So when the

agreement was rejected by a majority of the Swiss people in the 1992 referendum, the Swiss negotiator was no longer able to show his face at the European Community – despite the excellent job he had in fact done there.

Behind enemy lines

No general or commander will attack a serious adversary head on. That would be foolish to say the least, and probably suicidal. A much better objective is to attack the undefended flank. The enemy's supply lines are also relatively vulnerable, if we can get to them with our own forces. In the military domain, this task is effected by tactical missiles or the use of paratroopers. Over the longer term, psychological warfare by way of tracts dropped over civilian areas or radio broadcasts has proved highly effective. At the negotiating table, an equivalent function would be exerted by an operation behind the lines if it attacked the other side's supporting groups, or strengthened its opponents. In Chapter 5 we saw such a process at work in the example of western support for Gorbachev. In this domain imagination knows no bounds; but here too the range of possibilities can extend into the unconventional arsenal of dirty tricks – a field we would do best to avoid.

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7 Phases and rounds

We have set out the most important tenets for conducting negotiations in the first half of this book, both in theory and with examples to illustrate them. They constitute a solid foundation, but even the best cellar is still not a house. In the chapters that follow, we shall therefore look at individual aspects of negotiation techniques in greater detail. Depending on the subject and your previous experience, they will serve to complement or deepen your understanding. In our experience these additional elements are well worth studying, even if you have very little time available. These chapters go well beyond the usual basic advice on conducting negotiations, and application of the principles outlined will be of great practical value in almost any situation you are likely to find yourself in. The first of these chapters takes us deeper into the question of the time element.

Everything in its time!

Fools rush in where angels fear to tread! We need to be careful here, for everybody needs time to get used to an unfamiliar situation. New information must be digested before we can adjust our own position or bring a different reaction into play. But in the business of negotiations, movement is the prime element. We are only going to negotiate if we expect that at the end of the day the two sides will come closer to one another. All negotiation therefore needs time for rethinking and planning – much more time than would be necessary if it were merely a matter of information exchange. The time required further increases with the technical complexity of the information and its likely impact on the other side. It

Figure 7-1 The four basic phases of negotiation

IV Conclusion or breakdown			
	<p>• Tie up package for decision</p> <p>• Signature of contract (or)</p> <p>• Breakdown of negotiations</p>		
III Edging closer			
	<p>• Establish wishes and needs</p> <p>• Seek constructive solutions</p> <p>• Negotiate details</p>		
II Present your positions			
	<p>• Opening bids</p> <p>• Exchange arguments and positions</p> <p>• Gather information</p>		
I Warming up			
	<p>• Welcoming atmosphere</p> <p>• First overview of issues</p>		

is more difficult to get your mind around a revolution than a minor shift. Thus the more demanding the issue at hand, and the further your own position deviates from that of your opponent, the longer the negotiation is going to take. If we ignore this and try to rush the matter through, the shock of adaptation will perhaps be too great. The other side may well prefer not to conclude a deal, rather than find itself entrenched in an uncontrollable and scary situation. We can't allow anything like that to happen. Thus the care we put into planning our negotiations should not only include questions of strategy and tactics, but also cut up the process of conflict resolution into a number of separate steps. The sections that follow will present the four natural phases of negotiation, as indicated in figure 7-1. This model presents of course a highly stylized picture, which in practice will often look very different. But dividing up the process into four parts like this is a very useful basis for most negotiations. It is important to note that the tasks allotted to each phase should not be considered to have been dealt with until the whole negotiation is concluded. Each phase simply brings new tasks and focal points to the fore.

I Warming up

We start with the *warming up* phase. The negotiators of both sides must take a little time to get to know one another and familiarize themselves with the location and the substance of the situation. The atmosphere needs to be friendly, to break any ice that may still be present. This may well be a matter of business, but we are at the start of a personal relationship between two people. The more professional a negotiator is, the more (not the less) he will warm to the other – within certain limits, of course. The amount of time allotted to this phase and the trouble put into it will of course depend on the object of the negotiation, and will also vary considerably according to the cultural context in which it takes place. In the Arab world or in Asia, this phase may account for the great majority of the time available. Personal relationships mean everything here; if the partner is right, the business will more or less take care of itself. It is important to cultivate a conducive atmosphere and a personal contact that will hold throughout the negotiation, most especially in the difficult moments of confrontation. And it is a good idea to maintain direct contact

even after the deal has been struck. You never know under what circumstances you are going to meet up again, or what the future holds for your relations. Very often such sustained contact – from the card sent at Christmas time and the occasional meal together to participation at family occasions – will not make any real difference in material terms, but on occasion it may work wonders. The whole effort then becomes worthwhile, to say nothing of the valuable personal experience gained.

But the warming up phase has another function in addition to creating a conducive atmosphere. All the matters for discussion that are to be broached or discussed in greater detail later should now be brought out onto the table, with the exception of any surprises we might be planning, of course. This *tour d'horizon* gives both sides an overview of the subjects under debate and facilitates the search for possible solutions later in the day. Both sides will be better able to appreciate what the negotiations signify for them, recognize any possibly contentious points, and adapt their strategy to the new picture. There is also the opportunity to measure up the other: how much real authority does he have? Is he authorized to sign a contract, or should we in fact be dealing with somebody else? At this point it is not yet too late to pull the emergency cord and request a counterpart who possesses the requisite competence needed to deal with the issues at the same level of competence as yourself, that is with an equivalent mandate and authority.

II Present your positions

All the objects to be negotiated are now on the table. Their outlines may not be very sharp, but both sides have had an opportunity to take note of them. Now it is a matter of establishing and presenting our own position. What do we want? With our opening bids we are laying the foundations for a possible solution. Discussions take on a more technical slant, and we enter into the phase of distribution. The two sides exchange arguments to support their own position, and there may be some hint of first concessions (although it is too early for them to be made). This sort of exchange needs to be very tentative, so as to avoid tying yourself down prematurely. Neither party wants to find itself trapped into a detailed discussion of specific points so early in the process. To avoid any commitments at this stage,

you need to choose your words very carefully, and the conditional tense will usually be the one to use: *We could discuss that subject if you were willing to look at this one...*, liberally peppered with limiting expressions such as *if, perhaps, might, depending, try*, and so on. Using as many open questions as possible (*Could you explain to me...; I didn't quite get that, could you...; What do you think of...*) we attempt to discover the other party's reservation price and his zone of possible agreement. Here the rules laid out in Chapter 2 on distributive bargaining apply. This does not however mean that the parties are going to confront one another across the table like enemies and stubbornly work on getting the other's shirt off him. If that were our intention from the start, we could have spared ourselves all the trouble of the warming up period. Our negotiations have a much broader view, for we want them to lead to the best possible integrative solution. The second phase of the negotiation is intended to present your position in a friendly, but firm, way so as to ensure a satisfactory outcome as part of an integrative solution. This objective needs to be kept in view throughout the negotiation.

III Edging closer

Once the negotiating parties have got to know one another, the issues at stake have been fleshed out a little, and the respective positions have become clearer, we pass to the phase of approaching the other. Before we can divide up the pie, first we have to put it in the oven. As we saw in Chapter 3, the first thing is to establish the needs and wishes of the other side. We want to get something – so we have to give something in exchange. From there it will be possible to work together towards constructive solutions of the existing conflict, using a maximum of creativity. What both sides have in common is more important here than what separates them. Each side will of course keep its own interests in its sights, but this is not quite the moment to bring them up. The knife won't come out until the pie is out of the oven – but it is fine for it to be lying there waiting. Specific details will now be ironed out in increasing detail and bundled together into alternative solutions, so that later all that needs to be done is to decide between them and sign the document. This third phase is where the integrative part of the process is hammered out. Now the friendly, cooperative atmosphere we went to such pains to cultivate is going to pay off.

IV Conclusion or breakdown

If all has gone as it might, at the end of the third phase one or several solutions satisfactory to both parties will be on the table. Or conversely, it has not been possible to resolve the contentious issues and cooperation has not been successful. Or perhaps the negotiators have not yet managed to get beyond the phase of distribution and confrontation. Whatever the case may be, the fourth phase is designed to lead to an appropriate closure of a negotiation. If the bargaining has been successful, this is the moment to decide between the alternatives now on the table. At this point many negotiators step aside and, their work successfully concluded, pass the baton to the actual decision-makers. In the realm of politics and diplomacy, these will be the ministers or heads of state, while in the market economy they will be the division heads, general managers or CEOs. Only they have the authority to put together the final agreement from among the various alternatives and to grace it with their signature or at least their initials, if the final decision is to be taken by parliament or a board of directors. Not before this ceremonious moment can the agreement be considered cut and dried.

The Israel-Palestine accord of 1995 provides us with a timely warning here. The long-awaited agreement came perilously close to not being signed in Washington, because after nights of negotiation the Palestinian leader Yasser Arafat suspected a trap in the translation of the text and refused to sign it on the podium itself. Here was an internationally televised incident, and the prestige of US President Clinton's foreign policy was at stake. At the very last moment, under dramatic circumstances, a compromise was found by deleting a contentious clause.

Until a legally binding contract or agreement has been signed and sealed, the solution that took so much trouble to construct exists only in the minds of the negotiators. The decision-makers might hold back from giving their final agreement until the last moment, for example because conditions have changed in the meantime. Withdrawal from a negotiation remains an option until the very last moment, but the later it comes about, the more unpleasant that is going to be for all concerned. Generally, however, it would be even worse to conclude an agreement that one of the parties would prefer not to have signed. In such a case, implementation would most likely be difficult if not impossible. The agreement has to be seen by both parties as being better than no agreement at all.

Phases and questions

Each of the four negotiation phases we have described has a quite specific function to fill, corresponding to the main questions of concern. These questions and the relevant phases are illustrated in Figure 7-2.

The first question we shall be asking is related to the other person. *Who* is he? What is his mandate? Is he authorized to sign a contract, or what are his limitations? These questions belong to the warming up phase, when the representatives of both sides get to know one another and start sounding one another out. The second phase, centred on the distribution aspect, is determined by the respective positions of the two sides. *What* do we want, what does my counterpart want? What is negotiable, what isn't? All these questions relate to distribution. Once the respective positions are clear, we pass to the actual business of conflict resolution, integrative bargaining. The main question here relates to the other party's wishes and needs: *Why* are they asking for this and not for that? What solutions could we agree on, and what concessions could we give in exchange for receiving what kind of concessions?

Only once all these questions have found a satisfactory answer do we ask the last questions dealing with the conclusion of the negotiations: which is the best package deal, and *when* will the agreement be signed? These five questions constitute the basic framework of all negotiations. Structuring them into four successive phases is merely a useful device – obviously there is no point in the negotiation when someone stands up and in a loud voice announces the transition to Phase III ... But it is very useful to keep the concept in mind when you are planning and setting up your own action. The practical circumstances will however often make it necessary to divide up a difficult negotiation into separate rounds. Let us have a look why that should be.

Mandates for negotiation

Not every negotiation can be brought to a conclusion in a single round. As we have already seen, this is not without its reasons: the negotiators are being kept on a short leash and it is not desirable that they reach an over-hasty agreement. Really fitting solutions are seldom found in a

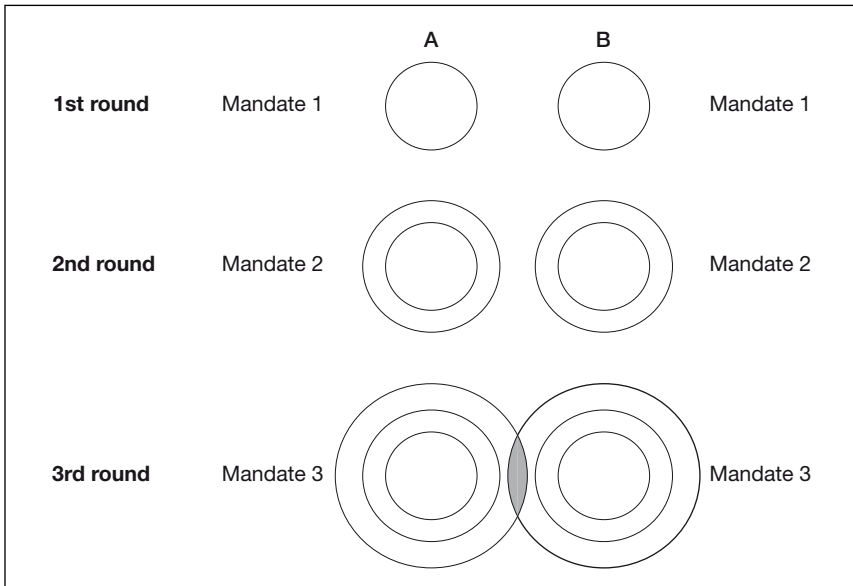
Figure 7-2 Basic questions in the different phases of negotiation

IV How, when?			
I Who?	II What?	III Why?	<ul style="list-style-type: none">• What packages are possible?• What are the best options?• When will the contract be signed?
I Who?	II What?	III Why?	
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I Who?	II What?	III Why?	
I Who?	II What?	III Why?	
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I Who?	II What?	III Why?	
I Who?			

hurry, and a process in several stages also facilitates the correction of any errors that may have crept in. The mandator, meaning the authority that defines the objectives and tasks of the negotiator, reserves his decision at each stage of the negotiation process, but he does not want to limit the independence of his negotiator in respect of acquiring information and seeking a constructive solution. This is best achieved by proposing a very limited mandate. Figure 7-3 illustrates why such a limitation imposes the need for several rounds of negotiations.

In the first round, both negotiators or negotiation teams have a very limited mandate. They open their discussions in the classical manner, go through the first two phases and establish that an agreement serving the interests of both parties is feasible. But their powers of decision are by no means broad enough for them to follow up their ideas, to say nothing of actually striking a deal together. So each of them will now report to their respective mandators on the results of the first negotiation round. The prospects are looking good, and both sides are willing to embark on a second round of talks. If this is not the case, the negotiations will come to a dead end at this point. When the negotiators meet up again for the second round, their mandate has been widened. Their positions come closer to one another, and the prospects of a profitable agreement are brighter. But once again the competencies of the negotiators are not sufficient to allow them to draft or sign an agreement. So the process is repeated: they each return to their respective chiefs and file a report. The matter is promising; both sides are now seriously intent on bringing it to a successful conclusion. Once again the negotiators' mandate is extended, more concessions have been conditionally approved, and for the first time the negotiators' proposed solutions now overlap sufficiently for an agreement to be struck. After in-depth talks, the third round finally brings the desired breakthrough. Whether or not the mandators were aware of this in advance, it certainly has been worth it for them to send their people back three times. The more that is at stake, the more cautious the negotiating parties need to be. For this reason, the mandates given to most diplomats are phrased extremely narrowly – after all, foreign policy decisions are a matter for governments and parliaments, not for the civil servants who do the negotiating.

Figure 7-3 **Negotiation rounds, mandates and progress**

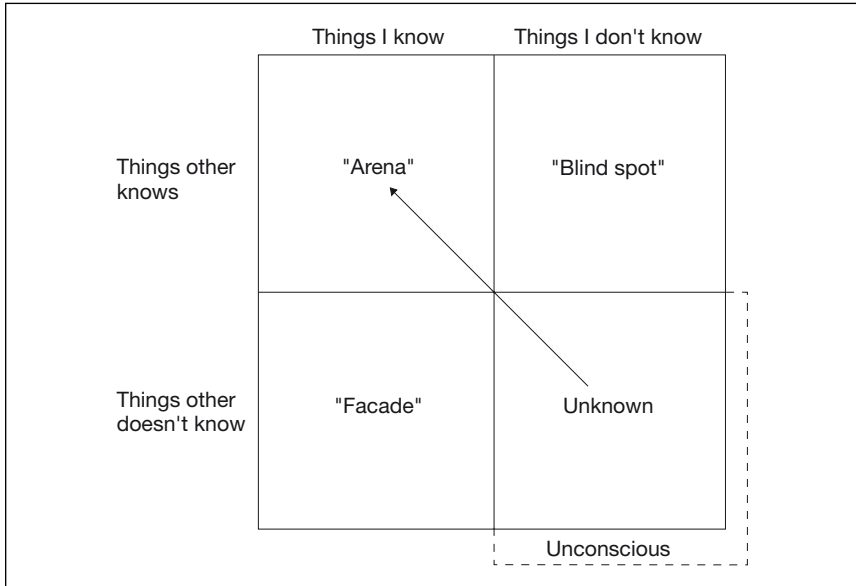


The role of information

But before decisions can be taken, information on the object of the negotiations and the situation on the two sides needs to be gathered, exchanged and evaluated. This is where the diplomats reign supreme; no-one can replace them in this regard. As we have now seen in various contexts, information is the stuff of negotiation. Figure 7-4 shows a very useful instrument for illustrating them in graphic terms.

The Johari window, as it is known, is a method of illustrating the relative knowledge on both sides. Facts and evaluations known to each of them are entered in the top left-hand corner. This is the open arena of the negotiation. The box below it contains things that we know, but that our opponent does not know. In this domain we can put on a front that need not have much to do with reality. For the moment we are holding our cards close to our chest. Less pleasant for us is the top right-hand box: this is our blind spot, for it contains all the information possessed by the other side, but unknown to us. We will of course do whatever we can to make the greatest inroads possible into this field. That is the main objec-

Figure 7-4 **The Johari Window**



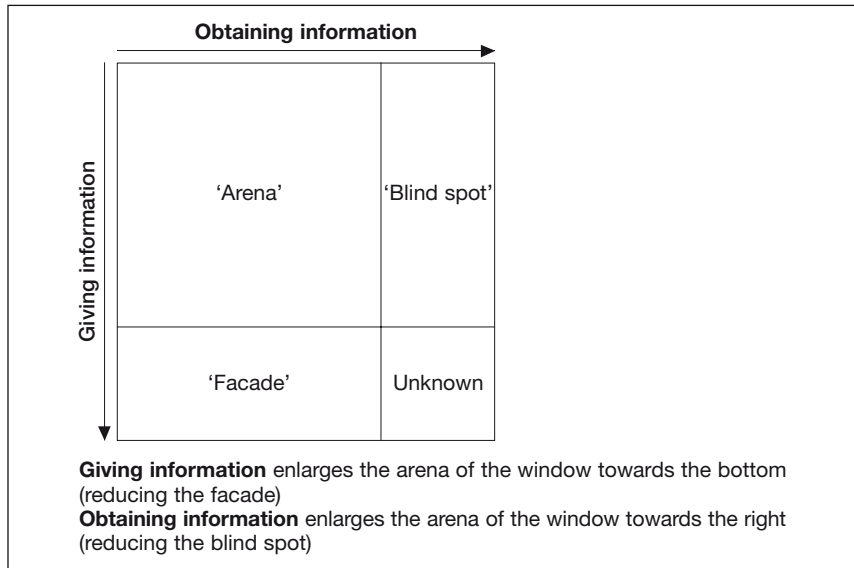
tive of our work of gathering information. But another field that we need to set our sights on is the bottom right-hand box, which contains things that are unknown to both sides. In concert with our counterpart, we might come upon an insight that brings us both out of this dark field into the bright light of the arena. Such a step taken in common may turn out to be *the* breakthrough in integrative bargaining. For the sake of completeness the unconscious is included at the bottom right, but it is beyond the scope of this book to deal with it here.

Give and take

The use of the Johari window is not limited to a merely static representation of the state of knowledge, for one of its great advantages is that it can be used to illustrate the information flow.

The major part of negotiations concerns the arena, information that is accessible to both parties. The information is there on the negotiating table and it (and only it) can be negotiated. If we disclose information to

Figure 7-5 **The Johari Window**



the other side, we enlarge the size of the arena downwards. In the age of the ubiquitous Microsoft Windows operating system, it is easy to imagine this graphically.

If we are the recipients of information from the other side, the window of common knowledge opens up towards the right. It is possible to use this graphic form to represent characteristic patterns of movement for different types of negotiation or different phases. Each will signify completely different intentions and possibilities of communication. In the ideal case of integrative bargaining, the two movements occur simultaneously: both parties find themselves with a smaller blind spot and allow the partner a look behind their facade. At least as far as the object of the negotiation is concerned, the unknown is constantly pushed further and further back by such open exchange of information.

The interviewer

The extreme example of pure information gathering is the interviewer. He asks a lot of penetrating questions, without answering a single one himself. The flow of information is completely one-sided. Figure 7-6 shows the picture from the interviewer's angle.

The open arena is enlarged to the sole advantage of the interviewer. He obtains a lot of information and his blind spot almost completely disappears. In that respect he is in a very superior position to the 'interviewee', for he is able to keep his facade fully intact. This procedure is scarcely cooperative, but it is extremely useful for building up one's own position in distributive bargaining.

Bull in a china shop

We can call the very opposite of this picture the *bull in a china shop*. This too is an extreme case, and again the information flow is one-sided, but this time it goes in the other direction. It is illustrated in figure 7-7.

The bull in a china shop does not try to extract information. His way is to disclose himself. He tears off his mask, reveals what is behind the facade, and tells the other everything he possibly can in the time at his disposal. He is often an inveterate chatterer: clergymen and professors will sometimes exhibit this proclivity. His blind spot remains blind, of course, and indeed even widens in relation to the information status on the other side. Such an attitude is appropriate for a session of psychotherapy, but not for a negotiation. It is thus best avoided.

The turtle

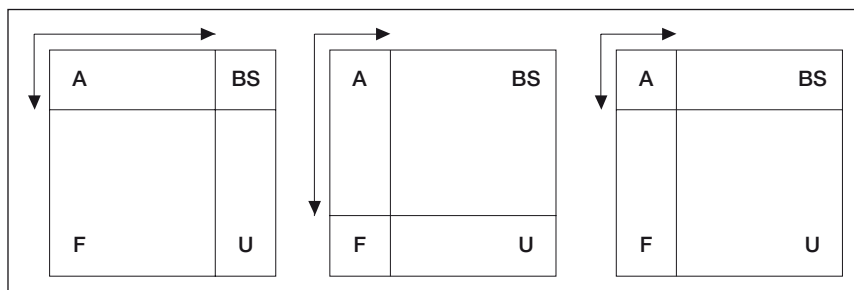
The name *turtle* describes another very different form of behaviour, but it is no less unsuited to negotiation practice. The Johari theory defines it as a cautious attitude, and it is illustrated in Figure 7-8.

The turtle moves forward at a very leisurely pace. It is in no hurry to either impart or obtain information, and does not get very far in either direction. The unknown thus remains unknown to both sides. Both the

Figure 7-6
The interviewer

Figure 7-7
The bull in a china shop

Figure 7-8
The turtle



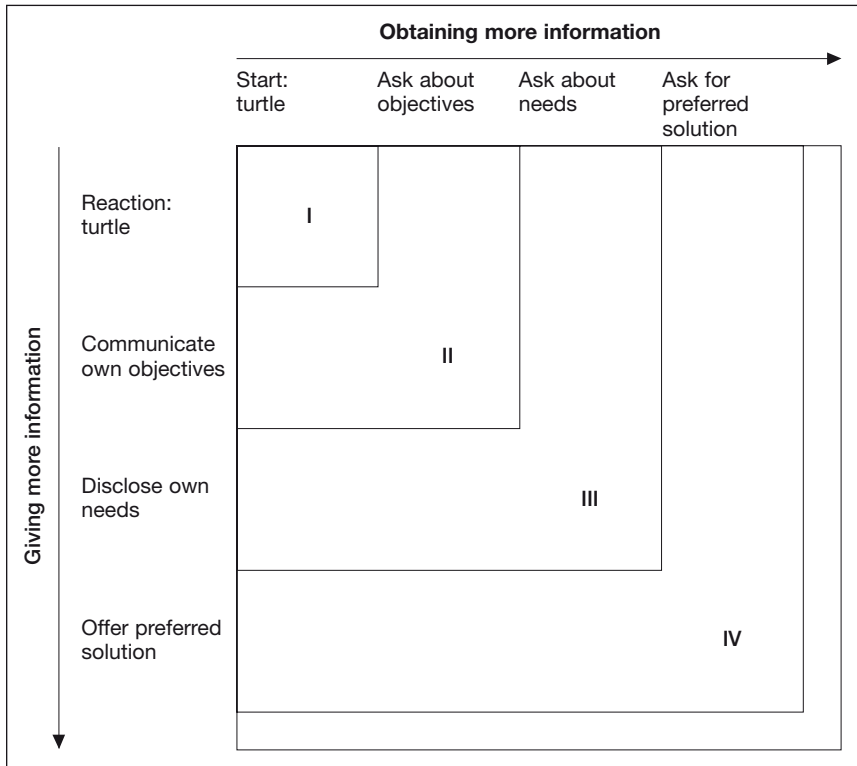
blind spot and the facade remain largely intact. Communication is limited to a strict minimum. You might even imagine a frightened turtle, hiding under its thick shell from a world it perceives as hazardous. Risks are thus minimized, but so are many opportunities lost. It is the least appropriate attitude for negotiation.

