

THE SEVEN ELEMENTS

0 ALTERNATIVES

Alternatives are the walk-away possibilities that each party has if an agreement is not reached.

In general, neither party should agree to

something that is worse than its "BATNA" - its Best Alternative To a Negotiated Agreement - "away from the table".

0 INTERESTS

0 OPTIONS

0 LEGITIMACY

0 COMMITMENTS

Interests are not positions; positions are parties' demands. Underlying the positions are the reasons they are demanding something: their needs, concerns, desires, hopes and fears. The better an agreement satisfies the parties' interests, the better the deal.

Options are the full range of possibilities on which the parties might conceivably reach agreement. Options are, or might be, put "on the table". An agreement is better if it is the best of many options, especially if it exploits all potential mutual gain in the situation.

Each party in a negotiation wants to feel fairly treated. Measuring fairness by some external benchmark, some criterion or principle beyond the simple will of either party, improves the process. Such external standards of fairness include laws and regulations, industry standards, current practice, or some general principle such as reciprocity or precedent.

Commitments are oral or written statements about what a party will or won't do. They may be made during the course of a negotiation or may be embodied in an agreement reached at the end of the negotiation.

the promises made have been well planned and well-crafted so that they will be practical, durable, easily understood by those who are to carry them out, and verifiable if necessary.

In general, an agreement will be better to the extent that

0 COMMUNICATION

Good communication helps each side understand the perceptions and concerns of the other. Other things being equal, a better outcome will be reached more efficiently if each side communicates effectively.

0 RELATIONSHIP

Most important negotiations are with people or institutions with whom

In general, a

we have negotiated before and will negotiate again.

strong working relationship empowers the parties to deal well with their differences. Any transaction should improve, rather than damage, the parties' ability to work together again.

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Assumption

Tell them what we vy_i!_l or wonâ\200\231t do.

Partial Validity

Offers are good.

It is often wise

to disclose limits.

Common Error

Ignores the power of legitimacy -

what we all should do.

Rules of Thumb

Maximize legitimacy:

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Use external standards or principles of fairness. (Seek criteria persuasive to

' them.)

Use the test of reciprocity.

Suggest fair procedures.

Be sure we are open to persuasion.

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B.

C.

D.

Ask questions that get at underlying interests and concerns. People love to criticize.

If, instead of asking you to accept my draft proposal, I ask you to criticize it, I am more likely to learn about your perceptions of the problem and how we might resolve it.

Reduce the risks of inventing. One approach is to delegate the task of inventing to a facilitator. Third parties can raise options that people directly involved would have significant fears about raising. put on the table with little cost, if any.

In this way, ideas can be

Use one cook. In multilateral negotiations, appointing one facilitator to be responsible for designing and shaping a proposed agreement helps avoid the Chaos of multiple proposals.

IV.

Specific Action Idea

The Oneâ€¢Text Procedure is a systematic, thirdâ€¢party approach for shifting a

negotiation away from concessions, eliciting underlying interests, and simplifying the process both of inventing options and deciding jointly on one. instructions.)

(See next page for specific instructions.)

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A Better Goal:

. A Good Working Relationship Requires

An Ability .

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To Deal Well .

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With Differences.

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Common Errors

Ignore alternatives

Assume a choice: Relationship or substance

Focus on positions, ignore interests

Mix inventing and deciding, limiting. options

Ignore legitimacy: What parties should do

One-way communication: Talking at them

Commitment before listening

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Mediation Using

The One-Text Procedure

I.

The Problem

Complex, high-stake, multi-issue negotiations, both bilateral and multilateral, do not

seem to work as well as they might. Agreements, when reached, too often reflect lowest common denominator thinking. Deadlocks are frustrating and can be costly.

II.

Some Causes

A.

B.

C. I

D.

In tough negotiations, we tend to focus on positions and measure progress by concessions. We measure progress by the number of concessions made. In this way, we learn little about what the other side really wants and what most concerns them, and run the risk of missing significant opportunities for joint gain.

Questions focus on positions. When asked "Will you accept this today?" it is often most logical to say "no." Committing to a proposal makes little sense when others are not yet committed and you can still wait. Saying "no" today can also lead to a better package tomorrow. As a result, people get increasingly locked into their positions, and reveal little about the interests and concerns underlying those positions.