Good negotiators are very communicative people. They are ceaselessly on the lookout for new information and gather it with great care. The degree to which they will be expansive will depend on the task in hand. But certainly a successful negotiator will never entrench himself or herself behind the turtle position. Such a position may be fitting at the start of a negotiation, before it is time to exchange information, but even the warming up phase when the partners are getting to know one another demands something of an open attitude.

Information management

The previous sections have shown how the negotiator deals with information in the context of the Johari window. So how do these building blocks fit into the larger context of a negotiation? The answer is a simple one, and hits the very core of this chapter: each phase makes different demands on the negotiators of both sides. Each of the movements that has been described can be used successively for active information management. Figure 7-9 shows how the window of common knowledge can be opened wider and wider at each step.

Figure 7-9 Information management and negotiation phases



In the beginning was the turtle. The negotiators are meeting for the first time, and their movements are very circumspect. In the course of the first, and at the latest at the start of the second phase, they will be speaking about their positions and objectives. This is a question and answer game, a give and take, and depending on the situation the one or the other side will be the first to give something away. Provided that *both* sides receive new information, the order in which this occurs is secondary. The third phase of the negotiation, remember, is concerned with objectives and needs: the two sides come closer to one another and look for integrative solutions. The information window opens up a little again, ideally in both directions. If this is not the case, true cooperation is hardly imaginable: one side would then have to yield or accept a compromise. The fourth phase is the time of decisions. Now we should like

to know which solution the other side prefers, and vice versa. Symmetry continues to be important, for only when both sides are satisfied with the solution in this final phase can there be a successful conclusion.

Here the most important thing is not a precise procedure in accordance with the above scheme, but the basic recognition that a negotiation can make very different types of demands of the actors as it progresses. To have all the chances for oneself (and the other side) is possible only when these demands are met at the appropriate moment.

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8 Negotiation behaviour

He stands out a mile: he's the one who most regularly comes home with the goods: a good negotiator more frequently concludes successfully than a bad one. Perhaps the quality of the solutions he brings is better, too, because they generally mean a gain for everyone concerned. But we have only begun to discover the secrets of this success. Certainly, we have seen that it depends above all on good planning, the appropriate choice of strategy and tactics, and their concerted application throughout the negotiations. The most significant part is like the great mass of an iceberg lying hidden under the surface of the water. All we can actually see of the iceberg, as everyone knows, is just its tip – which in our analogy corresponds to the negotiation itself. In this chapter, we shall centre our attention on just that. Good negotiations and icebergs have one important thing in common: there are not too many of them around. But by dint of numerous studies we do know remarkably well what it is that successful negotiators do during the negotiation. They conduct themselves in a markedly different way from the average negotiators with whom they were compared in these studies. It was found that most of the differences were explicitly learnt, although rarely through formal study. However true it is to say that our experiences in life – especially the bad ones – are often our greatest teachers, we see no reason why they should be the only one. All the more reason to have a look at the main ways in which experienced negotiators conduct themselves.

Before the negotiation

Studies undertaken by the British Huthwaite Research Group (cited by Adler, 1997) have brought to light a number of success factors among practised negotiators. Right at the planning stage they take care to study *a larger number of options* and of possible outcomes than the average negotiator. That gives them more room for manoeuvre – and thus more power – when it comes to making choices. As a general rule, the good negotiator will pay more attention to the common ground between the partners, while his less skilled colleague will put more time and energy into the conflict between opposing interests. It is however unclear whether the search for common ground is the cause or the effect of a cooperative negotiation climate. But whatever the case may be, it is a hallmark of constructive collaboration. This includes being mindful of *long-term issues*, which are taken much more seriously by experienced negotiators. There is a clear difference in the way the time scale is conceived between the two. At the same time the Huthwaite studies showed that the top people were above all also concerned with the here and now, and actually only occasionally thought of the long-term perspective.

Another advantage good negotiators have over the average is their *planning of upper and lower limits rather than fixed targets*. In the rapidly changing environment of the negotiation room, a range of targets offers more freedom of movement than a fixed point.

A range of options also permits a more differentiated approach across the spectrum between black and white, whereas if everything is concentrated on a single point there is no room for different shades of grey: if the target is not attained, then it has to be dropped – or the whole negotiation fails.

A final characteristic of trained negotiators is their *planning of issues without establishing a rigid sequence*. This procedure provides additional flexibility in the negotiation, for the other party may have quite different ideas about what order things should be discussed in. The less successful negotiator often succumbs to the temptation to plan a negotiation as though it were a production process, where of course instruments such as sequence planning and critical path analysis are extremely useful. In negotiations, on the other hand, where we are dealing with people who are not directly under our influence, they are of little use to us. If we are

Table 8-1 **Success factors in negotiation planning** (after Adler 1982; Dupont 1986)

- Widest possible range of options
- More attention to common ground
- Greater attention to long-term factors
- Setting upper and lower limits rather than fixed target points
- Planning of issues without establishing a rigid sequence
- More time devoted to studying the conflict
- Less attention paid to own objectives than to a jointly achieved solution
- Less attention to tactics: these are often overrated

dependent on a specific sequence, we will be put out of kilter if it gets changed.

Some of these findings have been confirmed by a French study (Dupont, 1982), according to which experienced negotiators compare as follows with novices:

- half as much more time to examine the conflict
- three times as many options
- less attached to their own objectives
- use of more strategies
- but a third less attention to tactics.

We can draw benefit from these observations by approximating the successful negotiator in the way we plan. It is much more difficult to change one's own behaviour, for in this situation there are all sorts of imponderables that have to be contended with. Nevertheless, a careful look at the behaviour of good negotiators and their comparison with average ones is well worth taking.

Behaviour during the negotiation

The investigations of the Huthwaite group permit quite explicit statements to be made in respect of the behaviour of successful negotiators *during* negotiations. They drew up a list of particularly useful and particularly ineffectual behaviours (Table 8-2 on next page), which we shall evaluate in the sections that follow.

Table 8-2 **Behaviour at the negotiating table** (Rackham and Carlisle, 1978)

Negotiating behaviour	Skilled negotiators*	Average negotiators*
Irritators	2.3	10.8
Counter-proposals	1.7	3.1
Defence/attack spiral	1.9	6.3
Use of behavioural label before:		
• Disagreeing	0.4	1.5
• All behaviour except disagreeing	6.4	1.2
Active listening		
• Testing for understanding	9.7	4.1
• Summarizing	7.5	4.2
Questions	21.3	9.6
Feelings commentary (internal information)	12.1	7.8
Argument dilution	1.8	3.0
* Figures in per cent per negotiation hour		

Irritators

There are a number of ways of putting things which, while they may not be very persuasive, cause annoyance. Somebody who comes up with phrases such as *a generous offer*, or describes a solution as *a fair or reasonable arrangement*, is not very likely to achieve his aim with such talk. All it does it to confuse the other party, for the natural reaction to self-praise is to presume the precise opposite of everything that is claimed. While most negotiators are ready to go to great lengths to avoid offending other people or putting them down, they seem to have much more difficulty restraining themselves when it comes to self-praise. But what is the use of it if the message does not get across, and the reaction of the other party is negative or at the very least confused?

Interrupting with a counter-proposal

A widespread technique among the less experienced negotiators is the counter-proposal. Rather than listening to the other's suggestion, think-

ing it through and examining it on its merits, they are immediately tempted to cap it with a proposal of their own. But that is also how we experience the counter-proposal: as an instrument to block what we have put forward. If we want to act in a cooperative manner we need to pay attention to what the other person is saying. And even if the counter-proposal was not intended as a rejection, it has been brought out at the wrong moment. Here I am, presenting a proposal to someone, and I discover that he is completely engrossed in his own arguments and I am talking to a brick wall. The moment could hardly be less propitious. A further problem with counter-proposals is the confusion they often engender. Even if they are fully understood at the technical level, they tend to complicate the course of the negotiation process. As new ideas and information build up, the situation tends to become rather difficult to oversee. For all these reasons a good negotiator will avoid making counter-proposals, unless he really is intent on stifling a proposal made by his opposite number.

Defence/attack spiral

Negotiations often take a very unfortunate course when one side makes an attack on a person or an object, and the resulting defence leads to an escalation of words like a duel. Even the most harmless sounding remark, such as: *You can't hold us responsible for that*, may be enough to trigger such a spiral of confrontation. In trying to get himself out of an awkward situation, the negotiator indirectly attacks the other side. This in turn provokes a strong reaction, and the escalation is already well on its way. Each blow is a little heavier than the last, and very quickly the atmosphere of cooperation so necessary for an integrative agreement has been well and truly shattered. An inept negotiator is far more likely to trigger off such an escalation than an experienced one, and also to lose control of the situation through an almost imperceptible rise in his aggressive attitude. A good negotiator may occasionally attack the other side if his strategy demands it, but then he knows how to hit right between the eyes, with decisiveness and power and without forewarning. He leaves the other side no time to construct an effective defence; the situation is then immediately defused with a fitting proposal (which he has of course planned well ahead of time).

Behavioural labelling

A good negotiator is necessarily a good communicator. So it will come as no surprise that he has an above-average technical command of the language. One important instrument for effective communication is behavioural labelling, describing what you plan to say before you say it. Rather than simply blurt out a question, the experienced negotiator will first soften it with a preliminary warning: *May I ask you, how many units could you deliver immediately?* This approach does not have to be limited to questions, and it is possible to prepare suggestions, comments and personal assessments in this way. The technique has several advantages. By drawing the listener's attention to what is about to be said and setting the stage, so to speak, it enhances the clarity of what is going to be said. At the same time it can serve to slow down the flow of a discussion that has perhaps taken on a rather frenzied pace. As we saw in the previous chapter, everybody needs a certain amount of time to digest new material. This sort of announcement can bind the negotiators together. Confrontational negotiations very easily take on a rather sharp tone, and this technique is calculated to ease them.

There is however one exception to this rule: we should not announce *disagreement* in this way. Here it is better simply to state that you cannot agree. A more diplomatic version would be to first present the arguments in a neutral light and to draw the negative conclusion from that. If a refusal comes out point blank – and that is a mistake novice negotiators often make – the other side will immediately become defensive and want to dig his heels in. Our own arguments are then more likely not to be heard, because the other is already ensconced in his counter-attack. By now the spiral we spoke of above is well under way. But by making it that much easier for the other man to pull back from his proposal, we help him not to lose face.

Active listening

Another most effective conversational technique is active listening. By asking clarifying questions and offering a nutshell summary of what he has heard, the skilled negotiator diminishes the likelihood of misunder-

standing. The discussion becomes clearer: both sides are seen to be talking about the same thing. This alone would already be sufficient reason to employ the active listening technique at every opportunity, and indeed the good negotiator will do so. But in addition it can serve two other useful purposes. First, by summarizing what we have heard, we reflect it back to our counterpart like a mirror. The other then has the opportunity to recognize where there may be a misunderstanding or lack of clarity, and will be moved to provide further explanations, since some reaction on his part is clearly invited. Thus by first reflecting back the other's position, the skilled negotiator is not only checking his own grasp of the matter, but is also inviting the other side to provide more information. Moreover, active listening and requests for clarification strengthen the conviction that the agreement sought is in fact attainable. While the less experienced negotiator will prefer to skirt around tricky or unclear points, for fear of jeopardizing the agreement, the professional is thinking about the possible problems of practical application while the negotiation is still going on. Ideally, these should be sorted out as thoroughly as possible and set aside before the deal is struck – even if such clarification might make the deal impossible. For what is an agreement worth, if it would never have been made if the parties had looked at it a little closer? The loser will rightly feel deceived if his partner has not drawn his attention to foreseeable problems. Not even the much maligned vacuum cleaner salesman is likely to go in for such a short-sighted approach today.

Questions

Good negotiators are not afraid to ask a lot of questions. They want to learn as much as possible about their opponent's position and intentions so as to be able to adapt their tactics to what they hear. What could be more appropriate than asking questions? Apart from gathering information, there are a lot of reasons to cultivate the art of questioning in negotiations. By asking, you are taking the initiative. It's your move, and with that you determine both the tempo and the content of the discussion. A satisfactory answer leads on to the next question, and so on. This keeps the other party on the trot and gives him less time to analyze the long-term implications of your questions.

At the same time it gives the asker more room for thinking and planning the next move, since the other party does the talking. And one final and by no means negligible argument in favour of the use of questions as the all-purpose weapon of the negotiator: questions are a polite alternative to direct rejection of a proposal. By asking questions that imply a doubt, the negotiator is making it known that the opponent's arguments have not convinced him. This can then lead to new arguments being brought in, or the proposal can be dropped without loss of face.

Disclosing feelings

A negotiation can be like a poker game, but it doesn't have to. We have seen that a good negotiator is very cautious about giving information concerning his true intentions and limitations. But it can nevertheless be extremely useful to give your opponent private information concerning how you feel about something at the right moment. This creates trust, especially if what you do is to describe your own frame of mind. If the other person knows (or thinks he knows) of your intentions, he will feel more secure. Cooperation is that much easier to come by if the two partners have mutual respect for one another. In addition, it may be very useful to speak of how we are feeling and our impressions when the situation is unclear. If we are not sure whether our opponent is really serious about a proposal he has made, we can speak of our difficulty and ask for help to clarify our own position – unless of course our chosen strategy does not include working together on finalizing the deal, in which case letting the other know where you are coming from would be a weakness and best avoided. Some negotiators feel a compulsion to explain every move they make and their motivations. But this limits your freedom: once the story has been told, you can no longer jump out of the picture you have painted. Even more care is required if any of the facts or feelings have been invented!

Argument dilution

How many arguments does a proposal need in order to sound convincing? Just one probably, if it is good enough. But the idea is widespread that each point made needs to be bolstered with as many good reasons

as possible. This is a mistake. Successful negotiators will concentrate on the main argument and only introduce other reasons into the discussion when the first one doesn't do the trick. If several arguments are brought in from the outset, some of them will necessarily be stronger and some weaker. You can then be sure that a skilful opponent is going to jump on the weakest of them. Now in spite of all your strong arguments you find yourself on the defensive, simply because they have been diluted by weaker ones. The wrong tactical choice of arguments can destroy your whole strategy. If we restrict ourselves to one or two really strong arguments, we give the other side the narrowest possible target to attack.

The dance of the negotiators

In the previous sections we have highlighted and explained a number of successful or less appropriate ways of conducting ourselves in negotiations. We are now ready to deepen the insights gained by putting concrete modes of behaviour into the context of the five basic strategies presented in Chapter 5. With a little imagination it is possible to visualize the movements between these five positions as a dance. This is not as fanciful as it may seem, for there really is a physical and mental flow of energy and movement between the negotiators. All scientific analysis notwithstanding, we must not forget that we are talking about an intense interplay between people, in a particularly dense situation!

Figure 8-1 illustrates the five basic steps of the dance we have just presented. We can of course visualize this dance as a gentle, flowing contest between two partners – like in the Japanese martial art *aikido*. Here the form is not so hard or confrontational with clenched fists as in *karate* or with a bamboo sword as in *kendo*. In *aikido* the contest really does resemble a dance, with the difference that the loser is lying flat on the floor, while the winner is still standing. Bearing this picture in mind, let us return to the negotiation situation, to the air-conditioned arena of the conference room. From the middle position (compromise) the chief negotiator can attempt to push or pull the other down the distributive axis. But he can also move along the integrative axis (moving the other along it too), by removing himself from the contest or by using his creative and cooperative powers to engage the other in a joint movement towards collaboration and agreement.

Figure 8-1 **The negotiation dance**

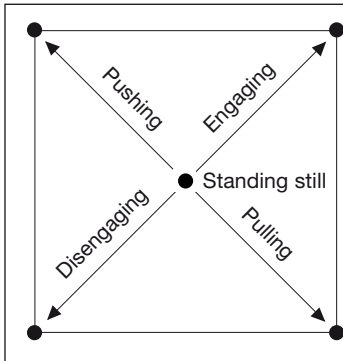


Figure 8-2 **The words of the negotiation dance**

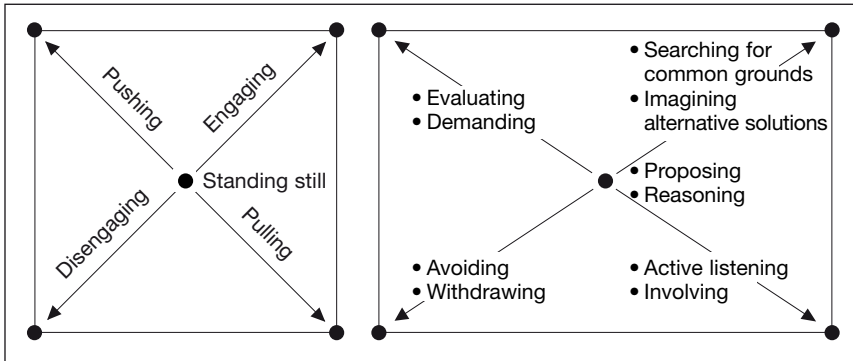


Figure 8-2 illustrates how the physical movement of these dance steps can be translated into fitting instruments of verbal communication.

Pushing, being competitive

It is a form of *pushing* to *evaluate* the opponent's suggestions and proposals (*I like A, but I find B unacceptable*). This purpose can also be achieved with a request (*What I want is...; Please give me X...*). Finally, *incentives* and *pressures* can fulfil this function (*In exchange for... I would be ready to...; If you did this, then I would do that...; If you don't accept my proposal, then I will have to close this meeting...*).

Here we are talking about requests, demands and evaluations, without necessarily supporting them with facts and justifications. You simply request what you want without backing up your demand with justifications or explanations. A hard push could give you immediate concessions or lead to a bitter battle depending on who has more power. In any case, a hard push is tough, rude even in most non-American contexts, and risky. Most negotiators choose a more watered-down approach with less confrontational tone but still with a punch meant to push the other party from his initial position.

Pulling, accommodating

Pulling is the natural direction in the movement of *questions* (*Please tell me about...; Please explain to me..., etc.*). Just by responding to the questions, the person at the receiving end is drawn in the direction of the desired solution. It might be interpreted as if you were giving in, since it is rather a softer movement than pushing. The questions must of course be accompanied by active *listening* (the more active the better!). Recapitulation and summarizing (*Have I understood you correctly – did you say that you...*) help to draw out the other, as do your own interpretation and assessment of what you have heard (*I imagine you feel relieved/frustrated/satisfied now!*). Disclosing information or personal impressions and experience (*Yes, I've been down that road too...*) are another way of drawing the other person towards us

Small steps, compromising, moving on the spot

Moving on the spot is frequent figure in our negotiation dance. It is a sequence of movements where neither party really moves nor shifts the other party from its position. Both stay put and move in small steps. If neither side can produce a better solution, or they are not able to agree on one, a *proposal* is likely to be made (*I would like to suggest that we...*). A favourite technique is also to *examine the advantages of a compromise* from the technical standpoint (*For the following reasons... I should like to propose...*). Often the main intention of this is to avoid the impression that you (both) haven't taken enough trouble, but it may correspond perfectly to the facts of the situation, if the best choice was the strategy of the middle way, and neither party can do more than agree on small compromises.

Moving away, disengaging, avoiding

The dance step of withdrawing from the other heralds walking out the door, but this impression should be avoided if possible. Humour and jokes, if necessary even the occasional bad joke, are one way of softening the act of *pulling back*. First the tension of the situation needs to be eased;

you cannot open up a pressure cooker before you have released the pressure in it. The negotiator can also *evade* all the activities of the negotiations, for example by ceasing to listen, distracting others or leaving the negotiation room – literally or symbolically.

Moving together, engaging the other

If we want to put our energy into creating a constructive collaboration, we need to *establish a basis in common* with the other party. For this we need to get to know this man or this woman, for example by discovering what his or her interests are, what he or she really needs, but also through an effort to find shared experiences and a common goal (agreement). For this purpose *sensory and motor concepts* relating to perceptions and movement (*taste, smell, sound, colour, form, speed, etc.*) are particularly suitable. *Fantasy and creativity* also have an extremely important role to play here, for our dance together is moving us into a strategy of collaboration. New options that go a long way to satisfying the expectations of both parties now need to be devised. This movement is without a leader. You both move along with each other, alternating between leader and follower, the goal being simply to move together to a final destination – a mutually beneficial agreement!

Improvisation

In addition to all these basic movements, the negotiation dance may also involve intermediate steps, pauses, turns, jumps – whatever comes naturally to the one or the other participant. They will often find themselves in a position where they need to improvise, when the band is playing a tune they are unfamiliar with. There will also be a certain play around who takes the lead, depending on who has the stronger position at any given moment. The dance of the conference room is thus surprisingly similar to its cousin of the ballroom! According to whom you have as partner, and the environment and music, it can be boring – a real chore – or a pleasure. But in common with dancing on the ballroom floor, you can only really get pleasure from it if you could perform all the steps in your sleep, for only then can you be totally available to your partner.

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Leading a delegation

In the political and economic spheres, negotiations are frequently not conducted by individual negotiators, but by a group, the *negotiating delegation*. This has a number of advantages: important specialist knowledge is available to be drawn on during the negotiations themselves, and the workload can be divided up among several people. That relieves the chief negotiator of a burden and gives him more freedom of movement. In addition, four, six, eight or sixteen eyes see more than just two. And finally, a delegation is often used instead of a single negotiator because it offers greater creativity and more thorough examination of all the alternatives available. But the measure in which all these expectations are effectively fulfilled by the delegation depends on how well the specific problems of delegation leadership are dealt with. Working with a group is a fundamentally different experience for the negotiator than working alone. If this is not taken into account, the chances of success are accordingly reduced. The intention of this chapter is to prepare the experienced negotiator for the differences that exist in a teamwork situation, and his particular role in it. Let us therefore look at the basic problems that arise when assembling and leading a multiple delegation.

Leading the delegation

A smoothly functioning group does not materialize by itself. First it needs to be put together out of a balanced mixture of suitable people possessing the broadest possible range of skills. The members of the group must have time to get to know one another (and that *well before* the negotiation!) and to accept their colleagues. Each should be assigned (or take

on spontaneously) a role commensurate with his or her particular abilities and personality. These roles should then be thoroughly practised – perhaps in a simulation of the forthcoming negotiation. This leaves sufficient time to address any conflicts and other difficulties that arise and to clear them up. Further, the lines of communication within the group need to be clearly defined and practised.