Lack of inventing. Faced with fears like appearing (too) inflexible, getting taken, and being misunderstood as committed when we're not, we tend to do little inventing with the other side. Given this, we may stay on the same course not because of its merits, but because we fear the costs of suggesting change will be too great.

Too many cooks cause indigestion. Too many negotiators, each with a hundred and fifty different proposals, cannot constructively discuss fifty different proposals. Nor can they make concessions contingent upon mutual concessions by everyone else.

Fifty negotiating parties, let alone one

111.

General Approaches

A.

Proceed without making concessions. Use a procedure that facilitates agreements without requiring any concessions, thereby avoiding positional, bargaining dynamics that may get in the way of achieving better outcomes.

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Possible Early Instruction to a Negotiator:

"You have no authority yet to make any substantive commitments. Keep us fully informed. You have full authority to engage in the following activities:

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Pre-Negotiation Sessions to:

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I

establish easy Communication
understand the Interests of the parties
suggest the scope of any agreement

Commitment Inventing Sessions to:

I

generate a range of creative Options

Joint Working Groups to:

I
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I

explore criteria of Legitimacy,
evaluate options in light of criteria
draft a framework agreement

New Instructions: "Please recommend to us. the authority you would like to have to make offers and commitments."

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SUGGESTED STRATEGY:

Be Unconditionally Constructive

Do those things and only those things that

are:

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(1) good for the relationship

and

(2) good for us

I Whether or not they reciprocate

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THE CIRCLE CHART*

A Tool for Organized Thinking

One problem-solving tool that has proven to be particularly effective for the preparation and conduct of negotiations is the "Circle Chart" (see diagram next page). This tool divides the task of problem-solving into four modes of thinking:

I. The Problem: Identify the gap between disliked symptoms and a preferred situation.

We begin by defining the problem as the gap between "what is" and "what might be."

We can create two columns in Quadrant 1 of the Circle Chart. On the left, we can list aspects of the current situation that trouble us. Opposite each entry, we can list in the right-hand column elements of a preferred situation.

For example, if we are concerned about nuclear weapons, the "disliked symptoms"

might include too many warheads, escalating race for new technology, proliferation to other countries and terrorists, uncertainty over first use policies, etc. The "preferred situation"

would be fewer warheads, controlled pace of technological development, reduced risk of proliferation, greater certainty over first use policies. The purpose of the Circle Chart can be seen as helping us invent ways to close the gap between these two lists.

11.

Diagnoses: Consider possible causal explanations.

Next we consider what may be the causes underlying the disliked symptoms. At the outset, rather than trying to decide on a single, most important cause, we should try to list all possible causes about which we might be able to do something. For example, "past history" and "geography" are often cited as causes of a conflict, but they are causes we have no power to affect.

Note that some diagnoses are more abstract than others. Our goal is to develop more

specific diagnoses that will shed better light on possible prescriptive approaches. In this quest, more abstract diagnoses can stimulate more specific sub-diagnoses that prove helpful.

For example, suppose we are working on "uncertainty over first use policies." One possible diagnosis is, "The US. Government does not trust the Soviet pledge of 'no first use.'" Although possibly valid, this diagnosis leaves open the question why there is a lack of trust.

Here we can dig further for sub-diagnoses, such as, "Many Americans are waiting to see if

the rhetoric of perestroika will be matched in action;" "government officials have extensive personal relationships with Soviet Citizens and officials,"

etc. Keep searching for a variety of causes, at a level of specificity that begins to suggest what might be done.

"Neither American citizens or

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KEY ELEMENTS IN NEGOTIATION

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parts of a government. In advance of U.S.-Soviet arms control negotiations, for example, the Air Force is likely to agree that the Navy can keep its new submarines so long as the Air Force can keep its new missiles. The Army and the Navy are each likely to take a similar stance in the internal negotiations. Each will agree to a position only if the interests of its department or agency are fully met. The result is likely to be a minimum position or "floor" that is floating far above the real world.