The first task of the chief negotiator is to work on this long before the actual negotiation date. Once the actual bargaining process is under way, there is no time for matters of this nature – this is the moment of truth, when the quality of the delegation makes itself known. At this point, too, it will become clear how much time and trouble the head of delegation needs to invest in taking the direction and guidance of his group. In a good negotiation team, the complex interplay between the team members is always kept well in hand. Ideally, it will run itself, leaving the chief negotiator's back clear. His job is to think about the content of the negotiations, not his team. But a disharmonious or poorly prepared delegation is worse than no delegation at all; it provides no support for the negotiator, but just puts one more problem on his shoulders. And the head of delegation also has his own task in the negotiations to prepare. If we liken a one-to-one negotiation to a light aircraft, then a big affair with a large delegation on each side is like a jumbo jet. It hardly needs to be said that the demands made of the respective captains are very different in the two cases. Whereas the pilot of a light aircraft flying in good weather can rely mainly on his local knowledge and fly 'by the seat of his pants,' the captain of a Boeing 747, with its enormous takeoff weight, must consult a huge array of instruments and activate any number of controls. Unlike the sports machine, every move he makes needs to overcome a certain inertia before it can take effect. In addition, the captain of the jumbo has a co-pilot, a flight engineer and a navigator in his crew. Each of them has a different task to fulfil, and each of these tasks is necessary. The sports pilot would be helplessly overtaxed in the captain's seat, for he would not be up to handling either the complex technical system or the coordination of his crew. To graduate to such a task, he would first need a whole special training.

If we now carry this situation over to the negotiation, we must start with the training of the head of delegation. Perhaps the best place to start is to look at the most common mistakes that are made in conducting

complex negotiations, examples of what to avoid, so to speak. From there, we can pass on to the success factors of effective groups and look at how the tasks are best distributed among the members. The example of President John F. Kennedy and his cabinet at the end of the chapter will show that even an experienced team of brilliant people can run into trouble if it does not incorporate certain control mechanisms.

Frequent mistakes

None of us are strangers to negotiations that fail; at the very least we hear about them in the news. Off they go, the disappointed negotiators and their colleagues, downcast and empty-handed, after a brief interview with the waiting television teams. Failure such as this may be due to errors or omissions in the way the delegation was organized. In most cases, admittedly, errors have far less dramatic consequences than this. Some form of agreement is struck, even if the objectives originally sought after have not been achieved.

So what are the most common mistakes? One widespread failing is an overly *autocratic leadership* on the part of the head of delegation: instead of allowing his team to participate, he takes all the kudos; rather than delegate, he hands out orders. But anyone who treats his employees as slaves can hardly wonder if they *rebel against his authority*. Mutiny such as this – at worst even in the open around the negotiating table – is of course a heaven-sent boon for the opposing delegation.

Similarly, a *straying from group objectives*, whether by individual members or a large section of the group, weakens the overall effectiveness of the team in the negotiation process. And the opponents will quickly take advantage of a situation where a dissenting team member *openly sides with them*. Some members may also sour the internal cohesion of the group by *exaggerated sensitivity to imagined attacks*, when in fact nobody has hostile thoughts about them. The delegation then has its work cut out limiting the damage and re-organizing the group, thus reducing the energy available to the actual negotiations. A team that has been weakened in this way is no longer able to function as its brief demands. Nor, of course, can it do so when it has received *no clear line* from the lead negotiator, or this line is not followed by the group. An effective delega-

tion stands behind its spokesman, the lead negotiator, to a man, at least in the eyes of the outside world.

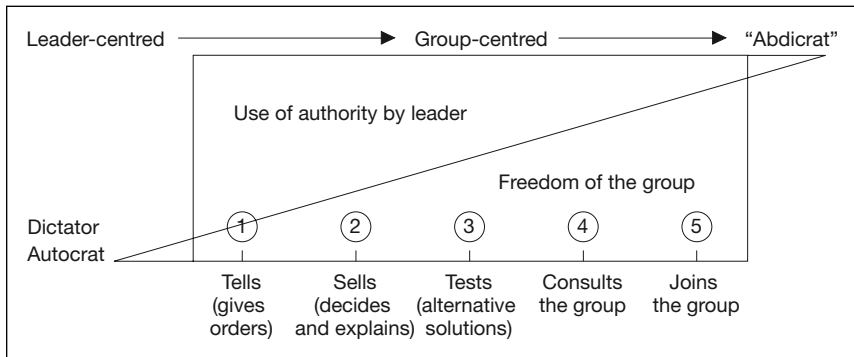
But this does not mean that the leader should expect personal loyalty to himself; rather, he should strengthen the cohesion of the group by promoting mutual responsibility. This makes the delegation less dependent on instructions from the top and helps it to be more self-reliant, self-critical, and creative. The more heavily a group leans on the person or the authority of its leader, the less it is likely to generate any initiatives of its own. Another mistake is when individual *team members avoid responsibility* and prefer to hide behind their leader rather than to take their own decisions. When this happens, their usefulness is limited to the narrow framework of the concrete instructions they receive. If ever they are not given orders – as might easily happen if the head of delegation is too busy, say – they become dead weights.

However, such hangers-on may even sometimes be necessary, when (as in China) it is of great importance to bolster the other side's honour and help them to keep face by arriving with a large delegation. In the present context we are however presuming a more active participation on the part of the members of the delegation, whose task it is to support the negotiator in the achievement of his objectives to the best of their abilities.

Success factors

This task makes heavy demands on the team members and the head of delegation. Careful observation of successful groups by a number of social scientific studies has come up with a whole list of success factors, which we reproduce here as general recommendations for team negotiations. The first rule when setting up a group is to recruit the *members according to their abilities*. This may seem pretty obvious, but it does require a considerable familiarity with the people concerned. Nebulous power relationships within the group must be avoided at all costs, otherwise the individual members are going to be more concerned with what is going on for them than with the task at hand. This means that *the authority of the chief negotiator needs to be clearly defined* and where necessary imposed. Not that he should have a repressive attitude: *it is all well*

Figure 9-1 **Leadership styles from autocracy to capitulation**
(after Schmitt and Tannenbaum)



and good to discuss decisions, but the chief should have the last word. Otherwise the group may not be viable. Figure 9-1 shows the different leadership styles possible, ranging from dictatorship to capitulation on the part of the leader.

Cultural differences may play a part in establishing these five different leadership styles. A consultative style (example 4) such as tends to be the rule in the Anglo-Saxon world would be quite out of place in a Mediterranean, Asiatic or South American cultural context, where the style is more conventional and tends to be limited to examples 1 to 3 in the figure. During discussions – which whenever possible should be open – the leader has the casting vote and must ensure that the team members always *discuss their differences in a technical light, never from their personal point of view*. Opinions should not be labelled *right* or *wrong* – no-one should play the game of knowing it all or acting the all-wise judge. Nothing is gained by it, and much can be lost. Above all, it is vital to ensure that the group members *discuss their differences in private*. As we saw in the last section, open dissent in the ranks will quickly be pounced upon by the opposition. As a corollary to this rule, the *distribution of roles and authorization to speak at the negotiating table* needs to be clearly defined. Otherwise the most well designed plan can end in chaos, if different members of the delegation are permitted to intervene at the negotiating table in an uncoordinated manner. *In principle the experts should sit in the background, to be consulted by the head of delegation as necessary; they should themselves not speak at the table, or only for very brief moments.*

They have been chosen for their abilities in their own field, which are beyond any doubt, but this does not necessarily make them good negotiators. To return to the example of aircrews we spoke of a few pages back: the fact that the flight engineer is an expert on aero engines does not qualify him to come forward and sit in for the co-pilot. But it is important to stress that sitting in the background does not mean that members of the team who are not actively engaged in the negotiation can simply switch off: *all participants must follow the negotiation process with their full attention*. Each individual sees a different aspect of the negotiation and can share his observations with his colleagues afterwards. For otherwise the members of the team will simply remain at the same level of information. And just as they listen jointly, the members of successful negotiating teams are also characterized by *a joint effort to find new alternative solutions*. If anything is off limits at the negotiating table it is an open discussion on the direction the talks should take: *everyone is clear about the priorities of the group from the very start and proceeds accordingly*. And needless to say, a team that presents a solid front will make a better impression than one that appears divisive. When a new negotiating team is set up, it is recommended that they have *a dress rehearsal* prior to the actual event. For this purpose it is necessary to find credible representatives of the opposing delegation: these may be colleagues from the same organization, or special advisors might be brought in for the purpose.

Group functions

A different point of view puts the various functions of the team and the roles of its members in the forefront. This is a somewhat more theoretical approach than an enumeration of errors and success factors, but it is not without practical value. The work of the team may be divided up into three categories.

Achieving the objective

This function of the team is directly related to the subject under discussion. Problems need to be recognized, information collated and disseminated, opinions gathered and expressed, and the feasibility of proposals examined.

A functional team

The purpose of all these activities is to maintain the group and enhance its ability to function. This involves coordinating the actions of the team members and mediating between their various interests. The designated task of certain team members is to maintain the cohesion of the group, and their job will be to establish harmony within it, to provide direction, facilitate exchanges when opinions differ, be available to this or that member of the team as required, or simply to support the leader or a majority standpoint.

Satisfying personal ego needs

The personal interests and power needs of the individual members of the team need to be satisfied. Instead of working together constructively, individual members sometimes engage in a personal power struggle and so block the group effort. They refuse to take part in the active negotiation process, or they deviate from the subject when they have the floor. Perhaps the most common manifestation in this category is attention-seeking behaviour. The individual is then no longer concerned with the process at hand, but with the need for personal appreciation. The energy this takes up is lost to the problem-solving activities of the team and must therefore be neutralized by active measures to promote teamwork. Figure 9-2 illustrates how these three functions vary over time in a healthy group. The longer the team works together, the less significant personal power needs become. The team maintains its productivity while consciously cultivating its smooth functioning. The members' behaviour is *oriented above all towards the task at hand, while any socio-emotional problems that may arise are not suppressed or brushed aside as without importance, but are consistently dealt with through group-orientated intervention* (Müller, 1992).

Roles within the group

The conduct of any group is characterized by the presence of different roles that cover a broader or a narrower field of activity. The performance of a group is particularly enhanced if each of these roles is filled by the person who is best qualified to do so, and all members accept the distri

Figure 9-2 **Group progress**

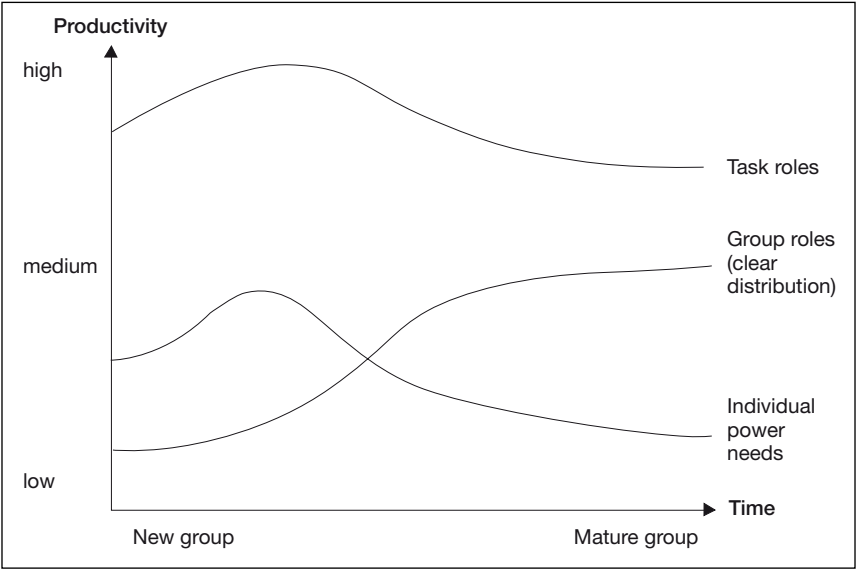
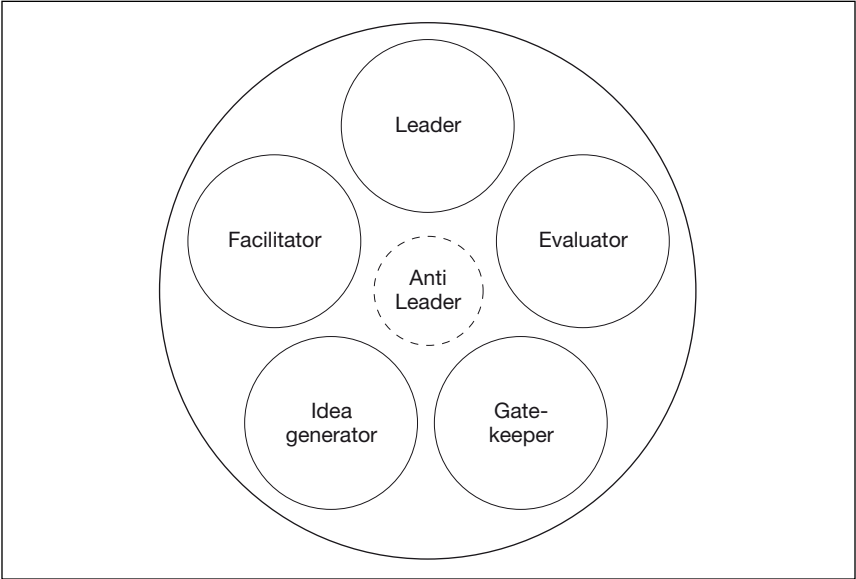


Figure 9-3 **Roles in the group**



bution of tasks as given. While a complete overview of the situation is not possible here, the following description will provide a first sense of the basic roles involved. Each member of the group needs to be fully conversant with the role of the other colleagues to operate effectively as a team. The team's effectiveness can also be extremely well served by recognizing the equivalent internal arrangements in the opposing delegation. A short description of the major roles is therefore in place here.

The chief spokesperson is the head of the team, and it is he or she who sets the course. This does not have to be the actual head of the delegation, but as a rule the official leader of the delegation should also be the person effectively in charge. To do this differently may have an irritating effect, but may be of tactical interest for this very reason. The main role can only be played by a single person, as otherwise a conflict of authority and power will break out sooner or later. It may happen that an *anti-chief* emerges and rivals the formal leader. Conflicts of this nature are an obstacle to fulfilling the real task in hand, and must be put aside quickly but no less thoroughly.

One role that can be represented by several people at the same time is the *idea generator*, an ever-creative element of the group. In practice, the assessment, development and application of these ideas will then be a matter for other members of the team. An *evaluator* for example will review all suggestions made in the light of the current situation and in this way will provide the leader with important information. While all these functions are being filled in parallel, the *gate keeper* is there to protect the team from attacks and unexpected coups from the opposing delegation. He or she will serve as a conduit for information that needs to be leaked out from the group. Finally, every team needs at least one *facilitator* in its ranks, someone who in deadlocked situations will seek to harmonize the various opinions and positions within the group itself.

The importance of organizing the team so as to maximize the full potential of its members is illustrated in the next section.

For example: John F. Kennedy and his team

This short case-study (Janis, 1971) uses the example of US President Kennedy and his high-ranking team to show the dangers inherent in the

notorious 'we-feeling,' promoted by many companies. Kennedy gathered a great array of dynamic and brilliant advisers and experts from the best universities of the country around him in the White House: Dean Rusk, Robert McNamara, Douglas Dillon, Robert Kennedy and Allen Dulles, to name just a few of them. This inner group around the President, the famous think-tank, functioned extraordinarily well, and yet it recommended the disastrous Bay of Pigs invasion in Cuba. How could such a thing happen? Everyone makes mistakes – that would be a simple explanation, but in this case another version is offered: there are clear indications that the fatal decision to launch the invasion was due to a failure of all the control mechanisms built into the group. Janis (1971) describes several signs of an over-rated group feeling ('groupthink') which – in concert with the stress engendered by the tense situation – considerably reduced the decision-making capacity of the group. The symptoms he observed were as follows:

- The members of the group shared an illusion of invulnerability. They took enormous risks, failed to respond to clear warnings of danger, and had over-optimistic ideas about the outcome. For example, President Kennedy's team based its plan on the insane assumption by the Central Intelligence Agency that they could keep the fact that the United States was responsible for the invasion of Cuba secret from the public.
- Warning signals were brushed aside by reformulating the facts after the event and theorizing. Harvard Professor James C. Thomson observed this behaviour over many years at the White House. When something goes wrong, you just change history, and earlier decisions remain immune from criticism.
- And of course the group had all the moral values on its side: *we are always right*. This was expressed above all by the avoidance of certain questions and critical appraisals. There was no room for debate on the justification of the position. Gradually the voices in the White House that had spoken out against the invasion died down of their own accord.
- This led to the inevitable corollary: *if we are right, then the others must be wrong*. In addition, the abilities of the other side were as under-rated as those of the home side were over-rated. The Cuban air force was completely discounted – a couple of obsolete B-26s would be able

to knock it out completely in a surprise attack. But the reality turned out to be very different.

- The group exerts social pressure on members who take a critical stand. Any attempt to express caution or ask awkward questions is systematically repressed. President Kennedy himself repeatedly raised doubts about the Bay of Pigs operation, but he allowed the CIA representatives to dominate the discussion at important meetings. Any tentative doubts were immediately rounded upon and adapted to the majority standpoint.
- With time, this social pressure leads the various members of the group to reject any self-criticism and misgivings and repress them in others. At this point at the latest, the uncritical seed of the group feeling sprouts and develops to a rich harvest.
- Unanimity – at least on the surface – reigns at decision time and gradually also in discussions. Silence on the part of a member of the group is interpreted by the others as assent.
- Finally, the most fervent members, now dangerously welded together, feel called upon to shield others – especially the leader – from divergent opinions and even information that sheds a different light on the situation. Robert Kennedy was one such mindguard: he took other intimates of the President aside and talked into their consciences.

How can such an implosion of the group be prevented? A number of simple measures exist that seem quite appropriate for the purpose. The leader can invite each member of his group to play the role of critical evaluator; at the beginning of a meeting he should remain impartial and never betray his preferences straight off – the group is likely to follow him blindly. If security considerations permit, the organization can bring in advisers from the outside who are not committed to the group's way of thinking. If it is too risky to open up the debate in this way, a member of the group can play devil's advocate. Finally, the group can survey all the warning signals at a special meeting and open up a second round of discussions after that.

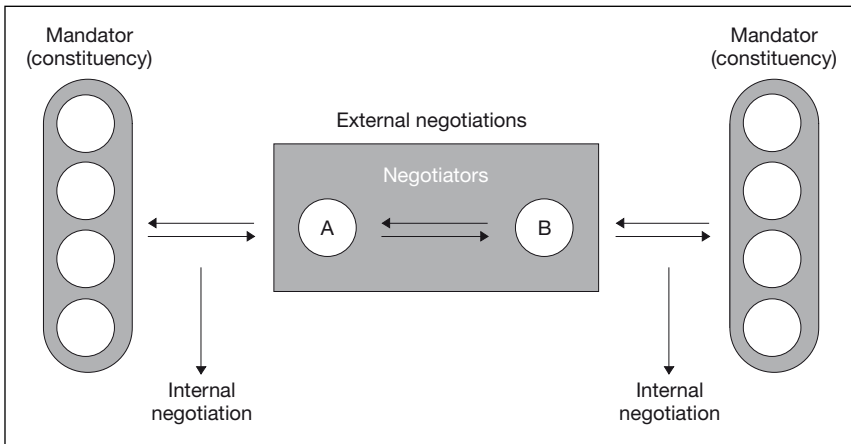
Sources used in this chapter

- Janis, Irving: 'Groupthink', *Psychology Today Magazine*, June (1971), 322-329.
- Müller, Werner, 'Verhalten in der Gruppe' ('Group Behaviour') *Management-III-Reader* (Centre St Economics and Business Administration, University of Basle) (1992), 55-61.

10 Interest groups and the public

Negotiations seldom take place in a vacuum. Even in the simplest of situations the two parties need to take certain considerations into account: their positions, objectives, strategies or conduct are in part determined from outside of them, so to speak. If I want to buy a new car, my wife's preferences will automatically be a part of the equation – she may even want to be present when the choice of model is made, that is to say at the negotiation at the motor showroom. And while such situations can be difficult enough in the private sphere, they become much more complicated at the business level. The buyer for a chain of stores doesn't purchase 5,000 pairs of trainers on his own account, but on behalf of the company he works for. As such, the freedom of movement he is given by the store will have certain limitations. The more important the business at hand, the higher the level at which he needs to consult the decision-makers, and first sell them his ideas at the *internal* level. This is also true for the diplomat involved in preliminary negotiations for a free trade agreement, say, who will need to consult with his superiors every step of the way (while the latter have to do the same with respect to their respective governments). Even the president or chief executive officer of a company cannot act completely independently of his board of directors or the company's shareholders. Depending on their degree of involvement, these groups will attentively follow the course of business and the market quotations and intervene as they think fit – at the very least the managing director must reckon with this as a possibility. So in the private economy, too, important agreements very often involve internal negotiations with major interest groups or mandators in the same camp. Figure 10-1 shows how these double-edged interactions effectively consist of at least two different sets of negotiations, one against the other side, and the

Figure 10-1 **The negotiator as broker between constituencies**
(after Lewicki and Litterer, 1985)



other with and sometimes against the internal constituencies. Thus both principal negotiators might have to negotiate internally with their respective mandators or interest groups (e.g. other government ministries or other company business units).

The need to take all these additional people and groups into account has a considerable impact on the situation of the negotiator. Bilateral negotiations can take on a multilateral air even when no other parties are officially involved. The nature of such negotiations changes, too: it is as though suddenly additional participants had come to the conference table. All this makes for considerably more complex and difficult negotiations.

Any negotiations that have social, political or economic significance will of course come under the spotlight of public opinion and the media. As a result, the mandators and the constituent members of the opponent's camp can be specifically targeted and influenced. We shall deal with these later in a separate section. The main purpose of the present chapter is to give an indication of the enormous impact that stakeholder groups can exert on the negotiators' behaviour and the course and outcome of their negotiations.

Stakeholder groups

Most negotiations and decisions on the part of companies, public authorities, associations or states, and even of private individuals, have an impact to some degree on other people. The construction of a conventional chemical factory with its smoking chimneys, to take a rather drastic example, threatens to harm the well-being and health of the local population. The local people, for their part, are likely to take whatever measures they feel necessary – with or without the support of official agencies – to ensure that their interests are sufficiently taken into account, at the latest when the required construction and operating permits are issued.

Interest groups may even be involved before the land has been purchased. So the multinational chemical concern is sitting down at the negotiating table not only with Farmer Giles, who owns the land, but indirectly also with the environmental agencies and associations as well as with various citizens' or nature conservation groups, for example. These will represent the interests of the local population, the natural site, the ground water, the nesting birds or – so as not to leave the interests of the other side unmentioned – the concerns of the local small business committee and the other land-owners of the district. Everybody will have good reasons why the factory should (new jobs, municipal trade tax, increase in land value, state incentives) or should not (quality of life, nature protection, concern for future generations) be built. The lives of all of them are directly affected by the object of the negotiations.