An alternative symptom, equally unsatisfying to governments, is to leave a negotiator with enormous discretion. A negotiator typically sees her job as reaching an international agreement consistent with her instructions. Of course, the more favorable to her government an agreement may be, the better the government will like it. But reaching any agreement -- even a poor one -- within instructions is likely to be considered a success, whereas failure to reach an agreement would be considered a failure. Further, a negotiator armed only with positions and arguments is unlikely to appreciate the interests of different elements of the bureaucracy. In these circumstances, there is a high risk that the goal of reaching agreement will cause a diplomat to settle for an outcome that is substantially short of the best that might have been attained. Giving a negotiator wide discretion thus runs the risk of making it too easy to reach agreement -- so easy, in fact, that an agreement does not serve a government's interests as well as it might.

Faced with this choice, a government tends to limit discretion. Our hypothetical negotiator will find her hands safely tied. She asks authority to do so, and the government can later decide if that concession is justified. The result is that international negotiations often involve three layers of positional bargaining:

If she later wants to make a concession, she can

- * one among the different interests groups within each government;
- * one between each negotiator and his or her own government; and
- * one between the two negotiators acting on behalf of their respective governments.

Such a process is hardly conducive to wise joint problem solving. What is wrong with the process? How might it be improved?

Analytically, what is

Analysis: Four Possible Causes of Difficulty

To reduce the destructive impact that internal negotiations have on external ones, we will need some hypotheses about what is going wrong. Let me advance four. The possibility of reaching a good outcome in external negotiations is handicapped to the extent that:

It appears that

(1)

(2)

Throughout the process the focus is on the single element of commitment;

The perceived function of the external negotiator remains fixed over time;

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PrerNegotiation Workshop with the A.N.C.

August 15-16, 1991

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1.

INTRODUCTION: PURPOSES OF THE WORKSHOP

To increase awareness of critical process issues
To provide tools and approaches for dealing with these issues
To help generate options
(Not to propose or reach agreement on substantive solutions)

2.

PREPARATION FOR NEGOTIATION

(An ongoing process that never ends)

PURPOSES: What are the purposes of preparation?
PRODUCTS: What are products of good preparation?

Understanding the terrain of negotiation -
Seven important elements:

INTERESTS

What are our real concerns and needs?
What are those of other parties?

OPTIONS

What are some possible ways to meet those interests?

LEGITIMACY

What external standards of fairness might be
persuasive (to us, to constituents, to other parties,
to the international community)?

COMMITMENTS

Exactly what commitments should we seek?
When?

From whom?

RELATIONSHIPS

How well are we dealing with those with whom we
disagree?

COMMUNICATION

Are we being heard?

Are others?

ALTERNATIVES

What is our best course of action if we don't reach agreement?

What will others do?

PEOPLE: Who should participate in preparation?

PROCESS: What is a good process for becoming prepared?

Preparation in practice -- an illustrative exercise:

Community Conflict

THE ONE-TEXT PROCEDURE

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BUILDING A GOOD WORKING RELATIONSHIP

Application to nonĩ¬\201ĩ¬\202NC parties in South Africa

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Coalition Problem

COORDINATING INTERNAL AND EXTERNAL NEGOTIATIONS

THE ONE-TEXT PROCEDURE

Lunch

.Application to the.All~Party Congress

IMPLEMENTING A PROCESS DESIGN

RELATING LOCAL NEGOTIATIONS WITH NHTIONAL ISSUES

GOING FORWARD

wrap-Up:

_NECOT18TION POWER

End of Workshop

- * have established a good personal working relationship;
- * have developed easy and effective communication;
- * have come to understand the interests of both parties;
- * have explored precedents and other possible criteria of fairness that might be persuasive to one government or the other;
- * have fully understood their own alternatives to a negotiated agreement and have estimated those of the other side; and
- * have considered a range of possible options that might form a basis for agreement.

To the extent that this premise is correct, instructions from an organization to a negotiator should reflect the fact that much work should be done before either of them decides on the commitments that ought to be made.