So these groups bring their very different demands to the table – the right to clean air, pure drinking water, multiplicity of natural species, as well as the right to work, economic growth or speculative profits from rising land prices. A number of these interests may at first sight appear exaggerated, perhaps even extraordinarily naive or quite selfish – but it is impossible to brush them aside. Some of them indeed immediately strike us as being fully justified. It is for this reason that we call their supporters and representatives stakeholder groups. But while even personal interests may be involved, this does not by any means preclude their validity or the possibility of power behind them. The aims of these individual groups, like their interests, thus regularly clash or at least compete with one another. Whether the demand for clean air or the acute need for

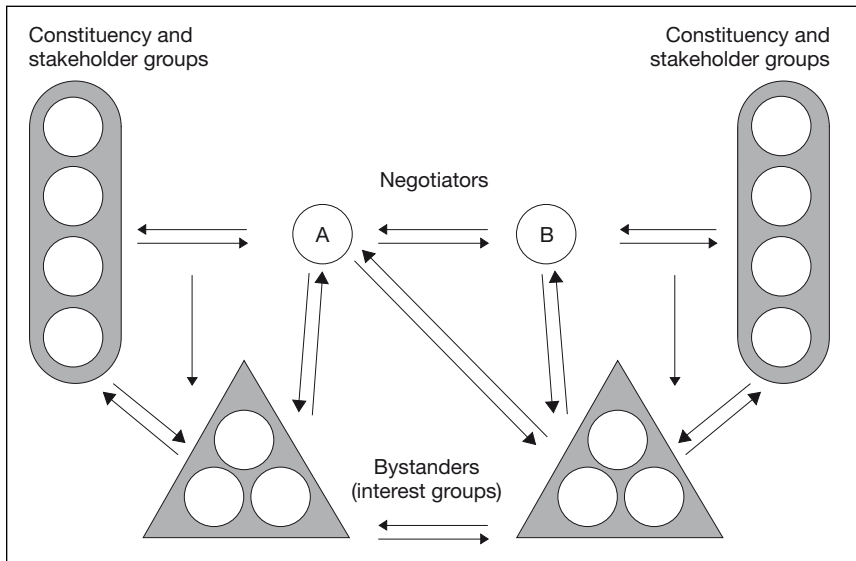
more workplaces finally wins the day is a matter for social negotiation. The opposing forces of the various interest groups will each in their way strive to influence the relevant agency – the local government office responsible for the construction permit, for example. The negotiators there, who might be the chairpersons of the different fractions concerned, are committed to the respective interests and positions of their mandators and supporting districts, who carry the weight of authority. They can of course sometimes act off their own bat, but then they are liable to personal consequences such as not being re-elected or removal from office, a dent in their career prospects or opprobrium from the public. Even the threat of violence – an unconventional instrument in negotiations as such – may occasionally rear its head in these internal discussions between interest groups and negotiators. The negotiators' strategic room for manoeuvre is limited by positions that have been defined independently of them, and their task now is to reach the most creative and integrative agreement possible *within* the set confines.

Interest groups

If we extend the circle of people around the negotiator further still, after the members of the negotiating team, the mandators and the stakeholder groups, we find a number of groups whose involvement is less direct. This is the circle of *interest groups*. One of these will frequently be the general public, about which we shall speak in more detail in a moment. Before that, it is worth looking at Figure 10-2, where we see their relationship to the negotiators and the stakeholder groups directly involved.

Let us take a simple example: there is more to a round of collective bargaining talks between employers and the trade union than the inevitable poker game between the representatives of the two sides. The negotiators are not there for their personal pleasure, and the results of their talks – assuming the agreement is ratified by both parties – will affect the working conditions and income of hundreds of thousands if not millions of workers, and the profit and dividend prospects of a large number of shareholders. The parties on both sides there are thus indirectly affected by the outcome of the negotiation and will usually exert whatever influence they can to steer its course in the one or the other direction.

Figure 10-2 **Negotiators, stakeholder and interest groups**
(after Lewicki and Litterer, 1985)



Switzerland has not seen overt social conflict for seven decades, but in Germany labour conflicts characterized by considerable aggression on the part of various organizations often occur. Strikes and lockouts are weapons commonly employed by the parties involved; worse, the position of the negotiators on both sides is extremely shaky: if they don't come home with the goods, they may as well abstain from presenting their candidature at the next elections. We have already seen this relationship between negotiators and stakeholders in the previous section, but now we have added other stakeholders such as the trade unions and employers' associations of related branches. The conditions may be quite different in the printing industry from those in metallurgy, but when a round of collective bargaining in one of them has just been preceded by a sensational agreement by the other, the signal cannot be ignored. This is of course even more true as the industries resemble one another more closely or the more interests they have in common. For example an industrial agreement in the steel industry will inevitably have repercussions on suppliers in the automotive industry. Management and the trade unions involved – at least their officials, if not perhaps the members – will keep a very close

eye on what is going on in sister industries, even though this might not necessarily lead to direct demands on their part. But neither does it mean that they will passively watch the negotiations from the sidelines. Indeed, the precise opposite is often the case, when third parties intervene in the (public) discussion of a collective agreement.

In the case of the rounds of collective bargaining in Germany described, such parties may be the president of the Bundesbank or even the Federal Chancellor, depending on the impact of the talks and the state of the economy, although from the strictly legal standpoint neither of them have anything to do with the process. In such cases the influence the interested parties wish to exert will not be limited to the actual negotiators, but they will above all appeal to the interest groups (employers, trade union representatives, shareholders, etc.) and other interested parties with similar or different agendas (politicians, industrial and consumer associations, supply industries, and so on). The number of possible – and effective – interactions increases geometrically, and the task of the negotiators becomes increasingly difficult in the face of an accumulation of competing orders, demands and interests, and an impossibly complex web of communications between the various groups involved.

Things get hotter and tougher still when the negotiators and their delegations are put into the public spotlight by the media. Because of their far-reaching effects, all major collective bargaining talks are reported on the TV news, and if they take a particularly spectacular turn they may stay in the public eye for several weeks, however uninspiring the same old images of smoke-filled negotiating rooms may be and the notoriously short attention span of viewers and news editors. Needless to say, the attention of such a huge television audience and all the circles with a direct or indirect interest in the outcome cannot be without some impact on the negotiators' behaviour, strategy and tactics. So let us now have a look at what role the harsh lights of the projectors and the all-pervasive microphones can play on the conduct of the talks.

The public ...

Whether the public is involved physically or only vicariously through the (occasional) presence of the press, it plays a number of roles in many

negotiations. While different, these are generally interconnected. An important criterion here is the degree to which the public – which may be the people at large or a specific sub-group – perceives itself to be affected by the outcome of the talks. A strike by the garbage collectors or public transport workers will have a direct impact on everybody, whereas a walkout by members of the woodworkers' union may long go unnoticed by the man in the street. The matters at issue and the competence of the negotiator or his organization will be instrumental in arousing public attention. In the sections that follow, we shall look at the different roles public opinion can play depending on whether its position is that of observer, a tactical instrument in the hands of the negotiator, or an opponent of his aims, and illustrate them by some brief examples.

... as observer

Everybody behaves differently when in the public eye than when closeted with a negotiating partner in private. A series of experiments and studies described by Lewicki and Litterer has shown unequivocally that most negotiators seek the approval and acknowledgement of their public. Even the general approbation of complete strangers carries an amazing amount of weight; more important still, however, is the opinion of allied people from the same social setting. The (actual or even only potential) presence of a superior had a particularly powerful impact of people's behaviour in negotiations. It has emerged that the negotiators made a special effort the more important the audience was for them. But in many cases this did not benefit the outcome of the negotiation, for their behaviour was then influenced less by the technical demands of the job than the presumed wishes of the spectators. And indeed the consequences were sometimes disastrous: instead of engaging in creative and cooperative collaboration with his opponent, the negotiator under observation went blindly into the offensive, with the main concern of *looking good*. The image of the tough negotiator, who doesn't give an inch and wrings every last concession from his opponent, seemed to dominate in this situation. Under such conditions, achievement of an integrative solution is very unlikely, and indeed a battle for distribution was regularly observed in the experiments. When they were not in the public eye, the

same negotiators acted quite differently, assessing the situation soberly and professionally. Thus public opinion was shown to have a considerable, generally disadvantageous, impact on the outcome of negotiations. So it is not surprising that many important conventions and agreements are as far as possible negotiated behind closed doors. A solution frequently resorted to is to hold the talks at an unremarkable location on neutral territory or in a highly inaccessible place. A good example is the role of the Bank for International Settlements (BIS) in Basle in the talks on the European monetary system and its precursors. Until the establishment of the European Monetary Institute in Frankfurt (1995), most of the regular meetings of the European finance ministers and central bank heads were held at the BIS in Basle. Normally this town does not stand in the glare of the international media spotlight, so that it offered a discreet but nevertheless centrally situated meeting place – ideal for the purpose. In case of need, it is worth considering cordoning off the conference centre hermetically, if it is desired to shield the debates from the influence of public opinion. A situation in which the public serves as an opponent of the negotiators is dealt with later in this chapter.

... as instrument

Thus public opinion will often swing the negotiation from a technical level to a more emotional and possibly less appropriate one. A skilled negotiator can however make a virtue out of necessity and actually use public opinion as a tactical instrument to further his negotiation strategy. For there is more to the difference between confidential and publicly held negotiations than the change in behaviour of the negotiators we have just remarked on.

A further, often more important difference is the transparency of the negotiation for the disputants of both sides. The more directly a negotiator is controlled by his principals and supporting groups, the more binding their interests and instructions become for him. Concessions to the opponent are not always appreciated by the home camp. On the other hand, all integrative bargaining consists of give and take, which have to be covered by a sufficiently broad mandate. A good negotiator will therefore first endeavour to maximize his own freedom of movement by nego-

tiating with his opponents and his interest groups separately and in private – whether this be at a formal meeting or during a walk through the woods, or even, if necessary, on the occasion of a chance (...!) encounter in the toilet. Someone who has the secrecy or at least the confidentiality of his talks under wraps will be less torn between conflicting interests, demands or expectations.

The converse is also true. A person who is in a position to control public opinion in regard to negotiations or their outcome can use it to his own ends. The public – generally represented by the media – is an excellent instrument with which to influence the interest groups supporting the other side. It can exert indirect pressure on the opposing negotiator and force him to make concessions, or even simply to collaborate. Press conferences and calculated indiscretions by *well-informed* sources are the most common way in which such a message is put out. Nor is it necessarily addressed to its intended recipients directly. By skilfully bringing together a number of disparate issues, it is possible to attain the desired result.

The American presidential campaign offers a first-rate example of this artful stratagem of political posturing when a Representative of the party opposing the incumbent President for instance castigates key US trade partners such as Japan or the EU as “unfair traders”. With this he might imply that the current President and his political party have failed to negotiate satisfactory trade agreements with Japan or the EU. This is of course easier said than done, especially when the accusing Representative does not have to take full responsibility for his accusations, which are often unfounded. But of course such posturing might sell well to the press and put the Representative and his party in a better light than that of the incumbent President. Similar manoeuvres can be observed in other industrial countries with democratic power structures.

... and as opponent

With all that, there are circumstances in which public opinion can effectively endanger the success of a negotiation. When this is the case, secrecy is essential, and no other arrangements should be considered.

Example: Kissinger in China

A prominent example is the secret visit to China by US national security affairs advisor Dr Henry Kissinger in July 1971 (Kissinger, 1979). This was the first international chess move on the part of President Nixon in the normalization process of relations between the United States and the People's Republic of China, which was completed in 1972. Given the Cold War political climate, Kissinger's visit to Prime Minister Chou En-lai had to be conducted in the strictest secrecy. The American security adviser travelled from Washington to Pakistan on a pretext, where under quite conspiratorial circumstances he boarded a waiting plane to a Chinese provincial airport. Such a delicate and extremely risky mission could hardly have been possible under the pressure of public opinion. If the manoeuvre, a daring one in foreign policy terms, were to have failed, both sides would have lost face. Nixon's three-way diplomacy between Washington, Moscow and Peking was brilliant in design, but risky in operation. Under cover of confidentiality the surprisingly friendly and constructive first meeting between Kissinger and Chou achieved a resounding success. Both governments ran the risk of betrayal, for even the strictest secrecy might be ignored unilaterally by one of the parties.

Secrecy and censorship

Another word of caution regarding secrecy is called for here. In a democratically constituted state, the citizens have the right to know. Freedom of the press exists among other things so that this right will have general currency. To keep secret such overtures to a state that has been long been presented as an enemy in fact constitutes a considerable breach of this principle. Such constraints on the freedom of information are acceptable only in exceptional circumstances, if the expected gain is greater than the loss of freedom they entail. A similar but broader encroachment upon civil rights is public censorship, something we are familiar with above all in totalitarian states, whose regimes can only remain in power by exerting an iron control over public opinion. Under certain circumstances – which regularly include war – even freedom-loving democratic states sometimes resort to active self-censorship.

Example: CNN and the Gulf War

An example of such censorship is provided by the conflict and subsequent war around Kuwait in the Persian Gulf. While this was not the result of a negotiation, public opinion did in fact play a similar role to the one it plays in negotiation here. The media were welcome in the Gulf only if they restricted their reporting to the “clean” war being waged with highly advanced technological weaponry. The United States had learnt its lesson from the debacle in Vietnam: the decision between war and peace and on the conditions of withdrawal is made on the home front. It was desirable that the American public – after the President the most important target of the military’s PR machinery – stood solidly behind this engagement. Reporting by journalists was therefore carefully channelled through pools of correspondents and selective admission to specifically staged reconnaissance tours. The publicity effort in the Gulf was extremely successful in this regard.

Another problem arose with the new satellite communications technology, which instantaneously put picture and sound into every living room, but also into the enemy’s command centres run by Saddam Hussein. The worldwide *Cable News Network (CNN)* became established as the symbol of live broadcasting – not least for the major role it played in its coverage of the Gulf War. A fundamental conflict raged between world public opinion and the warring governments: it was an understandable imperative for the allied military command that no information should be broadcast or in any way transmitted that might provide the Iraqi leadership with vital information on the location, strength or intentions of the multinational forces involved. The only way to ensure that this was so was to censor reporting. The some thousand journalists in the field had to submit their reports to press headquarters before they could be sent in. In the case of live transmissions, a press officer was always present near the camera outside of the frame. The commander of the allied forces, General H. Norman Schwarzkopf, was extremely shocked when a woman CNN correspondent reported an artillery duel live and in so doing betrayed the operational position of the 82nd Airborne Division at a strategically important segment of the front. The press officer on duty was not able to jump in front of the camera rapidly enough to prevent the statement from being made and transmitted via

satellite to the whole world. But such loopholes in censorship were quickly blocked: the correspondent was immediately sent home as a deterrent to warn the other journalists.

Example: GM-Toyota

The following examples describe the influence of stakeholder groups and public opinion on the conduct of negotiations concerns a joint venture agreement between the two car producers General Motors (GM) and Toyota. The intention is to show how the already difficult business of negotiating between American and Japanese companies is further complicated by various interest and pressure groups (Weiss, 1996). The two companies, the world's first and third largest in their sector, hoped to come to terms with their very different problems through collaboration.

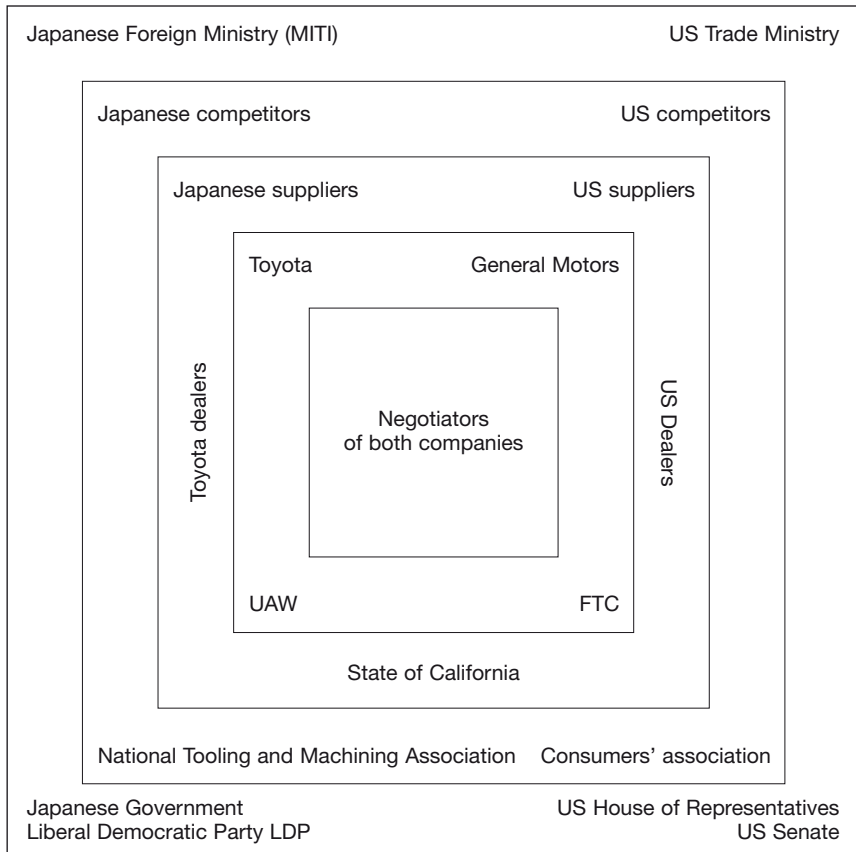
Two oil crises had taken a heavy toll at General Motors, and in 1980 the concern went into the red for the first time since 1921, with a deficit of \$763 million. The American small-car market was largely served by Japanese firms, and Toyota did extremely well, with profits almost at the level of GM's loss. But the Japanese could not fully rejoice at this situation, for US industrial policy reacted ever strongly to the huge increase in car imports from Japan. GM was in need of a new technology for cost-efficient small cars, while Toyota was being pressured by the Japanese International Ministry of Trade and Industry to invest in plans for a production plant of their own inside the borders of the United States.

Both companies sought to solve their problems by strategic collaboration, starting in December 1981 with a first meeting and culminating in 1984, when the first small cars jointly produced in the USA rolled off the assembly lines. Pre-negotiation talks had taken place in both concerns before that first meeting; at Toyota part of the company management was sceptical on account of the militancy of the American trade unions and the low quality of US-produced cars, while at GM there was resentment caused by the humiliating thought that *they had something to learn from the Japanese*. Negotiations lasted almost three years, only about half of them devoted to the actual collaboration between the two firms. The rest of the time the two sides – supported by an impressive squad of prominent legal advisers and former politicians – negotiated with a multitude of

stakeholders and interest groups. Among these, the most important were the Japanese Ministry of International Trade, MITI, the United Auto Workers Union (UAW) and the Federal Trade Commission (FTC), the antitrust watchdog. Figure 10-3 offers a simplified diagram of the main actors and audiences involved in the GM-Toyota negotiations.

The planned collaboration – which was still far from being sealed by a binding agreement – included the use of an idle General Motors factory in Fremont, California. The UAW was of course striving to regain its former position and to reinstate the workers that had been laid off when the plant had been closed down. But before its closure, Fremont had

Figure 10-3 **Actors and audiences in the GM-Toyota negotiations**
(after Weiss, 1987)



shown the poorest performance of all GM plants: an absenteeism rate of 20%, poor product quality and high production costs. But GM was nevertheless unable to overrule the powerful UAW, which was also represented in all the other plants. The task of negotiating with them was thus handed over to the Japanese side. This calmed the worried managers from Toyota City, just as it disturbed the officials, and so brought a little more air into the negotiations. The other powerful stakeholder group was the American cartel authority, the FTC. Negotiations with this agency were conducted by a former US labour secretary, on behalf of both concerns. The agency had reason to believe that collaboration between two of the three largest automakers in the world could stifle competition and exert a certain monopolistic power to the detriment of consumers. Naturally, the FTC's concerns were echoed and supported by GM's competitors, Chrysler and Ford. Other opponents of the collaboration project were represented by supplier associations and the consumer federation, through the FTC, giving rise to a flood of antitrust suits and objections. But the desire of the two companies to work together proved stronger than all this opposition. Despite this, the various groups exerted sufficient influence to be able to delay the outcome of the negotiations; if the negotiating parties had shown less staying power, a conclusion might never have been reached.

Example: Negotiating Trade in Educational Services within the WTO/GATS context

The final example in this chapter is about the WTO negotiations on trade in educational services. Education is one of twelve sectors covered by the General Agreement of Trade in Services (GATS) which together with the articles governing trade of goods constitute the rule making body of the World Trade Organisation (WTO, formerly the GATT). Contrary to popular belief, trade in higher educational services is significant and estimated to be about US\$30 billion in 1999 equivalent to 3 percent of total services trade in OECD countries.¹

1 Kurt Larsen, Rosemary Morris, John P. Martin, (2001), "Trade in Educational Services: Trends and Emerging Issues", OECD, Working Paper, Paris, Summary, p. 3.

However, negotiations on GATS/ES are very contentious and difficult to conduct because of the strong opinions and beliefs by various interest groups who either see education as a service sector activity which should be open to competitive market forces and others who consider education as being part of the “service public” which governments are supposed to regulate and administrate for the benefit of equitable access of their citizens to schools and universities. The latter castigate trade in ES as being a form of “McDonaldisation” or “commoditisation” of education while the first group emphasises the option to provide individuals of all countries with access to wider educational options, of higher quality and at more affordable prices than could be obtained through traditional state run and controlled schooling systems.

Divergent & Convergent Interests

Support and opposition towards trade in ES manifests itself across professional boundaries, international organisations, regions and the North/South divide between developed and developing countries.

While the majority of the privately held schools in OECD countries are concerned mostly with their country’s own internal regulations, others have invested abroad and are keen on improved investment conditions in other countries such as unhindered market access and non-discriminatory investment conditions. Lobbying groups representing private sector actors with FDI interests in ES have actively attempted to influence their own governments’ negotiation positions on GATS/ES.

Some of the better known groups like GATE, Sylvan Learning Systems and QA are close to privately held schools and universities with business interests and subsidiaries spread in multiple countries. While many of these lobby groups emanate from the USA, some are also based elsewhere as for instance Monash University of Australia with its many off- and onshore campuses in East Asia. The Monash University has developed an interesting strategy as it is a public institution inside Australia but becomes a private provider as soon as it exports its educational services abroad.

Figure 10-4 below depicts the negotiation positions of some key countries (also called Contracting Member Party – CMP) on the axis “Liberalising” versus “Protecting”. The country clusters around “protecting” is in reality larger than suggested. The same needs to be stated

in regard to the CMP cluster positioned in the middle but leaning towards “liberalising”. Within this cluster, Norway has taken several initiatives leading to the creation of “the friends of Norway” grouping which acts as an informal interest group within the Geneva GATS negotiation forum.

Figure 10-5 positions professional groups, government ministries and ES providers (private or public) along the axis “liberalising” versus “protecting”. A general middle position is suggested for Ministries of Education who have to manage multiple and also conflictual policies and interests ranging from ensuring high quality education, low cost educational services, equitable access to education and general goals pertaining to education in cultural and civic values for the totality of their constituencies.

Influencing public opinion and decision makers

Countries with strong interests in a particular sector try to shape the scope of the negotiation process by for instance drafting initial discussion papers, which then get sent as national communications to other WTO

Figure 10-4 **Coalition clusters of select CMPs along axis “liberalising-protecting” ES markets** (Saner, Fasel, 2003)

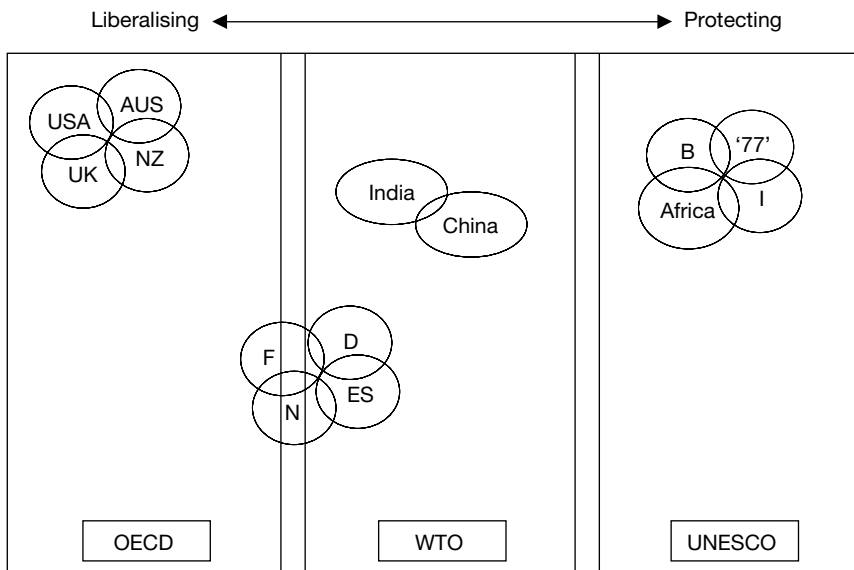
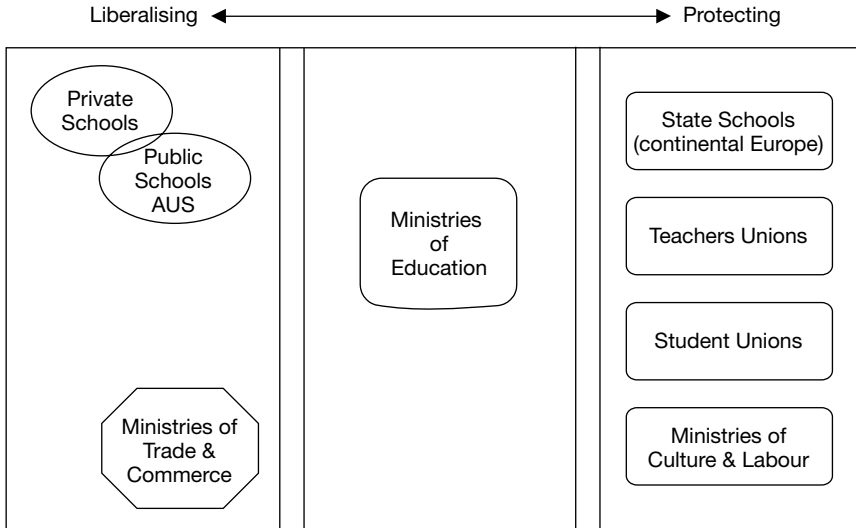


Figure 10-5 **Coalition clusters of stakeholders along axis “liberalising-protecting” ES markets** (Saner, Fasel, 2003)



members. Another way of influencing the process is by attempting to shape the scope and definition of key issues to be negotiated through official or semi-official workshops and seminars. For instance, a privately owned US based lobby group called GATE (Global Alliance for Transnational Education) played an important role in starting the discussions on trade in ES.

GATE was envisioned by the corporate sector and founded in 1995 by Jones International Ltd, a multinational telecommunications corporation. Jones was later on joined by a number of multinational corporations including Coca-Cola, Ericsson Telecom and others. The first invitational forum of GATE was held in October, 1995, co-hosted by the Centre for Quality Assurance in International Education and Jones International Ltd.² For example, GATE organised in 1999 a conference in Melbourne, Australia on “Access or Exclusion: Trade in Transnational Education

2 Marjorie Peace Lenn, (1997), “The Global Alliance for Transnational Education: Transnational Education and the Quality Imperative”, (www.Imcp.jussieu.fr/eunis/html3/congres/EUNIS97/papers/o31901.html).

Services” which was co-organised by CERI (Centre for Educational Research and Innovation) of the OECD and CEPES (European Centre for Higher Education) of UNESCO.

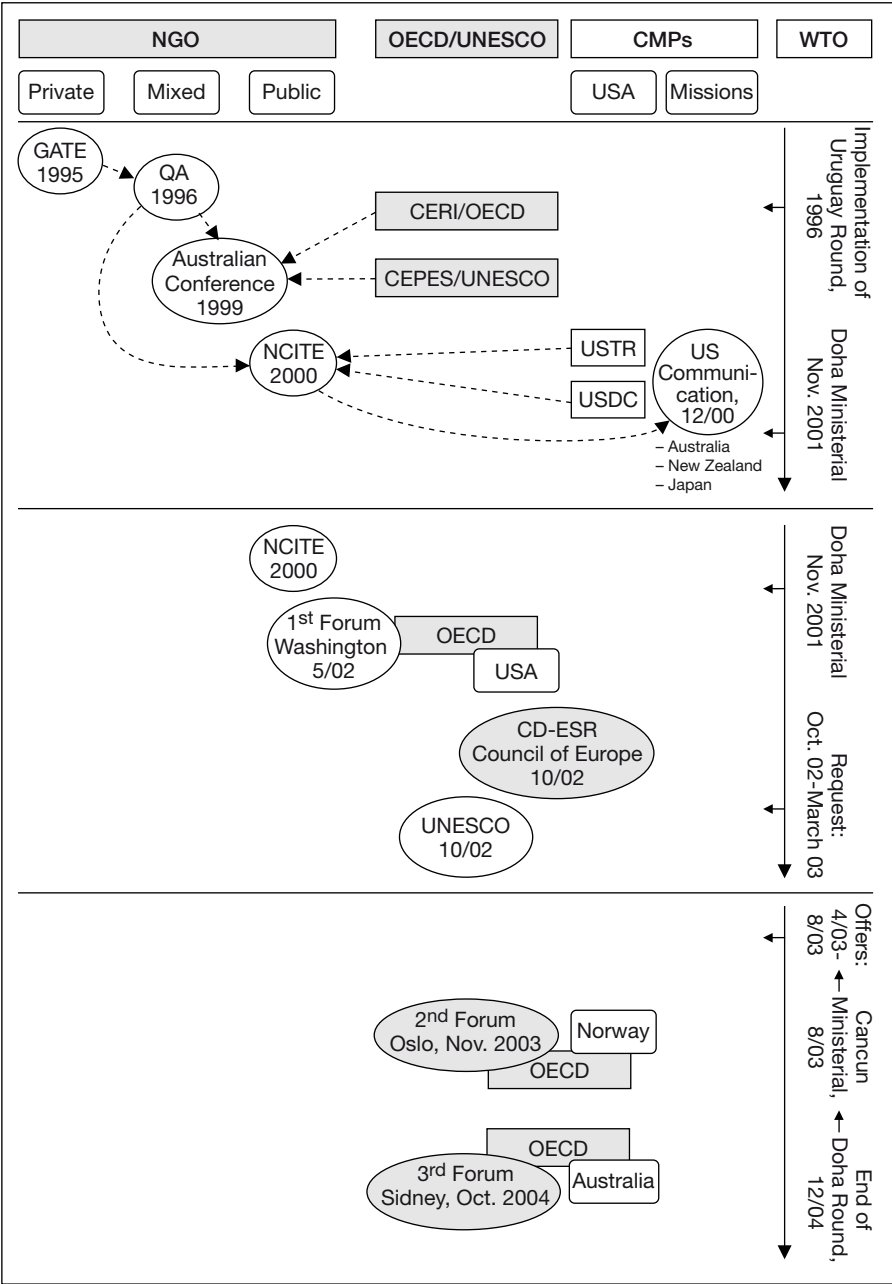
Subsequent to the acquisition of GATE by Sylvan Learning Systems, leading staff left GATE and co-founded a NGO called “The Centre for Quality Assurance in International Education” (QA) which offers publications on quality and trade in educational services. Together with other representatives of US professional accrediting and certifying bodies, QA helped found NCITE (National Committee for International Trade in Education), a non-profit advocacy body which has been recognised by the US government (specifically the US Trade Representative and the US Department of Commerce). Based on substantive inputs by NCITE, the US representative to the WTO submitted a negotiation proposal on 18th December 2000 which added more weight to the still very dormant negotiation process of trade in ES.³

Negotiations started to pick up speed before and after the conclusion of the Doha declaration in November 2001 which set off the new round of trade negotiations. Additional country communications on trade in education were submitted and circulated by Australia, New Zealand and Japan. Taking another step towards launching in earnest WTO negotiation on ES, a kick-off forum was jointly organised by the CERI-OECD, the US Departments of Education and Commerce, NCITE and QA in co-operation with the Office of the US Trade Representative and the US Department of State. The Forum was held in May 2002 in Washington and was attended by more than 250 representatives from 25 countries including three ministers and one state secretary of education. A second Forum was co-organised by OECD and the Norwegian government in November 2003 and a third Forum took place in Sidney in October 2004.

Subsequent to the Washington OECD/US Forum, a conference was organised by UNESCO in Paris in October 2002 titled “First Global Forum on International Quality Assurance, Accreditation and Recognition of Qualifications in Higher Education” attended by 120 participants, representing a wide range of higher education providers and stakeholders. In

3 Marjorie Peace Lenn, (2001), “NCITE Update-Negotiating Proposal on Education and Training Delivered to WTO”, Washington, DC, www.tradeineducation.org.

Figure 10-6 **Demandeurs CMPs seeking market access for trade in educational services** (Source: Saner, Fasel, 2003)



contrast to the Washington Forum, the UNESCO Conference in Paris aimed at identifying the new challenges and dilemmas facing higher education as a result of globalisation. Trade in ES and GATS/WTO formed an additional backdrop to the Forum, but were not the main theme of discussion, which focused principally on the general organisation of the “new” higher education around three general topics namely: a) quality assurance, accreditation and recognition of qualifications; b) identification of learning processes and learners and c) public goods versus private goods. However, possible commercialisation of education as exemplified by the GATS/ES were seen as a major threat by a large number of educational specialists, some of them even suggesting to take the educational sector out of the GATS/WTO negotiations.

In addition to the above OECD and UNESCO centred initiatives, a third institutional initiative was started by the Council of Europe whose Steering Committee for Higher Education and Research (CD-ESR) debated trade in ES during its October plenary session in Strasbourg in 2002.

The chart below illustrates some of the main negotiation initiatives and movements by actors (countries, institutions, NGOs) interested in market access for educational services as they evolved since 1999 up to April 2003.

Sources for this chapter

An overview of the role played by interest groups will be found in:

- Lewicki, Roy, Litterer, Joseph, *Negotiation*, Homewood, Illinois: Irwin, 1985.

Sources of the examples given in this chapter:

- Kissinger, Henry A., *White House Years*. New York: Simon & Schuster, 1994.
- Schwarzkopf, H. Norman, *It Doesn't Take a Hero*, New York: Bantam, 1992, especially 344 ff. and 440 ff.
- Weiss, Stephen E., 'Creating the GM-Toyota Joint Venture: A Case in Complex Negotiation', *Columbia Journal of World Business*, (Summer 1987).
- Saner, Raymond, Fasel, Sylvie, *Negotiating Trade in Educational Services within the WTO/GATS Context*, Aussenwirtschaft, Verlag Ruegger, Zurich, vol. 58, pp. 275-308, June 2003.

11

Complex negotiations

Bilateral negotiations are certainly the commonest form of negotiations, but they are only the simplest type. As illustrated in Table 11-1 (Strategic Options), parties might act unilaterally against another party or choose to engage the other party or parties through bilateral, plurilateral, multilateral or multi-institutional mechanisms.

When more than two parties are present, we speak of *multilateral* negotiations; a sub-variety is *plurilateral* negotiation, where a minority of the members of a multilateral body agree to a deal which they hope will be accepted by the rest of the members at a later stage (or “multilateralized” later on). An example of a plurilateral negotiation is the agreement on liberalizing public procurement by most of the industrialized mem-

Table 11-1 Strategic Negotiation Options: WTO Context (Saner, 2004)

Options	Examples
a) Unilateral:	Countries may choose to impose anti-dumping measure against other WTO member countries
b) Bilateral:	Countries make requests and offers to other countries in early phase of Negotiation Rounds
c) Plurilateral:	A larger group but not all member countries agree to a sectoral agreement
d) Multilateral:	All member countries accept same agreement
e) Multi-Institutional:	Countries conduct parallel and simultaneous negotiations on related issue at different institutions (e.g. at WTO, WIPO, WHO)

bers of the WTO. An even more complex form is found in multi-institutional negotiations, when not only are several different parties involved, but the negotiations take place in a number of rounds at a number of different locations.

Even a simple bilateral negotiation can become more complicated quite quickly, as for example when someone who is buying a car obtains several offers from a number of dealers. He is then negotiating the same object with several partners. This everyday precautionary measure is also common in the business world or public administration. There are even detailed rules stating how many bids (tenders) have to be obtained and indicating the modalities of the negotiations with contractors. But here we are still far from a multilateral forum, since all the negotiations take place in a bilateral setting, albeit in different places and at different times. Negotiations start to get really complex only once several parties actually sit together in the same room and try to hammer out an agreement.

In the private economy such situations are found in consortiums and cartels, for example, when a number of companies or banks come together to discuss a common project. (In Switzerland cartels are not normally forbidden by law, except when it can be proved that they are detrimental to the national economy.)

But the best examples of multilateral negotiations are to be found in the field of international relations. The number and significance of the international organizations and discussion fora have increased enormously since the Second World War and especially in the last two decades of the 20th century, and there are now several hundred of them. Accordingly, the main focus of the foreign policy of many states – particularly small ones that are dependent on the outside world, such as Switzerland – has veered considerably from the classic bilateral relations towards multilateral conference diplomacy.

Multilateral negotiations

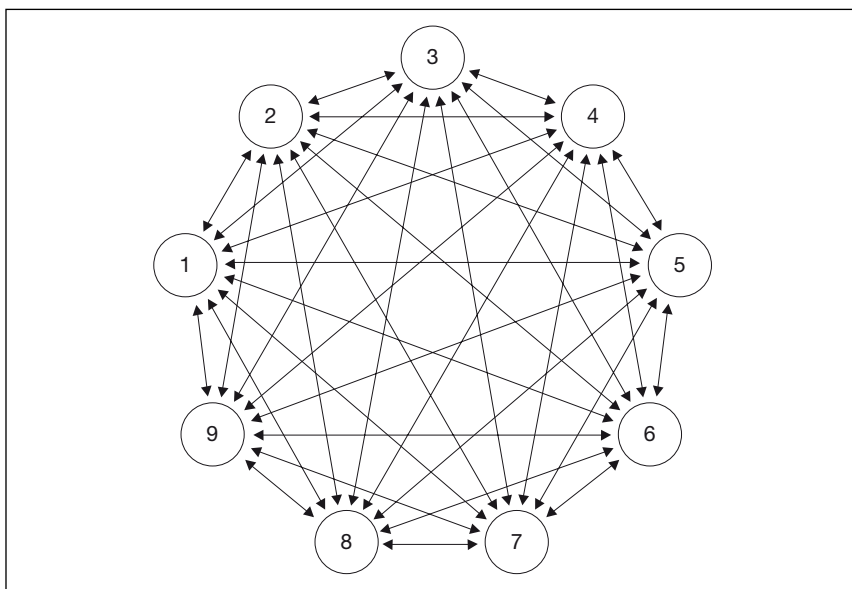
It will come as no surprise that such meetings are conducted along quite different lines from those of bilateral negotiations. In particular, multilateral negotiators cannot draw on a sophisticated tradition in the art,

because multilateral diplomacy is a relatively young offshoot. Apart from the occasional international conference (of which the most important was probably the Congress of Vienna in 1815, which redrew the map of Europe after the defeat of Napoleon) relations were almost always bilateral up to the 20th century. History simply has no Machiavellis or Sun Tzus of multilateral negotiation to show! Even the great masters of European diplomacy of the 19th century, Metternich and Bismarck, managed their complex political manoeuvrings through a clever combination of bilateral relations. But the advent of the many multilateral organizations – from the League of Nations to the World Trade Organization (WTO) – has brought with it a wealth of experience in the field over the years, which is gradually being analyzed by the social sciences. In the present chapter we shall give a rough overview of this development and familiarize the reader with the main characteristics of complex negotiations. The literature list provides titles for further reading.

Let us begin with the dynamics of a multilateral negotiation. The passage from the one-to-one pattern to many parties and multiple issues takes us into a completely new dimension. From the very start the situation is difficult to overview: who is pursuing what objectives? By what means? Even the rules of the game are not clearly defined: perhaps there even aren't any. In what may seem a quite chaotic state of affairs, no-one is really sure how to guide the flow of the negotiations in a given direction, or how to speed it up. The familiar structure of bilateral negotiations has no parallel here. Where we are used to a buyer and a seller, who "simply" need to come to an agreement about terms, in the multilateral setting we are faced with a situation where neither the conflicts nor the roles are clearly defined, and indeed are changing all the time. One reason for this is the enormous number of possible interactions between the negotiating participants (see Figure 11-1).

During the multilateral negotiation process, each negotiator is likely to take on different roles, according to the person he is dealing with at any given moment or the subject under discussion. Social scientific research (of which Zartman, 1994, gives an excellent overview, in particular on pages 1-10) distinguishes five basic categories of participants in multilateral negotiations: drivers, conductors (or managers), defenders, brakers, and cruisers. *Drivers* are leaders who try to organize the participants to produce an agreement that is consonant with the leaders' inter-

Figure 11-1 Possible interactions between nine negotiation parties



ests. In the negotiations on the European Union, for example, Germany played this role. *Conductors* also seek to produce an agreement but from a neutral position, with no interest axe of their own to grind. As an example of this role we may mention Switzerland as the host and seat of international conferences and organizations – on neutral territory! *Defenders* are single-issue participants, concerned more with promoting their interests and concerns than with the overall success of the negotiations. A good example of this role is Iceland, which generally kept in the background at meetings of EFTA, the European Free Trade Association, except when the subject of the fishing industry was on the agenda. Then, when this one subject that was of so much concern to it came up, the little volcanic island in the North Atlantic was always one of the major players. The *brakers'* job is to block an agreement and protect their freedom of action, often with reference to a limited number of issues. Great Britain very often played this role in the European unification process, on occasion with the support of France. *Cruisers* have no strong interests of their own, and will lend their support to a specific fraction. They may

abstain from voting and as such in fact promote the chances of an agreement, since in the multilateral context, an abstention has the same effect of a positive vote, doing nothing to hinder the course of events. A good example is the abstaining stance of the NATO allies (especially the Federal Republic of Germany) in the plenary sessions of the United Nations, where they almost always support the United States. It is clear that multilateral negotiations call upon the creativity of all the participants, if the conflict is to be resolved satisfactorily.

A further specificity of multilateral negotiations is the way in which decisions are reached. Rather than fixed choices (call them blue, yellow or red), there is a whole spectrum of different shades of colour to choose from; each participant will add his own dab of colour to it. The mixture – that is to say the common agreement – thus very rapidly becomes a large and highly complex document. The results of the GATT Uruguay Round, terminated in 1993 (and signed in 1994), for example, are published in 31 volumes containing a total of 26,250 pages (WTO Publication Services, Geneva). This agreement also serves to illustrate one of the main characteristics of multilateral negotiations: unlike bilateral negotiations, it is almost never a matter of the direct redistribution of goods, but rather the drafting of a general set of rules established collectively.

Multi-institutional negotiation

Multi-institutional negotiation takes the process one step further in complexity. Here we not only have several parties and negotiation issues to deal with, but also a variety of fora and meeting places. Examples of such negotiations, which are so complex as to be virtually impregnable, are found almost only in the domain of the international organizations and conferences. The members of the United Nations, for example, work together in over a hundred organizations and committees, with an enormous variety of issues. The range of subjects dealt with include security, development, environmental protection, aid to refugees, disaster assistance, human rights, protection of woman and children, and such technical matters as standards for aeronautical and nuclear plant safety or the international allocation of radio frequencies. The various UN specialized agencies and committees have their seat or meet in New York, Geneva,

Vienna, Paris, Nairobi, Bangkok or Washington, to name only the most important cities. The active conduct of multi-institutional negotiations is probably the most difficult task in this whole sector. It goes far beyond the scope of this book and is included here only for the sake of completeness. The General Agreement on Tariffs and Trade (GATT) will serve as a short example of how they operate.

For example: WTO/GATT

We have seen above that multilateral (and also multi-institutional) negotiations generally have the objective of establishing a set of rules. At the General Agreement on Tariffs and Trade (GATT), this objective culminated in 1994 with the creation of the World Trade Organization, which had been planned 50 years earlier at the Bretton Woods Conference as a complement to the International Monetary Fund in Washington. It goes without saying that these rules included many distributive aspects, which doubtless was the main reason why the round begun in Uruguay in 1986 took a full seven years to complete.

Table 11-2 lists the major participants at the Uruguay Round and their positions vis-à-vis some of the core issues. These national or regional positions had first to be hammered out at government and parliament level and within the European Communities and the other regional organizations. Alongside the main negotiation rounds, which normally took place at the GATT secretariat in Geneva (now the WTO), literally thousands of negotiations were held in the various cities that played host. As each year of the negotiations came and went, new governments came to power and modified their national positions. The huge round had to adapt itself constantly to a fluid situation and amend its draft texts accordingly. Given the absolutely enormous degree of coordination, flexibility and patience required, it is a wonder that any agreement ever came about at all. This achievement is probably due primarily to the importance of the world market economy (see Table 11-3) and the professional efforts of many tireless negotiators, whose yachts lay idle on their Lake Geneva moorings all this time.

Table 11-2 **The Uruguay Round: major participants and their positions**
(Woolcock, *RIIA* 1990)

	USA	EC	Japan	Newly industrial countries	Developing countries
Access:					
Tariffs	0	+	++	-	0
Non-tariffs	+	0	+	-	0
Textiles	--	-	0	++	++
Agriculture	+	--	--	++	+
Tropical produce	-	-	-	+	++
Rules:					
Subsidies	+	+	0	-	0
Safeguards	0	0	+	+	++
Anti-dumping	0	0	++	++	++
GATT articles	+	+	+	0	-
Dispute settlement	+	+	+	+	+
New issues:					
Services	++	++	+	-	--
Intellectual property (TRIPS)	++	+	+	-	--
Investments (TRIMS)	+	+	++	-	--
Key: ++ strongly favourable, + favourable, 0 neutral, - unhappy, -- very unhappy					

Table 11-3 **Europe (EC) and North America faced with the choice of protection or liberalization**
(Adapted from: Centre for International Economics, 1990)

Estimated changes in GDP (in US\$ billion)	North America liberalizes			North America retaliates (protectionism)		
EC liberalizes	EC	211	World economy 397	EC	211	World economy 50
	Asia-Pacific	63		Asia-Pacific	63	
	N. America	124		N. America ¹	24	
EC protects ('Fortress Europe')	EC	42	World economy 133	EC	-132	World economy -214
	Asia-Pacific	38		Asia-Pacific	-18	
	N. America	53		N. America	-64	

Multiplicity of diplomatic actors

Modern diplomacy, as Satow (1979) defines it, is “the application of intelligence and tact to the conduct of official relations between the governments of independent states”.¹ Implicit in Satow’s statement is the view that diplomacy is the exclusive domain of the Ministry of Foreign Affairs. However, globalisation and democratisation have rendered the professional boundaries of diplomacy more porous and put into question the territorial claims of the traditional diplomats. Alternative diplomatic actors have emerged within and outside the state and often act independently from the Ministry of Foreign Affairs. Diplomacy as a profession has undergone changes in terms of definition, qualification and role expectation of what a diplomat is or is not supposed to do. (Saner, 2002)

Participation of non-state actors in foreign policy and international relations is a phenomenon that is more pronounced in industrial countries, less so in developing countries. Hence, the distinction between internal affairs and foreign policy has increasingly been replaced by a multi-actor participation in diplomacy and foreign economic relations and public affairs.