During the early stages of a significant negotiation, communication between a government and its negotiator should be concerned with interests, options, and criteria of fairness. Beyond standard instructions regarding establishing effective communication and a good working relationship, a government would be well advised to instruct its negotiator about the interests at stake in the negotiation, the government's current thinking about the relative priority of those interests, and possible tradeoffs among them. Internal negotiations might also produce a number of options that the negotiator could explore with the negotiator from the other side. and evaluating precedents and other external standards of fairness that would be both highly satisfactory to "our" government and persuasive to the other side.

Further, early internal negotiations might be directed toward finding

This means that, instead of establishing "demands or "positions," early instructions should limit the authority to commit. There is an ironic contrast between power and authority. The more power that a diplomat has to make commitments, the more tightly a government is likely to confine the exercise of that power and the less practical ability that diplomat is likely to have to engage in constructive work. An ambassador is typically "plenipotentiary." Vis-à-vis another government, an ambassador has full power. Under international law, any commitment that an ambassador makes is binding on his or her government. Even an oral statement by someone with full powers can have serious consequences. In 1933, for instance, the World Court held that when the Norwegian Minister of Foreign Affairs had said that his government "would not make any difficulties" in the settlement of the Greenland question, it placed Norway "under an obligation to refrain from contesting sovereignty over Greenland as a whole."

Because of this extraordinary power, governments typically give an ambassador instructions that set firm limits on what the ambassador is allowed to do. For fear that something a diplomat might say would constitute a commitment, the diplomat is instructed not to discuss any issue on which the government does not wish to be committed. Such instructions preclude a diplomatic negotiator from engaging in the kind of exploration of

- (a)
- (b)
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- (f)

understand in some detail the interests and concerns of the other government, as they perceive them to be, and demonstrate to the other negotiator that you do understand them;

explain our basic interests honestly, and make sure that the other negotiator understands them (Do not disclose secret information nor should you disclose the value we place on some particular interest if that will make us vulnerable);

tentatively establish a proposed scope for a substantive agreement that lists the subjects and issues to be covered;

generate a range of options that might conceivably be acceptable to both governments and might meet their interests as well as they can be reconciled;

identify different standards of fairness, equality, or reciprocity that might provide a sound basis for satisfying the leaders and constituents of each country that it is being fairly treated in an agreement; and

revise and improve those options that either negotiator believes hold promise of meeting the legitimate concerns of both governments.

Structure of meetings. You should feel free to design your own negotiating sessions in a variety of ways: sometimes formal, sometimes informal; sometimes in a private meeting and sometimes with other invited to join you; sometimes in "brainstorming" sessions designed to generate fresh ideas, and sometimes in sessions designed to evaluate and improve ideas that have been generated. You should feel free to invite people from either government and nongovernmental experts to join you as you and your fellow negotiator may decide.

Subcommittees, consultants, and facilitators. You and your fellow negotiator may find it useful to ask specialists on each side to form a subcommittee for the purpose of gathering information, developing new options, or studying and refining some proposal. If a part of the negotiation involves secret information that one side or both is reluctant to disclose, you may find it helpful to obtain the assistance of a trusted neutral who could speak with each side in confidence and recommend ways to proceed. Such a neutral third party might also play a useful role in facilitating meetings where progress is otherwise difficult.

Propose work for the government. The work that you are doing with the other negotiator and the internal work being done by your government constitute a single, ongoing, and interactive process. Whenever you would

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THINK ABOUT THEIR CHOICE*

1. Problem

Too often we face difficult situations where people are acting in ways we dislike. They either do things we wish they wouldn't, or they don't do things we wish they would.

11. Diagnoses

1)

2)

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We see them as unimenable. We tend to believe we are fair and reasonable, but suspect the other side may not be. When they don't do what we want them to do when they say "no" rather than "yes" their behavior simply confirms our view that they are unimenable or even irrational.

We ignore the choice they perceive. We look at the situation from our own perspective, not theirs. We usually don't analyze what might be leading them to say "no."

And if we do, we often do so without much empathy. Instead of trying to understand first, the choice they think they face, and second, the kinds of consequences that saying "yes" and "no" would mean for them (both personally and professionally), we attribute nasty motives to them.