These major developments of emerging diplomatic activities external to the traditional prerogatives of the Ministries of Foreign Affairs (MOFA) deserve greater attention and invite rethinking of the definition of diplomacy, role definition of diplomats and the functions and tasks of MOFAs. Diplomats and civil servants of MOFAs are confronted with new actors, new agenda items and new working methods (Coolsaet, 1998) and are caught with inadequate training and preparation. Adaptation of traditional diplomacy to the reality of post-modern diplomacy has become an urgent necessity.

Looking at the developments in the international economic sphere more closely, one can notice a further broadening of actors involved in economic diplomacy. In addition to state actors, one can observe increasing participation in international economic relations by transnational companies and transnational NGOs who not only interact with tradi-

1 Definition given by Ernest Satow, see Lord Gore-Booth (ed), *Satow's Guide to Diplomatic Practice*, Longman, 1979., pp 3.

tional state actors but increasingly engage each other directly on issues pertaining to international economic policy.

The new entrants to the diplomatic arena represent different groupings and organisations of local, national and international interests who pursue convergent and divergent interests. These multiple forces co-exist with each other and exercise different forms of diplomatic influence to achieve their objectives. Commenting on the increase of non-state actors, Langhorne (1998) states that private organisations are developing their own diplomacy both between themselves and between actors in the state system; and the way they have been doing it is remarkably reminiscent of the early days of state self representation (p 158).

The proliferation of diplomatic roles and actors is indeed stunning. It indicates that the international landscape is crowded with multinational corporations and non-governmental organisations that impact directly on international relations, and consequently, on the conduct of diplomacy.

Focusing on the economic sphere at international level, these newly emerged diplomatic functions and roles of the various state and non-state actors could be categorised in the following manner:

Table 11-4 Divergent Postmodern Diplomatic Roles in Economic Sphere		
	Functions	Roles
State Actors	Economic diplomacy Commercial diplomacy	Economic diplomats Commercial diplomats
Non-State Actors	Corporate diplomacy Business diplomacy National NGOs Transnational NGOs	Corporate diplomats Business diplomats National NGO diplomats Transnational NGO diplomats

a) *Diplomatic Function and Roles of Ministries in charge of Economic and Commercial Policy*

Faced with the complexities of multilateral standard setting organisations responsible for economic policies such as the WTO, IMF or OECD, many governments have broadened participation of ministries specialised in economic and financial matters thereby decreasing or neutralising the influence and role of MOFAs. For instance, the US government centralised decision making power in regard to trade negotiations at

WTO (formerly GATT) by creating a new executive office of the president, the Office of the United States Trade Representative (USTR) in 1962. In addition, the US government created an interagency command group based in Washington to improve policy coordination during the GATT Kennedy Round thereby limiting complexity, inter-ministerial policy disputes and external influencing by members of parliament (congress) and various lobbying groups (e.g. farm and food processing industry) as was pointed out by Donna Lee (2001)

Efforts by specialised Ministries to conduct policy related international negotiations and to influence the structure and mechanisms of global governance architecture have eclipsed the previous prominence of MOFAs in economic and trade arenas. The rise of this non-traditional genre of multi-ministry international diplomacy is for instance apparent in Geneva where many industrialised countries' Embassies to the WTO are staffed by a greater number of officials than is the case at their bilateral Embassies to Switzerland in Berne. The greater number of staff is mostly due to the ever increasing number of non-MOFA diplomats and government officials. Economic diplomacy conducted by MOFA or other government ministry officials has been defined as follows:

Economic diplomacy is concerned with economic policy issues, e.g. work of delegations at standard setting organisations such as WTO and BIS. Economic diplomats also monitor and report on economic policies in foreign countries and advise the home government on how to best influence them. Economic Diplomacy employs economic resources, either as rewards or sanctions, in pursuit of a particular foreign policy objective. This is sometimes called "economic statecraft". (Berridge, James, 2001)

Governments are also keen to support national economic development by providing support to their own enterprises for instance in the form of export advice, legal assistance, export incentives and backstopping when needed. Such support includes helping national enterprises establish subsidiaries in other markets. At the same time, their function can also include the provision of support to foreign enterprises interested in investing in the respective country.

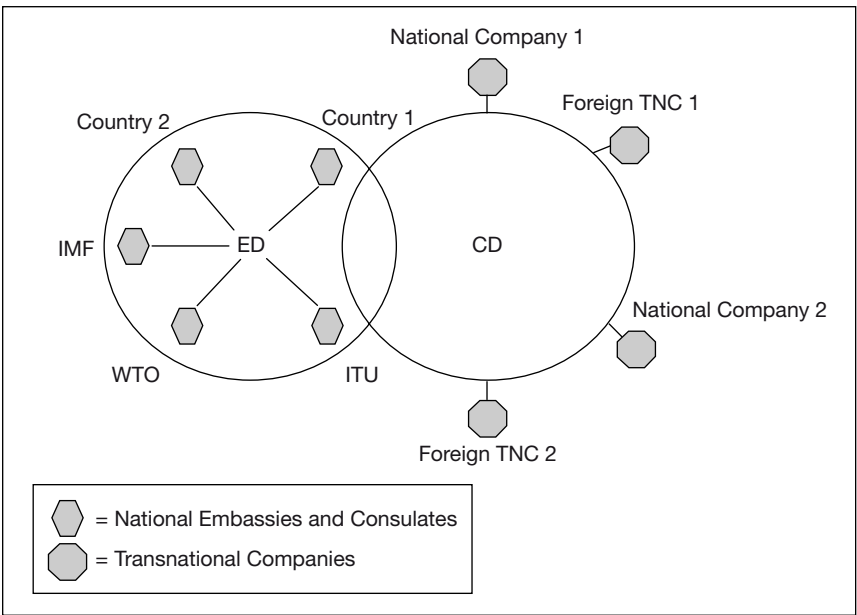
Commercial diplomacy on the other hand describes the work of diplomatic missions in support of the home country's business and finance sectors

in their pursuit of economic success and the country's general objective of national development. It includes the promotion of inward and outward investment as well as trade. Important aspects of a commercial diplomats' work is the supplying of information about export and investment opportunities and organising and helping to act as hosts to trade missions from home. In some cases, commercial diplomats could also promote economic ties through advising and support of both domestic and foreign companies for investment decisions.

The difference between *Economic Diplomacy* and *Commercial Diplomacy* can best be illustrated in Figure 11-2.

Recognising the importance of international trade and FDI to national economic development, governments have stepped up their efforts in strengthening their commercial representation in major trading partner countries. Commercial diplomats are either civil servants and specially trained diplomats, or representatives of chambers of commerce or trading associations seconded to national Embassies located in important foreign

Figure 11-2 **Economic Diplomat vs. Commercial Diplomat** (Saner & Yiu 2000-2002)



markets. In addition to the traditional function of commercial attachés, para-statal organisations or public organisations have been given mandates to expand their services, coverage and presence abroad in order to support trade expansion and to conduct commercial diplomacy.

b) Diplomatic Function and Roles within Multinational Enterprises

In order to succeed as a business and ensure sustainable economic viability of their investments, transnational enterprises must draw on competencies which will allow them to manage multiple stakeholders at home and abroad. Faced with these challenges, global companies need to acquire greater diplomatic capacities and competencies in handling both the internal stakeholders and the external non-business stakeholders. Experiences have shown that the latter could be highly problematic for multinational companies if it is badly or incompetently handled. The case in point is the court case which large Western pharmaceutical companies started and lost against the South African government in regard to patent infringement issues in the context of treating AIDS patients with generic drugs.

The diplomatic function within Multinational Company's goal is to ensure continuation and structural cohesion within its diverse web of headquarter and subsidiaries companies. The function could be divided into two, namely, that of Corporate Diplomacy and of Business Diplomacy.

Corporate Diplomacy consists of two organizational roles considered to be critical for the successful coordination of a multinational company, namely that of a country business unit manager who *should be able to function in two cultures: the culture of the business unit, and the corporate culture that is usually heavily affected by the nationality of the global corporation*"; and that of a corporate diplomat who as a home country or other national who is *impregnated with the corporate culture, multilingual, from various occupational backgrounds, and experienced in living and functioning in various foreign cultures*. These two roles are essential to *make multinational structures work, as liaison persons in the various head offices or as temporary managers for new ventures*" (Hofstede, 1991)

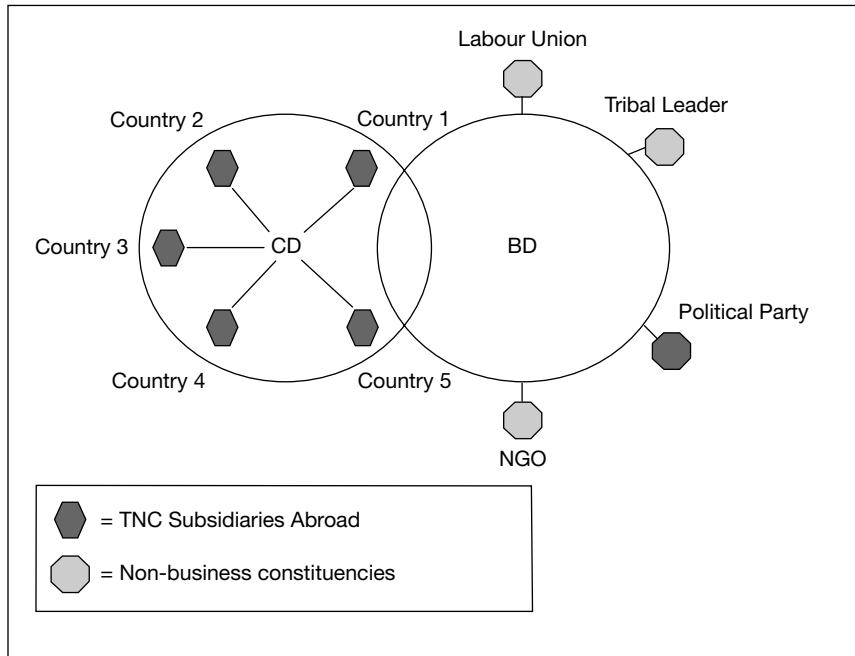
In contrast to corporate diplomacy, business diplomacy aims to make the external environment of its subsidiaries conducive for business activities. Demands from the local communities on corporate conduct (present, past and future) limit the range of freedom of corporate behaviour. Incompetently managed external constituencies and pressure groups could quickly result in millions of dollars of costs (e.g. settling of damage claims) or lost business opportunities.

Traditionally, big enterprises hire former ambassadors or state secretaries (in the USA) to promote business contacts and in order to obtain lucrative contracts. However, business diplomacy extends beyond the domain of public relations and business contacts. It deals with on the one hand the communities and consumer groups at the grassroots level, and on the other with the international community. Civil Society Actors are far more fragmented than the states or other transnational enterprises. Nevertheless, civil society organisations can cause a multitude of challenges to transnational enterprises. Business Diplomacy could hence be defined as follows:

Business Diplomacy pertains to the management of interfaces between the global company and its multiple non-business counterparts and external constituencies. For instance, global companies are expected to abide by multiple sets of national laws and multilateral agreements set down by international organizations such as the World Trade Organization (WTO) and the International Labour Organization (ILO). On account of a global company, Business Diplomats negotiate with host country authorities, interface with local and international NGOs in influencing local and global agenda. At the firm level, they will help define business strategy and policies in relation to stakeholder expectations, conduct bilateral and multilateral negotiations, coordinate international public relations campaigns, collect and analyse pertinent information emanating from host countries and international communities. (Saner et al, 2000)

Figure 11-3 illustrates the contrasting functions between *Corporate Diplomat* and *Business Diplomat* regarding their diplomatic space.

Figure 11-3 **Corporate Diplomat vs. Business Diplomat** (Source: Saner & Yiu 2000-2002)



c) *Diplomatic Function and Roles within Non-Governmental Organisations*

Economically oriented NGOs focus on economic policy, international economic development and global business practice. There are also many other areas in which NGOs are active. Distinction needs to be made here between NGOs acting within national boundaries and those operating on international level through their own foreign outlets as well as through alliances with like minded T-NGOs. Economic NGOs are defined as being:

National NGO Diplomacy. National economic NGOs represent civil society in the economic sphere consisting of various constituencies ranging from consumer protection groups, anti-corruption pressure groups to shareholder groups and environmentalists.

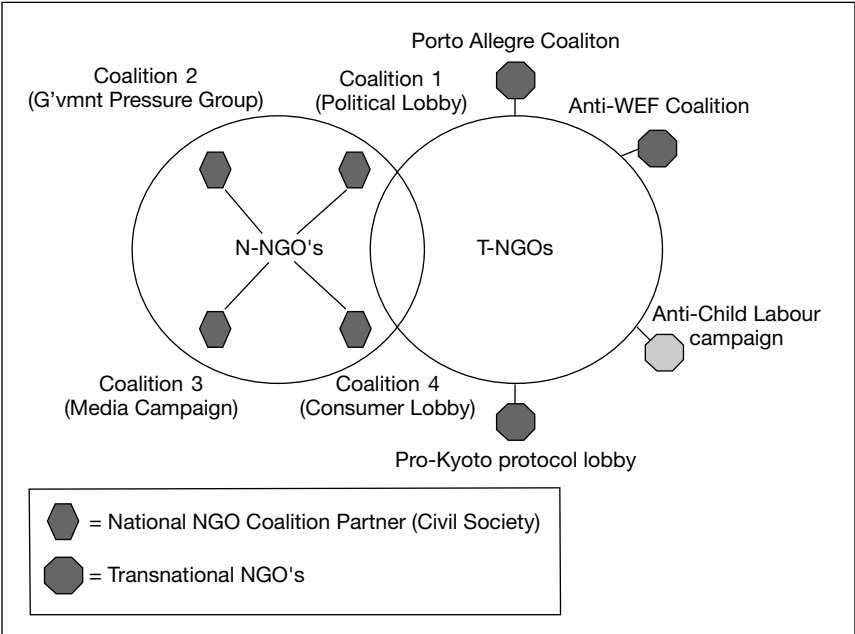
The number of national NGOs is growing fast partially due to the fact that the public now has greater access to information and stronger influ-

ence on corporate governance of enterprises. Their voices and opinion can no longer be ignored by the holders of political and economic power. The recent case of bottle poisoning of Coca-Cola soft drink products in Belgium is a good case in point. Being without in-house competence in business diplomacy, Coca-Cola Inc. missed out on the opportunity to respond in time to the request for clarification and remedial action by various NGOs ranging from consumer protection groups, journalists, political activists to concerned parents in Belgium. Public fury in Belgium affected Coca-Cola's business and led to millions of dollars worth of lost business in Europe. In addition, Coca-Cola's reputation suffered serious setbacks due to lost sales outside of Belgium. A year later, the then CEO of Coca-Cola was asked to resign.

Transnational NGO Diplomacy. NGOs are able to organise advocacy events and lobbying activities at cross-border levels. They operate at international level as transnational NGOs (T-NGOs) such as WWF and Greenpeace creating for instance coalitions against WTO, WEF, IMF or transnational enterprises. T-NGOs propose their own policy solutions at international arena, like for instance during the multilateral negotiations on the Kyoto Protocol agreement (climate change), the debt rescheduling of least developed countries at the IMF, or block the negotiation of a multilateral convention on foreign investment at OECD. They are involved in implementing technical cooperation projects in developing and transition economies thereby complementing, at times even substituting, national governments. They also offer cutting edge research in domain areas crucial for international cooperation and crisis management. (van de Goor, Verstegen, 1999)

In contrast to national NGOs; transnational NGOs actively seek ways to influence the agenda at international governance bodies by putting forward their policy recommendations and by lobbying in the corridor of power. The dialogue between major transnational NGO's and the World Bank during recent annual conferences of the Bank is one of the examples. Due to their domain expertise, these non-state actors have taken the lead in many international fora and narrowed the range of operational freedom of traditional diplomats.

Figure 11-4 Territorial spaces for the advocacy of the National NGO diplomat and Transnational NGO diplomat (Saner & Yiu 2000-2002)



To give an example of the complexities of post-modern diplomacy and the growing importance of NGOs, Finn (2000) cites the following statement attributed to US Deputy Secretary of State, Strobe Talbott: *"In Bosnia, nine agencies and departments of the US government are cooperating with more than a dozen other governments, seven international organisations and thirteen major NGOs ... to implement the Dayton Accords"*

Seen from this perspective, it appears necessary that different actors in the enlarged sphere of post-modern diplomacy acquire additional competencies (domain expertise) to engage constructively in international economic policy dialogue. Conversely, it should also become increasingly possible that the MOFAs and state diplomats learn to adapt their traditional roles and functions from being a more inward looking, exclusive and secretive actor to becoming a more reachable, outgoing and inclusive diplomat constantly in search for possible inclusion of other actors be they state (other ministries) or non state actors (business diplomats and transnational NGO diplomats).

Alliances and the great powers

Given the vast array of participants, issues and interests involved in such enterprises, how is an agreement ever possible? The most important instrument that the negotiator has at his disposal in such a setting is to form alliances. These are interest-based agreements that commit two or more parties to a common policy. Alliances are always only temporary: *"We have no eternal allies, and we have no perpetual enemies. Our interests are eternal and perpetual, and these interests it is our duty to follow."* (Lord Palmerston, 1848). The clustering of many individual participants at a negotiation into a number of alliances or blocks effectively reduces the number of independently acting units, often quite dramatically. This considerably simplifies communications and problem solving, and indeed is very often essential to them. The core of such alliances is frequently constituted by the largest and most powerful among the participants. In the political sphere, we call these the great powers. *Great powers had some goals in common, others in conflict, and they adjusted the mix of cooperation and competition in their dealings accordingly* (S. Talbott, 1991).

It is evident that these powers will have a major say in determining the alliance's policies, although they do need to exercise a certain consideration for their partners. One example of this that readily comes to mind is the situation of East-West confrontation that obtained between 1947 and 1989, when the USA and (at least after its first successful nuclear test) the Soviet Union with their alliances determined the world order. The movement of the unaligned states did achieve some success against these two camps with an alliance of its own, but in fact it was heavily influenced by the Soviet block. The development of two extremely solid alliances thus permitted a very simple (although highly dangerous, given the risk of nuclear destruction!) solution to the complex order of the post-war world. Multilateral or multi-polar conflict had been reduced to a bilateral one.

Leadership and chairing

A further instrument in complex negotiations is given by the choice of leadership or of who takes the chair of a given conference. The chairper-

son is not formally permitted to hold a position in regard to the issues being negotiated, but in fact does exert a quite considerable influence on the outcome achieved by a certain control of the proceedings. First there is the setting of the agenda: items may be proposed, dropped or given a different priority. The flow of the negotiations is also a useful management tool: breaks, delays, deliberate misunderstandings, filibustering, or the use of highly technical language (that is incomprehensible to the interpreters, for example). Any influence on the actual issues needs to be exerted indirectly, but many of the tactics discussed in Chapter 6 are also eminently suited to this task. Subterfuges, too, such as to suggest or demand scientific studies at a strategic moment that are likely to support the desired conclusion, can work wonders here. But this requires considerable farsightedness. A major factor that influences the way decisions go is the voting procedure (simple or qualified majority, secret ballot or show of hands); true, the chairperson does not generally decide on the procedure, but can propose modalities that further his or her ends. Another (admittedly not very clean) trick is to distract significant groups at the deciding moment or prevent them from being present by scheduling other meetings simultaneously. Finally, the chairperson can influence the course of events at a complex negotiation by the creation of committees or the way their requests or mandates are formulated. No wonder, then, that the members of the European Union go to such enormous pains to prepare the (rotating) year of presidency thoroughly and in good time, for this is the moment to try to put through the main elements of their national policy.

Example: The United Nations

A good example of the enormous role played by informed and skilled conduct at complex negotiations is again furnished by the United Nations and its many agencies and related organizations. How do these matters work in this system? Anyone who wants to achieve anything in the UN first needs to understand the basic *agenda tactic*:

- What are the voting rules? Simple or qualified majority? Open or secret? Who has the power of veto?
- Who decides on the agenda, and when is it proposed and adopted?

- What is the chairperson's role? What interests does the chair represent? Does the chair have a power of veto?

Another decisive factor is the *Policy of the Secretariat*, for this is where the resources are controlled:

- Who has the right of inspection of records and documents? How is it possible to acquire it, or obtain an unofficial look at the most important papers?
- Who has access to the principal staff and secretariat personnel?
- What are the budgetary appropriations in the ordinary or extraordinary budget? Who decides on this and when? What does the regular budget cycle look like?

It is also worthwhile becoming informed on structural dependences

- External agencies: who decides on the budget? Who receives a salary or a fee, and who possesses the technology?
- Projects and consultant contracts: How are they given out, and by whom? How much money changes hands?

Without this information and knowledge, the individual negotiator is soon lost in the thickets of existing interests and coalitions, and becomes an easy prey to the sophisticated power games and defence mechanisms at work. Such an analogy is justified, for the more complex the negotiations, the more they resemble a jungle. If you want to survive, you have to adapt to your environment as best you can.

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12

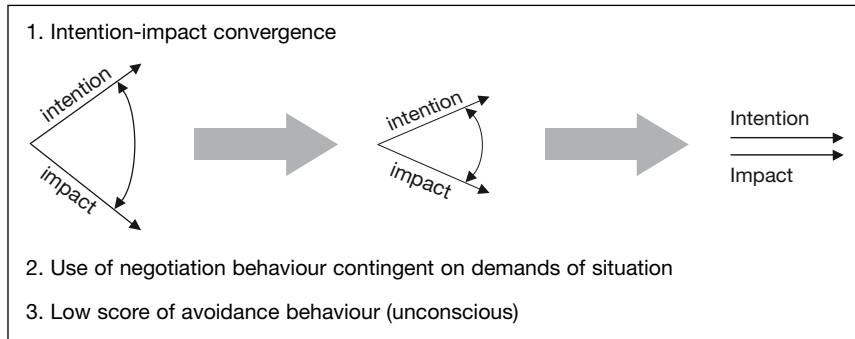
Communication and perception

So far we have said a lot about negotiation, but relatively little about the negotiator himself. To complement Chapter 8, where we took a close look at behaviour before and after negotiations, we shall now examine the communication skills of the negotiator. We are particularly interested in the question of how he perceives himself and is perceived by others. It has repeatedly been found in the practice of conducting negotiations that over- or underestimation of one's own capacities results in serious mistakes and even failure.

Personal characteristics

From the previous chapters we should now have a fair impression of the personal attributes required of a negotiator. He should be a good communicator, be able to grasp and relay information rapidly and effectively. He should get on well with other people, but nevertheless have the broadest possible repertoire of different behavioural patterns – not all of them necessarily pleasant. Obviously, each individual has his own personal style – one will be more communicative, another more reserved. Such personal inclinations or preferred behaviours will support certain strategic positions better than others, for example a cooperative approach rather than competition, accommodation rather than avoidance. But a really practised negotiator can ring the changes on his own inclinations to the point that, like a good actor, he can play every part competently. The choice of communication style will then depend solely on the situation at hand, and not on his personal limitations. This ensures a maximum coherence between intention and efficacy, given the multi-

Figure 12-1 The 'best' negotiation profile



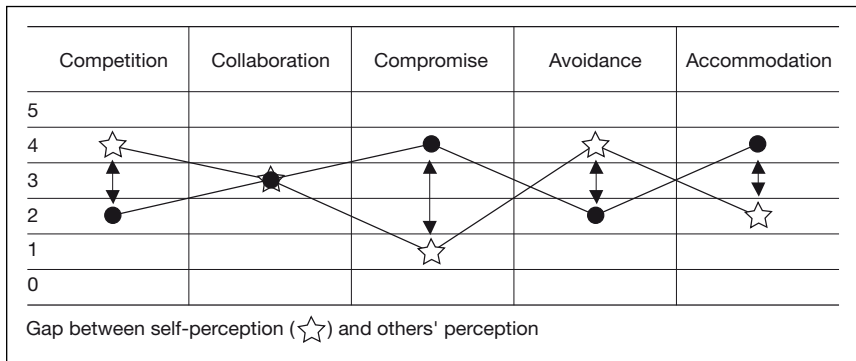
plicity of the challenges involved. Figure 12-1 shows how by overcoming personal preferences the effectiveness of our behaviour can be enhanced. If for example I wish to exert pressure and take a dominant position towards my opponent, I must behave in a coherent manner, that is to say my words and my body language should be firm, assertive and evaluating, and not weakened by too many ifs and buts. The same is true for listening, which reinforces the position of collaboration and the joint development of innovative solutions. For this I need to put out my demands *with firmness*, while remaining attentive to the other through asking questions, listening or reflecting. Only in this way can the needs of both sides be put squarely on the table, and an integrative solution achieved.

Deficiencies of perception

Quite independently of the personal qualities of a negotiator, it is vital that he know himself. Nothing is more dangerous than to have a mistaken judgment of oneself. In this context we also speak of deficiencies and distortions in perception. Figure 12-2 opposite illustrates this, comparing self-assessment with assessment by others for each of the five strategic behaviours discussed in Chapter 5. The scale at the left ranges from 0 (hardly present) to 5 (strongly marked).

The negotiator in our example did indeed evaluate his inclination towards collaboration correctly, but in all the other positions he was quite far from the mark, in terms of what other people thought. His own

Figure 12-2 Evaluation of negotiation behaviour (self-perception)



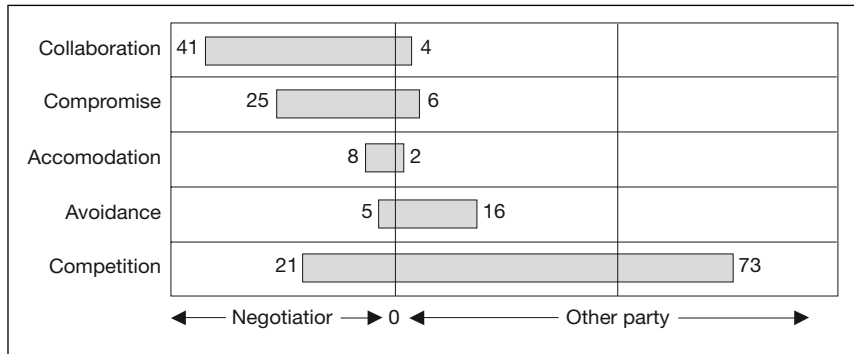
perception of his behaviour shows definite deficiencies, suggesting that he needs to take a good critical look at himself. Every time there is a gap between his own and others' estimation, the risk of misunderstanding is increased, to the detriment of the oh, so delicate balance of trust. For example, the person on one side thinks he has heard, while his interlocutor has the impression that his words were not taken in at all. He might even decide that his proposals are being deliberately ignored by the other.

A similar difficulty, which proves a stumbling-block for a surprisingly large number of otherwise good negotiators, is a distorted perception of the other. Figure 12-3 summarizes the results of a social scientific study among 66 managers after the completion of a negotiation.

While on average the managers regarded themselves as being very cooperative and amenable to compromise, they saw the other side (the other managers in the group studied) with quite different eyes. In their estimation, no collaboration or compromise with the others was possible, who were seen as set on hard confrontation and ready to walk out of the negotiations if need be. This distorted picture reflects an image of a hostile adversary, which in objective terms would not withstand careful scrutiny.

It can be hazardous to misjudge the other side in negotiations. Here again we remember the words of the Chinese strategist Sun Tzu quoted in Chapter 2, and draw a lesson from them: *Know your enemy and know yourself.*

Figure 12-3 **Perception and distortion** (Thomas and Pondy, 1977)

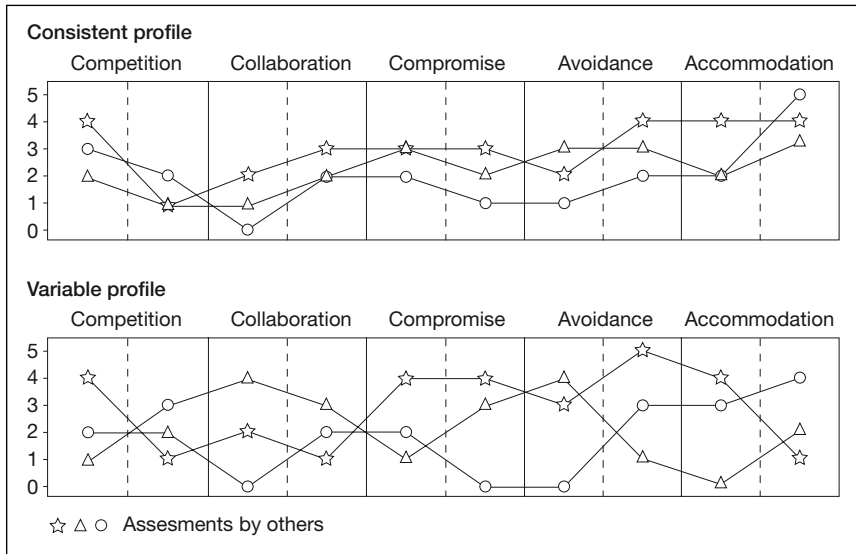


Behaviour profile

The diagram shown in the previous section can also be used with good effect to illustrate a behaviour profile. In Figure 12-4, different people's evaluation of the same negotiator in a range of different situations facing different counterparts have been superimposed upon one another.

Figure 12-4 shows two typical negotiator profiles, one consistent and one variable. The consistent, repetitive curve shown in the top figure suggests that this negotiator is rather set in his ways. Observations in a number of situations with different counterparts mutually confirm one another: the pattern is always very similar. It is true that such a consistent choice of behaviours is conducive to the building of mutual trust, but the other side can take advantage of it, since a negotiator who always employs the same combination of behaviours is readily predictable. And a strategy that responds with the same type of behaviour in all sorts of different situations can hardly be the best.

In complete contrast is the negotiator who presents a profile that varies depending on the situation he is confronted with. He has a whole range of behaviours available to him and selects the most suitable one in each situation. The more flexible he is in his choice of behaviour the better – with one exception: a good negotiator will be in the unconscious avoidance mode less frequently than a bad one. Depending on the situation, a conscious drawing back or withdrawal may be an extremely effective form of behaviour. But to withdraw unconsciously, what we call *looking*

Figure 12-4 **Assessment of negotiation behaviour**

blank, or out to lunch, can only be detrimental. It can make the other feel insecure and even angry. As such, the negotiator's profile should show a low score of unconscious avoidance. Here too it is extremely useful to know oneself well. At the end of the day, there is no point in choosing a strategy that you cannot execute convincingly because you are not comfortable with the appropriate modes of behaviour.

A third consideration pertains to the general level of a profile. For instance, if all observed behaviours have been scored as low by different counterparts, then one would expect to see a profile which would be rather flat and low with regard to all behavioural styles. Given such a basically flat shape, one may assume that the respective negotiator is behaving like the turtle we described in the passage on the Johari window in Chapter 7: whatever direction he moves in, he moves hesitantly. In the long run, this is not a manner suited to negotiation.

Source used in this chapter

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13

Stress

We all know about stress! Our diary is overflowing, often right into the evening hours. It's not even empty on Saturdays, although with a little bit of luck we may occasionally find ourselves free on a Sunday. Anyone who does something well will always have something to do. But the problem is not the great amount of work: work isn't stressful as such, even though many of our contemporaries sadly *are* stressed. Real stress, which has now long been recognized by conventional medicine as the cause of many diseases, comes rather from all those pressures – pressure of time, pressure to perform, pressure to succeed, pressure to adapt to a new environment or new demands. Such pressures hover over us even on an ordinary working day and make our life that much more difficult. So that with the incomparably more intensive situation of negotiations, they make themselves felt like never before. Even as we are leaving for the venue – London today – tomorrow, who knows, Brussels, Moscow, Peking or Chicago. OK, we enjoy travel, but so often? Then there are the last-minute preparations (*what have I forgotten?*) the build up of tension before the first encounter, and then of course the negotiation itself. Even when the talks don't last far into the night, they require a great deal of concentration and constant awareness. The tempting offer that the opponent pulls out of his pocket at three in the morning is the most dangerous of all. We are so pleased with the unexpected turn of events that we forget to read the small print – and later are in for an unpleasant surprise! And then there is the waiting at the negotiation table – for the return call from the office, our opposite number, or simply for a pile of documents from the only photocopy machine in town...

Then suddenly everything kicks into gear, from zero to a hundred kilometres an hour in five seconds. Our head offices have agreed to a

solution over the heads of both negotiators. We are now told by separate confidential messages that we have to come up with a deal that can be signed within three days. If a break in the formal negotiation is pencilled in, we go and have a meal together and discuss the next steps, a business lunch in effect. There's little room for real relaxation, nor is the food particularly light. Not to mention the occasional drop of the hard stuff or – God help us – a centuries-old local drinking ritual. The honoured guest must clink glasses with everyone in the round – vodka in Russia, sake in Japan, and millet or bamboo brandy in China. Not that such drinking rituals are generally intended as traps for the unwary; our opponent just wants to get a sense of who we are. Heavy meals, alcohol and nicotine, plus the occasional tranquillizer or stimulant – all this on top of the great demands made of us at the negotiating table, are certainly putting our metabolism to the test. Then there is the considerable load of nervous stress: time is short and our boss's expectations of us are long. No wonder that we find it difficult to fall asleep at night or that we wake up at the crack of dawn, however exhausted we may be. Negotiator – a stressful job? There's no doubt about that. But there are ways to keep stress at bearable, even useful levels. The aim of this chapter is to present some of these methods. But it can only offer a very basic introduction to the literally vital art of stress management, and makes no claim to replacing active participation at a good stress seminar. The specific mechanisms to overcome stress appropriate for the individual can only be learnt with the personal help of a psychologist or physician.

For example: A day in the life of a negotiator

The example of an Austrian diplomat will serve well to illustrate just how much the various negotiating professions take out of us, including our health. Let's look at a typical day in the life of Ambassador Manfred Scheich, who in 1961, as chief negotiator of EFTA, the European Free Trade Association, was working on a European Economic Area (EEA) agreement with the European Communities (EC). Although many much more harrowing examples of night-long marathon negotiations can be found, this appeals to us more to illustrate the point, because it could be virtually anybody in the profession. Manfred Scheich starts his working day as normally as you please at precisely 8 o'clock a.m. Leaving his hotel in Brussels without breakfast, he

climbs into the waiting car and is driven to the EFTA office, where at 8:30 he has a cup of coffee in a plastic cup with his colleagues – the first of many during the long days ahead. At a quarter to nine he briefs his Austrian colleagues and chats with the Secretary-General of EFTA, Georg Reisch, before opening and chairing a preparatory meeting of the EFTA delegation. The meeting lasts until half past ten, hammering out EFTA's position towards the EC: very often the most difficult negotiations are in one's own camp. After that it's off to the Centre Borchette, five minutes drive away, where the meeting with representatives of the EC Commission is to take place. Hardly fifteen minutes have passed since he closed the internal meeting, and here he is at the joint meeting with the EC. The two delegations take their seats facing one another on opposite sides of the room. The meeting is of course behind closed doors. At lunch shortly after one o'clock the participants have a moment to relax a little, but soon it is three o'clock and the talks resume for a second round. At 17.00 EFTA negotiator Scheich and EC negotiator Horst Krenzle take part in a press conference. It begins well before its scheduled time, so that they have only moments to prepare their statements. After an hour of questions and answers, some of the journalists want to interview the negotiators one-to-one. At 18.20 Manfred Scheich returns to the EFTA office and talks on the telephone for an hour to his various interlocutors in Vienna. This is the moment to fill in his government on the situation, for there is no time to do that during the day. At 19.30 a number of the hardy bargainers meet over a meal. You guessed it: the meetings are the number-one subject of conversation, although everyone makes an effort to talk about more pleasant things. There is quite a need to let off some steam, and this is the moment to clarify any misunderstandings that have arisen and soften the more rigid positions by cultivating personal relationships. The meal lasts until shortly after eleven at night, and Manfred Scheich is then driven back to his hotel. There he watches the late news from Vienna or Zurich via cable TV, allows himself a smile at his intentionally rather non-committal appearance, and dictates a few notes into his pocket recorder. The next morning, at precisely 8 o'clock a.m., the cycle starts again. He has had just six and a half hours to get a bit of sleep.

Things can be even tougher for the top representatives of Switzerland in meetings with the European Communities: not a few of their negotiation rounds in Brussels last until three or four in the morning.

(Based on: Pilger, 1991)

Diplomats and stress

Diplomats such as Manfred Scheich are subject to a quite special form of stress. Their difficult and often highly complex role in the diplomatic world confronts them with additional problems over and above the usual stress factors such as workload and time and other pressures. The first of these special demands is the need for tolerance of ambiguity. Diplomats must remain vague, so as to create grey areas and freedom of movement in their quest to solve problems. In most cases their job requires that they avoid confrontation, and seek cooperation instead. This attitude includes not only the use of circumspect, diplomatic avoidance, but also a lively anticipation of events. Abilities such as these permit a diplomat to be more flexible, more capable of adapting to the inevitable changes in the environment that regularly supervene. Clear statements often have no place here, and the mental encoding and decoding of ambiguous messages can be very much more strenuous than normal speech. For someone who would like to say something straight out, but is prohibited from doing so, this is stressful. The same is true of any premature commitment: every *yes* or *no* closes a door that is best kept open in the interests of diplomacy. In addition, there are decision-makers on both sides who will generally need to be consulted, and out of the blue, perhaps, a newly appointed minister or state secretary will establish a completely new set of priorities.

Another cause of stress in this particular sector is represented by role conflicts. A high-ranking diplomat such as Manfred Scheich must often act as spokesman. As representative of his government or organization he regularly holds speeches in front of a discriminating international audience – speeches that in many cases he has not written himself, and which may present views that are quite different from his own. And on top of official occasions he has his job to do in the Embassy, at working groups and committees – a team sport. There he may tentatively present his own position, but he cannot expect to have the last word: after all, the solution needs to be the most creative possible and so draw on the potential of the group as a whole.

Diplomats also have a role to play in representing interests (the famous lobbying at coffee breaks) and information gathering. Whenever the occasion permits, they will make contact with representatives of both

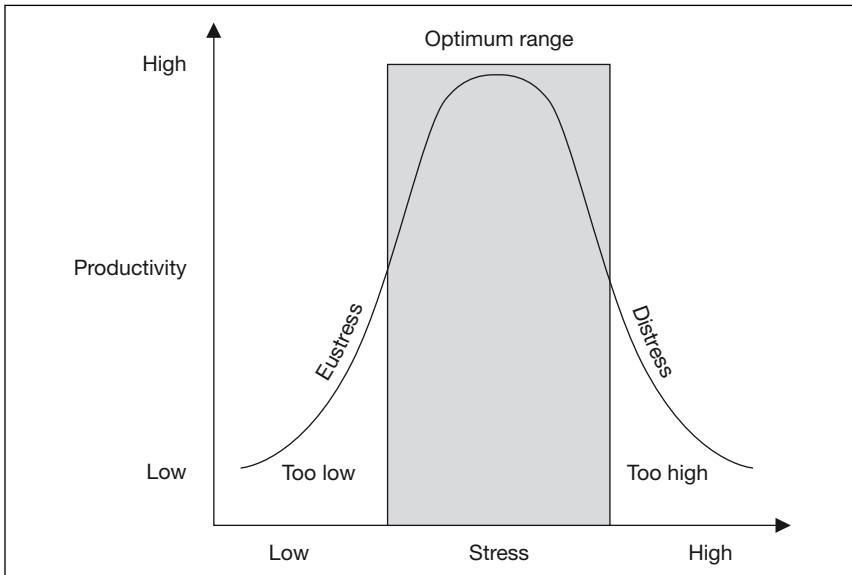
allied and enemy states. At that point the official positions of both sides are known; such meetings are designed to discover which proposals or alternatives might find positive favour with the government on the other side of the fence. The multiplicity of such role requirements is another stress factor – sometimes acting formally, then again informally, often with the same country representative, depending on the situation at hand (e.g. official round, unofficial coffee break in the corridor).

But a problem that is specific to diplomats is the lack of an emotional anchor: their job tends to involve living in a country for a couple of years only, and they are often called upon to leave it just as they are beginning to get the hang of it. Through lack of time, but also on account of their brief, they have to limit their personal contacts with other professionals – who constitute the great majority of the diplomat's contacts abroad – so as to avoid exploitation of the human need for friendship by the other side. In the tense period of East-West conflict western diplomats were often housed in compounds cut off from the rest of the town, which they jokingly called *colonies*. This practice is still to be found in many capitals with an unfamiliar culture and a rigid state apparatus. But life without real human contacts is like flying through thick fog – there is always the fear that you will suddenly find yourself heading straight into a mountain. So the diplomat is required to both seek and avoid personal contacts. At best, that produces a constructive basis from which to operate, at worst it is an additional source of stress.

Stress and productivity

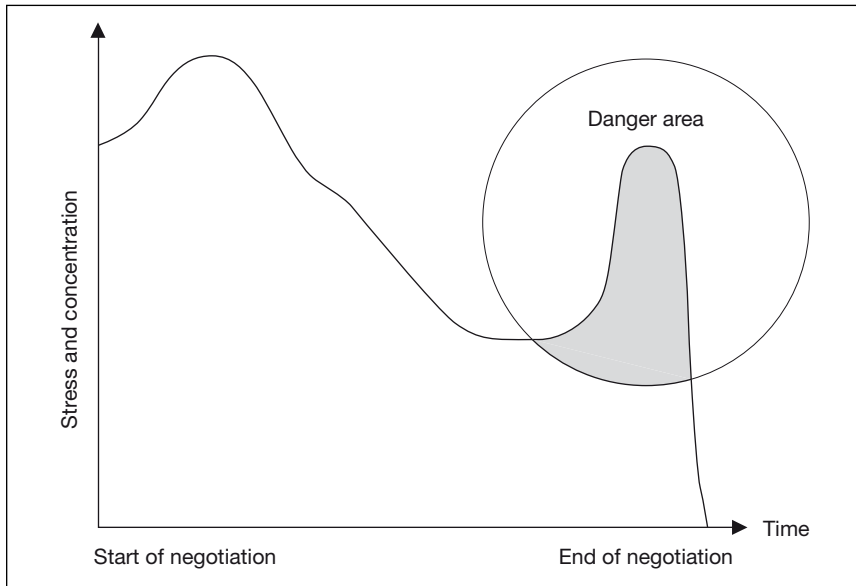
Before we go on to the medical aspects of stress development, perception and management, we need to consider a number of widespread misconceptions about stress. Stress is not necessarily a bad thing. On the contrary, we need a healthy measure of stress ('eustress') to warm us up and keep us on the go. Depending on the individual, an increased stress load will enhance productivity. This region of *optimum stress* is illustrated by the hatched area in Figure 13-1.

If, however, the stress load continues over and above this plateau, productivity will start to decline again. Too much stress considerably reduces physical performance. Anyone who regularly goes beyond the

Figure 13-1 **Stress and productivity**

point of safety for long periods puts both the success of his negotiations and his own health at risk ('distress'). So it is in our interest to keep the load in the optimum zone. This may not be possible very often during the actual course of the negotiation itself, but it is an objective to constantly bear in mind. Figure 13-2 opposite shows how the level of stress load and concentration varies considerably as the negotiation progresses.

First there are expectations and fears, excitement and nervousness. This stimulating, but also unnerving tension is reduced somewhat after the first contact with the other party, and with the hot and cold shower of feelings in difficult phases of the negotiation gradually gives way to fatigue. Then comes a waiting period – *stand-by stress*. The initial positions have been communicated, no solution is possible. The two negotiators inform their superiors, in the capital for example. At the negotiating table nothing is moving. People there are waiting for instructions, for their mandates to be broadened. Hours, even days, pass. People get bored, lose interest, and turn to other pressing matters. The negotiations begin to fade into the background. Then suddenly the long-awaited extended mandate arrives. The negotiator also learns that the two

Figure 13-2 **Stress and concentration in the course of negotiation**

capitals have come to an agreement to go all out for a solution as quickly as possible, overnight if need be! So the negotiator needs to psych himself up again and refresh his understanding of the situation. The orders are clear: get back to us tomorrow with a solution all worked out! The negotiators sit down at the table again, and the merry-go-round continues. But now it doesn't stop turning at eight in the evening. If they are going to get the agreement out on time, they will often need to negotiate through the night. Which of them is going to keep himself together, which will succumb to stress and make serious mistakes?

The problem-solving process is often accompanied by a mixture of hopes, doubts and impatience, which – depending on the outcome – can turn into unbridled jubilation or disappointment at the end. Table 13-1 on the next page shows a breakdown of this process into its different phases.

Whatever the outcome of the negotiations, the last phase is almost inevitably characterized by a high stress load. This is especially dangerous, because under stress our perception of the world is diminished, and the number of possibilities we can envisage shrinks by the minute. All the carefully constructed alternatives, with their various shades of grey,

Table 13-1 Stress and emotions in the various phases of negotiation		
Phase	Emotions	Management action
Pre-negotiation	Apprehension Worries and fear Excitement	<ul style="list-style-type: none"> • Assess needs, objectives and assets • Brainstorm for options and solutions • Plan strategy and tactics
Phase I Opening of negotiation	Tension Anxiety Arousal	<ul style="list-style-type: none"> • Create welcome atmosphere • Build up personal relationships • Clarify authority of counterparts
Phase II Constructive confrontation	Aggression Frustration Anger	<ul style="list-style-type: none"> • Communicate your positions clearly • Clarify opponent's positions • Use distributive bargaining tactics
Phase III Problem solving	Fatigue Doubt Impatience Hope	<ul style="list-style-type: none"> • Search for mutually acceptable solutions • Re-assess needs and objectives of all parties involved • Use integrative bargaining tactics to build trust and cooperation
Phase IV Conclusion	Exhilaration/ disappointment Joy/sadness Satisfaction/ bitterness	<ul style="list-style-type: none"> • Play out final concessions and compromises where possible • Draft solution formula and contract • Sign or withdraw gracefully

are suddenly compressed into impossibly simple recipes, and our own favourite solution keeps reverberating in our mind like a broken gramophone record. Mental rigidity sets in, flexibility and creativity fly out of the window. The performance of even very good diplomats is sizeably reduced in this last phase. So that when at three or four in the morning the other party pulls a ready-made proposal for an agreement out of his pocket the temptation to sign and be done with it is sometimes too great. The negotiator has fallen prey to stress and is going to make mistakes (see Table 13-2).

Stress and its symptoms

We tend to notice when we are stressed, but how can we be really clear about what is going on? What warning signals are available to us? There are in fact a number of clear symptoms of stress that we can heed, and

Table 13-2 **Common mistakes under stress**

- Disclosing too much
- Accepting unnecessary compromises ('*Let's split the difference*') too early
- Not creating a satisfactory agenda and list of issues
- Wanting to be liked
- Threatening to withdraw too early
- Not anticipating opponent's tactics
- Avoiding conflict and confrontation when they are appropriate
- Getting stuck in deadlock
- Non listing negotiable and non-negotiable items
- Not looking for additional common interests and new solutions

Table 13-3 **Symptoms of stress**

Mental	Physical	Emotional
<ul style="list-style-type: none"> • Erratic logic • Poor concentration • Tendency to simplify • Confusion 	<ul style="list-style-type: none"> • Exhaustion • Headache • Outbreaks of sweating • Tiredness or insomnia • Increased or reduced appetite • Gastric pains or ulcers • Diarrhoea • Depression 	<ul style="list-style-type: none"> • Irritability • Emotional outbursts • Impatience • Anxiety • Panic • Negative coping mechanism: alcohol, nicotine, food, drugs (legal or illegal), sex

they are listed in Table 13-3. It is also true that each individual has a different stress tolerance and will react differently: some thrive on it, while others collapse under the strain. So everyone needs to observe himself carefully and find out where he stands in this regard.

At the *cognitive level* stress is characterized by frequent swings between different thoughts and issues. Concentration diminishes, so that it becomes difficult to follow a line of argument clearly, and confusion and over-simplification fill the gap. Constant misgivings, doubts and in extreme cases even anxiety states are sure signs of an increased stress load. At the *physical level*, a variety of symptoms may serve to warn us of

impending problems: tiredness, low spirits and headache are typical signs that stress and probably lack of sleep are taking their toll. For some, appetite increases under stress, others lose it. Outbreaks of sweating or stomach-ache (in extreme cases peptic ulcers), digestive disturbances or skin rash are other telltale signs. Quite a drastic symptom, which is often not recognized as being stress-related, is frequent bleeding of the gums. Prolonged stress can even lead to depression.

Stress also has major effects on *mood*. People become irritable and prone to vent their feelings. Impatience and panic attacks are also frequent manifestations of stress, as is indecision. Many people in stress-ridden situations give way to the temptation to negative remedies to avoid the effects of stress – over-consumption of food, coffee, alcohol, nicotine or prescription drugs and others. Sex comes in here too, and a hasty affair under the pressure of the situation can make the negotiation even more complicated and stressful, especially if a member of the opposite camp is involved. Tranquillizers and stimulants are treacherous allies, especially when you start taking one pill to counteract the effects of another!

The only possible way out is to avoid stress and manage it positively. That will be the subject of the following section.

Managing stress

We have just seen how stress develops, and what effects it can have on the health and performance of the negotiator. Recognizing what is happening and critical self-awareness and self-control are essential elements in the positive management of the stress syndrome that will inevitably occur soon or later under the pressure of negotiations. There is a wealth of useful literature on this subject, offering advice and concrete management techniques. Still better results can be had from one-to-one counselling, or attending a stress seminar. We shall limit ourselves here to the main ways in which stress can be kept under control or reduced.

Perhaps the most important precaution is to get a minimum of sleep. The actual number of hours this means must be worked out by each individual for him or herself. Two very important measures are to restrict the intake of food and alcohol: how easy it is when a tense situation is over to be enticed by the delights of a richly laid table or a well-stocked wine

cellar, but the pleasure is often short-lived, and the body will take its revenge for the excesses it was made to endure. Not to be forgotten is the art of relaxation, taking a break to go for a walk, listen to music, practise sport or meditate. Long-haul flights are perfect places for this sort of thing – the telephone is not going to ring, at least. To maintain your well-being and your capacities over the long term it may be a matter of necessity to be able to discuss important experiences with reliable colleagues or friends, and to take time out to think of what your needs are. The questions of confidentiality and safety must be remembered here, and sometimes a colleague may turn out to be more of a rival than a friend. So the importance of a real friend cannot be overemphasized.

But it is often the mundane practical details of the negotiation that can make the difference one way or another when it comes to stress. A major element is the information flow with superiors, which needs to be maintained and secured under all circumstances. If you are in a country with a rudimentary infrastructure and have to do everything yourself, where there is no representative of your concerns in the capital or at the company's offices, who can spur on the decision-makers by telephone or in the meeting and support your need for a decision – you are going to lose a large part of your energy dealing with all these bothersome and at bottom technical details. Thus appropriate logistic support from the home office is just as important as that at the negotiation venue. You can't have it both ways: you can choose between good organization or ... (you guessed it!) stress!

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Cross-cultural factors

For this last chapter of the book, we turn to a subject that has an important impact on the conduct of negotiations, and leads on to a broader theme: differences in negotiation behaviour resulting from different cultural *mores*.

The subject has come up in several case studies in the preceding chapters, and now we shall complement these multiple examples with a general summary of the subject. A systematic analysis of cultural factors would however be beyond the scope of the present volume.

Culture and negotiations

If we want to negotiate, we above all need to understand the interface between the different cultures. We are naturally familiar with our own cultural background, and even if we are not always conscious of it, we function without any difficulty in our usual environment. Things start to get much more problematic when we leave this familiar environment and negotiate in distant countries or with people from other cultures. Much of what we simply take for granted is then suddenly quite different and strange. Suddenly we are on shaky ground. Even if we have fully mastered the techniques of negotiation and are extremely successful in our own country or in countries with a similar cultural makeup, we can find ourselves failing miserably when we leave them. In the past two decades the professionalism of European business people and diplomats has improved considerably – specifically in respect of the countries and markets of the Far East. Awareness of the problem has increased as more and more excellent books have come onto the market. With this chapter

we wish to make a modest contribution to this welcome development, by laying additional stress on the often absolutely decisive importance of cultural factors for the advanced negotiator. As in the previous chapter we recommend further reading and if possible active engagement in the subject is recommended. Before we turn to the problems that arise when different cultures come face to face, it would be well to have a first look at what we actually understand by the term *culture*.

What is culture?

It is of course not possible to provide a comprehensive answer to this vast question. Whole libraries of excellent books have been written on the subject over the centuries. At best perhaps, we should try to provide a usable working definition. According to Hofstede (1981), *culture is a collective programme of the human mind*: something like country-specific software for the human. In this manner each culture has produced its own software so to speak. The analogy with the world of the computer, which is just a soulless machine, may seem rather coarse at first sight, inappropriate even. But whatever the objections, a comparison between culture and software is a useful one, if we do not take it too literally.

Let us take a simple example: the average English-speaking user would be greatly out of his depth if he tried to use the Japanese, Chinese or even the Greek version of his favourite word processing program – even if all he wanted to do with it was to write an English text. Misunderstandings, errors, even complete failure of the attempt, depending on the degree of patience invested in this hardy enterprise, are so to speak pre-programmed in. But after learning a few fundamentals of the language version he is using, he could handle the software with almost as much facility as his usual one.

This short chapter is intended above all to bring the reader's awareness to the difficulties awaiting him in unfamiliar cultural territory, but at the same time to encourage him to overcome these obstacles.

So let us come back to our question: what is culture? To take a somewhat more human-oriented definition, it is the *ability to convey large messages with small gestures*. That doesn't sound so technical, but in fact it means exactly the same thing: a social code that serves the members of a

common culture as an extremely effective mode of communication. It goes far beyond and deeper than what is generally understood by *culture*, that is to say language, literature, art, music, history, customs, moral standards, etc., and certainly the folklore aspect so beloved of the tourist offices. Far less visible, but just as much a part of the cultural identity of a people or tribe, are for example the following:

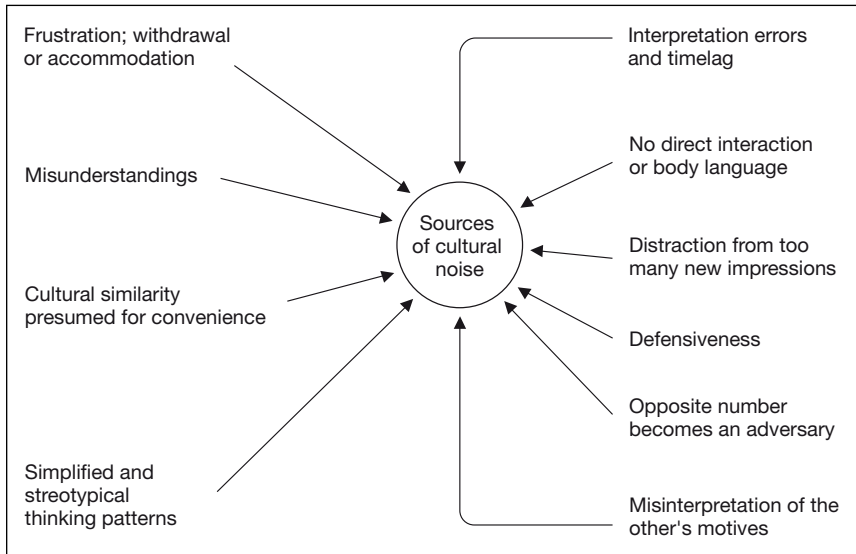
- *Body language*: Compare the expansive gesticulations of the Italians with the reserved posture of the Japanese or the fixed friendly smile of the Chinese;
- *Priorities*: Live to work (Germany, Japan, South Korea)? or work to live (Spain, Italy, Brazil)? What role is played by religion (Islam)?
- *Role expectations*: What role do women, for example, play in society? Wife and mother (Arab world) or equal colleague (Scandinavia)?
- *Personal relationships*: Do they play a significant role in business life (Asia, Arab world) or virtually none at all (Germany)?
- *Contact and affiliation*: Official and formal, or casual with a glass of beer after a day's work (this varies from country to country and also according to social class)?
- *Mr/Mrs/Ms or first name*: At the very first meeting (USA) or only among old school pals (Japan, France)?
- *Attitude towards superiors*: Is the boss a minor deity (France) or a colleague invested with authority (Switzerland, Germany)?
- *Leadership style and approach to problem solving*: Orders and detailed instructions (France) or a joint search for solutions (Germany, Switzerland)?
- *Motivation*: Does it originate in the company (Japan) or the family (China)? Or both (South Korea)? Generally speaking, what motivates people within a given cultural context? (Chapter 3)
- *Attitude to work*: Protestant or Buddhist work ethic (Germany, Switzerland, Japan) or a necessary evil (Caribbean)?
- *Willingness to work*: Until you drop (South Korea, Singapore) or until the lunch break or early afternoon (Yemen, Eastern Europe before 1990)?
- *Work tempo*: easy-going (many tropical countries) or by piece rate (South Korea)?
- *Concepts taken for granted*: Pride in the profession and membership of a corporation or guild (Germany), class distinction: blue collar/white collar (England) or uniform members of a work brigade (Russia)?

- *Keeping commitments*: True until death (Germany), honouring of contracts (Switzerland) or general disinterest (Serbia in the Yugoslavia War)? Are contracts re-negotiated when conditions change (China) or honoured come what may (Roman law)?
- *Attitude towards planning*: must be followed at all costs (technocratic solution) or to be adapted as circumstances require (people are more important than things)?
- *Communication style*: How do people behave towards one another? Polite and friendly (Asia) or cool and businesslike (Germany, Switzerland)? Is communication primarily in writing (Northern Europe, USA) or by mouth (Asia, Arab countries, Africa)?
- *Negotiation style*: Which of the five positions (Chapter 5) is predominant? Does confrontation happen easily, or are consensus and compromise more common?

These behaviours, be it noted, are not acquired by the members of a given cultural circle overnight. They are inculcated from the cradle on: in the education process from early childhood and the first days at school, to occupational training, university studies and beyond, each individual is surrounded and moulded by his or her relations, friends, teachers, colleagues, bosses, and fellow citizens. This progressive socialization is a process lasting many years, although its marking effect diminishes as people grow older. Thus it is virtually impossible to completely acquire a second or third culture side by side with one's own – unless you have the good fortune to have grown up in different cultures simultaneously or side by side. The innumerable difficulties that such a double identity brings with it during the formative years are often more than balanced out by the broadening of horizons as time goes on. For the outsider, dealing with a foreign culture is similar to learning a difficult foreign language – a slow, laborious process, but which is usually well worth it in the end.

Cross-cultural relations

In the previous section we said that culture is an effective means of communication between members of a cultural environment. Things are understood immediately and explanations are often unnecessary. The

Figure 14-1 **Cross-cultural noise**

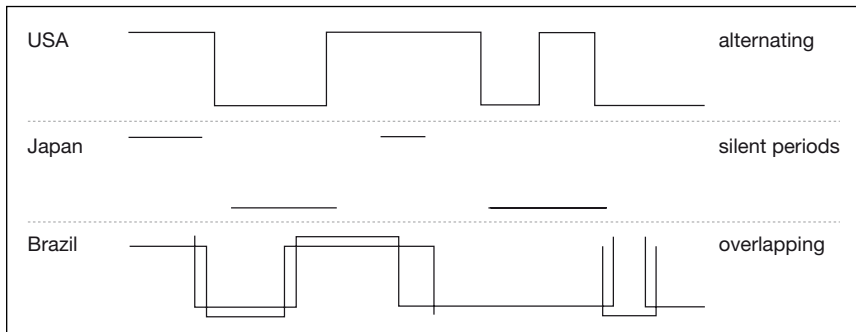
downside to this enormous efficiency *within* a cultural group is its at least partial failure *outside the group*. Whoever does not understand the code cannot participate effectively in the communication. Such a person does not fit into the social context, is not accepted there, and in short cannot function there correctly. That begins with the language (how many Europeans speak fluent Mandarin or Urdu?) and goes right up to the chat about baseball (in the USA and now also in Japan), which harmless as it seems, is essential if one is to be accepted in the cultural environment. Much, but not everything, can be learnt through a careful study of the quite numerous books that provide an introduction to individual national cultures, and attendance at training seminars specializing in etiquette and cultural competence in specific countries. Even then there are ample opportunities for error and a great number of technical difficulties to be overcome (especially in the world of negotiation) when dealing with people of other nationalities. Figure 14-1 shows how much noise can get in the way of inter-cultural communication. It starts quite harmlessly (but perhaps ominously!) with the technical difficulties of *translation* from one language to another. Even the best interpreters can make the occasional mistake, especially when they are wading knee deep in an unfamiliar technical terminology. Above all, they need time

for their demanding work. In simple terms, this means that every speech, every statement and expression of a point of view needs at least twice as much time as it would in direct communication. Then there is the absence of *direct interaction* between the negotiators, if they are obliged to communicate via an interpreter or at least act as though they were. This reduces the possibility of picking up fine nuances, statements made through *body language*, which will of course not be translated by the interpreters – and it is tiring. The individual in a foreign environment – that is us when we are travelling – is already sufficiently *distracted* by the many new impressions, and emotionally shaken up. Perhaps we have long set up an inner *mental defensiveness* to protect us from the onslaught of incomprehensible information that washes over us. The negotiation partner *can easily become an opponent* when we don't understand him. In such circumstances we may risk interpreting the *other man's motives* quite erroneously, and overlook interests that we share in common. But such an attitude is not conducive to helping the talks on; at bottom, it is a matter of picking up the smallest signals and finding a way of working together. Under the pressure of the situation we perhaps also fall too easily into *simplistic patterns of thought* and stereotypes, – and perhaps we are not the only ones to do so. There is then an over-hasty unconscious impression or assumption that when all is said and done, the other is *not all that different*. That may be true, but it may also be completely off the mark and merely a convenient self-deception. Since we do not both have recourse to the same culture or the same code, *misunderstandings* are going to be a part of the deal. Not only do they complicate the course of the negotiation, they can exacerbate their own cause: *frustrated* by the lack of progress, one of us is going to tire of the intercultural connection and *give up – or give in*.

Speech and communication

A simple example of how greatly the unwritten rules of different cultural settings can vary, is the way people speak during negotiations. Figure 14-2 represents an impressive comparison between typical negotiators from the USA, Japan and Brazil. Whereas the North Americans will generally take turns to speak, in the case of their Japanese colleagues regular silences were noted, without anyone finding this unusual or a sign of

Figure 14-2 **Influence of culture on business negotiations**
(Source: Graham, 1985)



poor understanding. Silence is simply an important part of all conversation in Japan. Precisely the opposite was to be observed in Brazil. There the two sides interrupted one another quite frequently. Now this too is not considered impolite: the result is even actively desired. 'We just need the noise,' is the way a Caribbean diplomat of Brazilian origin put it to me recently with a disarmingly hearty but loud laugh. For continental Europeans, who in this respect may be likened more to the Americans, there are many new habits to be learnt here.

A study carried out several years ago (Graham, 1985) looked at the behaviours of negotiators of these three nationalities in considerable detail. Table 14-1 from this study shows a comparison of the use of various tactical elements during the sessions:

Silent periods: While the Japanese observed frequently fell silent during the negotiation, the Americans were rarely and the Brazilians hardly ever completely silent.

Interruption: Amazingly, in spite of the many silent periods, the Japanese did interrupt one another and there was overlap of people talking; the Americans tended to speak less at the same time, while the Brazilians did so almost three times as often.

Facial gazing: It is almost rude to look someone straight in the face in Japan, if it comes close to staring. It is however occasionally used in the event of mental confrontation, and to check out the understanding and reaction on the part of the other. According to the study, American negotiators make eye-to-eye contact a third of the time, and Brazilians even more than half of the time.

Table 14-1 Cross-cultural differences in non-verbal negotiating behaviours (Source: Graham, 1985)			
Behaviour (tactic)	Japanese	Americans	Brazilians
Silent periods (Number of periods greater than 10 seconds, per 30 minutes)	5.5	3.5	0
Conversational overlaps (Number of interruptions per 10 minutes)	12.6	10.3	28.6
Facial gazing (Minutes of eye-to-eye contact per 10 minutes)	1.3	3.3	5.2
Touching (Not including handshaking, per 30 minutes)	0	0	4.7

Table 14-2 Cross-cultural differences in verbal behaviour (Source: Graham, 1985)			
Behaviour (tactic)	Japanese*	Americans*	Brazilians*
Promise	7	8	3
Threat	4	4	2
Recommendation	7	4	5
Warning	2	1	1
Reward	1	2	2
Punishment	1	3	3
Normative appeal	4	2	1
Commitment	15	13	8
Self-disclosure	34	36	39
Question	20	20	22
Command	8	6	14
'No'	5.7	9	83.4
Profit level of first offers (80 maximum)	61.5	57.3	75.2
Initial concessions	6.5	7.1	9.4
* (average number in 30 minutes)			

Touching: Friendly touching of the other party is a taboo in both Japan and the USA. It hardly ever happens. In Brazil, however, things are quite different, for there the cultural norm is such that without touching a conversation can be felt as very cold, impersonal and non-cooperative.

In another part of the same study, the use of different types of verbal behaviour were looked at. Table 14-2 shows some of the results obtained.

Particularly striking in this table is the use of the word *no*. The Japanese negotiators hardly ever said *no* straight out, as is the norm for conversational speech in their country. Even when they really do mean *no*, they will not say it outright, because the other would then lose face. Placatory formulations such as *perhaps*, or better still, *we will think about it*, are easily taken at their face value by westerners, but for another Japanese they would be as clearly understood as signifying *no* – simply put more politely in line with the common cultural code. No-one has any trouble understanding that in Japan; it simply means: *Thank you for your interest ... goodbye!* The Brazilians, on the other hand, could not have been more explicit, and a clear *no* came out every 22 seconds on average. But at the same time they were readily amenable to tempering their high initial demands with subsequent concessions, as the other results indicate.

Thus the use of spoken language and body language is very different from one part of the world to another, indeed sometimes diametrically opposed. Anyone who does not familiarize himself with these elementary rules before the negotiation (and not only in the plane, although that is always better than nothing!) and put them into practice is going to experience inexplicable but no less strong reactions on the part of his opposite number, with some regularity. Conversely, the person who knows these rules can of course break them with tactical intent. The reaction will be exactly the same as if he had acted out of sheer ignorance – with the difference that this time it is precisely planned and designed to bring the negotiation into the desired direction, whichever that may be.

For example: Japan

A multitude of possible examples of foreign cultures present themselves, but we shall choose just one for this chapter: Japan. While other countries and regions – China or the Arab world, say – are just as unfamiliar to us,

Japan with its enormous development has become the symbol of an economic superpower for us. It is still considered especially difficult to do successful business in Japan. This is true, even though culturally China is no easier to make headway in. While much about the two cultures is similar, given that the Japanese culture goes back to Chinese origins to a considerable extent, Japan is of particular interest for our purposes. Living conditions there are quite comparable to those in Germany or even Switzerland, making allowances for the much greater crowding and the resulting high land and rent prices. Virtually anything that the European business traveller is used to can be found in Tokyo – and many other things too. What differences remain – and they are indeed many! – can thus be primarily traced back to cultural differences. The language barrier, which is the first hurdle that has to be overcome, is of course an additional difficulty, but it too can be attributed to culture in the broadest sense. So what makes negotiations in Japan so tough?

The first point is the – from our point of view – extraordinarily broad time horizon of Japanese companies and their employees. First to be served is the most demanding consumer market in the world, the one that clamours the loudest for new products: we are of course speaking of the domestic market. You only need to take a short walk through Tokyo's electronic quarter, *Akihabara*, or Sony's public prototype showrooms to see that. But behind the facade, the managers of the giant companies (*zaibatsu*) are thinking much further ahead than their European counterparts, to say nothing of their American colleagues. There is no business to be done on the quick in Japan – unless the bid you make in this negotiation is just the piece to complete the puzzle seen from the standpoint of a long-term strategy. And then all sorts of miracles are possible: suddenly young, perfect English speaking managers used to receiving western guests appear from nowhere and sweep all cultural and linguistic barriers aside.

The Japanese language and culture are the greatest barrier to trade in this country, said the Basle entrepreneur and industrial politician Georg Endress. He knows what he is talking about: his engagement in the land of the rising sun began in the early seventies with a small minority holding, which over the past two decades has developed into a successful wholly owned subsidiary.

The Japanese managers also have long-range plans: their most important contacts come from 'the old boys club', through relatives, the local dig-

nitaries or corporate members at the golf club. (Women have virtually no role to play in business life, it may be added, at best as case workers or much more likely as 'Office Lady' or OL, a mix of secretary and general clerk.) Everything needs time, and demands an unbelievable input of personal effort. The result however is a network of absolutely reliable partners. Everything is measured against this network and the effects on it, when business is being done abroad (that is to say, with us).

In such an environment very little can be achieved by a stay of a few days or even weeks in Tokyo, Osaka or Nagoya – why should they specifically trust *you*, when they are already so fussy about choosing their partners from their own country? Or when the deal might even be bad business for an old school friend or a colleague from Tokyo's famous private Keio University? Thus in the great majority of cases the establishment of a personal relationship with the negotiation partner is far more important than the nitty-gritty of the negotiation itself. All that comes later, for without such a basis of trust it cannot happen anyway.

An interesting introduction to the negotiation as a personal meeting is the so-called *miai* style (Saito and Fukunaga, 1991). *Miai* is the ritually organized contact between people desirous of getting married, performed by a matchmaker or some other respected person (for example the department chief or even the director of their company). Here it is a matter of getting to know one another in an extremely honourable way, without being obliged to make concrete plans or commitments. It is an opportunity for both candidates to get to learn something of the character, style and educational background of the other, despite the obvious tensions that will be present. But above all they must try to find a common ground at the emotional level. Without a sympathetic understanding, no advance would be possible, the candidates would not be interested in pursuing the relationship. But sympathy or antipathy generally come about at the very first meeting. So each of them tries to make the most favourable impression of him or herself as possible – friendly but formal (like the ceremoniously arranged meeting!). The careful choice of language is then as much part and parcel of the matter as the constant striving to arouse the interest of the other. Their dealings with one another must first be gentle and flexible; neither of the two may take a position too early in the game, if possible success is not to be jeopardized. At this stage it is not a matter of decisions, but of making acquaintance. Concrete

proposals or offers therefore have no place here, nor any attempt to win over the other with arguments.

In a negotiation conducted according to such principles – for what is this arranged meeting of marriage candidates if not a negotiation? – the main thing is the feelings of the parties involved. In Japan especially, but not only there, western negotiations would do well to acquire such a style. When all is said and done, business and contracts are made by people, and people have feelings, values and self-esteem. He who understands that and takes it – in the very literal sense – to heart, will be respected not only as a person, but also as negotiator.

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