When they say "no," we escalate. When people don't do what we want them to do, we often react by trying to apply more "pressure." We come up with more reasons and arguments explaining why what we are asking for makes sense. The problem is that this often leads them to react with counterarguments, causing them to dig their heels in further. As we step up our pressure, they step up theirs.

We present them with problems, not answers. Too often we present them with proposals that require complicated answers: they cannot say simply "yes" or "no." Rather than offering them a solution, we burden them with another problem. Such proposals tend to end up at the bottom of paper-piles instead of the top.

II. General Approach

1)

Operate on the assumption that they are imenable. If we see them as imenable, then we are more likely to make a genuine attempt to understand their thinking. And if we do that, we're more likely to understand how we might influence them.

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Negotiation Workshop

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NEGOTIATION AND RELATED PROCESSES

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4)

Focus on their current Choice -â\200\224 as they would see it. Since we want to influence their decision, and since they are the ones confronting the choice, their thinking is crucial. We need to know what their perceptions are, not what we wish they were.

If their "no" makes sense, then change their choice. From their perspective it makes sense for them to say "no," then we need to change their Choice as they see it. Sometimes increasing pressure may Change their choice -â\200\224 but too often it simply reinforces their current reasons for saying "no." perceive it. A new choice that meets our interests well, but is also sensitive to their realistic constraints, increases our chances of getting a "yes."

In planning a new choice it is critical to consider how they will

If we can understand why

Give them a "yesable" proposition. Craft a proposition to which the word "yes" is enough (where no more is required of the decision-maker) and makes something happen (it is clear who does what tomorrow morning).

IV. Specific Action Idea

We can use three sequential thinking tools to help us implement this kind of choice analysis. They are: Tool, and 3) Yesable Proposition Tool. (See next page for specific instructions.)

1) Currently Perceived Choice Tool, 2) Possible Future Choice

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THE CURRENTLY PERCEIVED CHOICE TOOL

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PARTISAN PERCEPTIONS

Important "facts" that
as crucial

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The Seven Elements as 3

Checklist for NEGOTIATION (cont)

Legitimacy

Maximize legitimacy

- a)
- b)
- 0)

Use external standards

Pass the test of reciprocity

Be sure we are open to persuasion

Communication

Promote two-way communication-â\200\224First listen,
and show that we have heard

Commitment

Commit with care, after inventing

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Negotiating Inside Out:

What are the Best Ways to

Relate Internal Negotiations with External Ones?

Roger Fisher

In every negotiation involving an organization, internal negotiations have a major impact on external ones. When a union, a corporation, a government, or even a family is about to engage in negotiations, discussions and decisions among the "insiders" are likely to make it difficult for that body—as an entity—to conduct ideal problem-solving negotiations with others. No matter how creative and flexible the internal process may be, it is likely to result in instructions that unduly tie the hands of a negotiator acting on behalf of an institution.

An institution is not a single rational actor, nor does it behave like one. Within a government, for example, individuals pursue their own careers and seek to advance the interest of their own particular office or agency as well as seek to advance the cumulative interests of the government as a whole. Another complicating factor concerns the role negotiators believe they play in the process. Many negotiators view themselves as someone who "represents" the institution and defends its position; they do not perceive themselves as persons hired to work out an optimal solution. But how should a government, a corporation, or other institution relate its internal negotiations to those it has with outsiders?

Suppose high officials of two corporations are contemplating the possibility of negotiating a complex agreement. What is the best advice that experts could give them on how to structure those negotiations to maximize the chance that they would not only reach an agreement, but also would reach an optimal one -- an agreement that could not be better for one corporation without being worse for the other? Having formulated the best advice that we could give the two together, would our advice to one alone be significantly different?

Consider, for instance, the case of a diplomat who will be negotiating under instructions from his government. Both he and the government are likely to see the problem either the negotiator will believe that he has too little freedom of action or the government will believe that he has too much. Instructions are likely to be written before government officials have done much hard thinking about the interest of the other government or much creative thinking about possible ways of reconciling the differing interests of the two governments.

When discussions take place within a government in advance of an international negotiation, participants are likely to assume that their task is to reach internal agreement on something. Traditionally, that "something" is a position—a statement of what the negotiator will demand or the minimum that he or she has authority to accept. Frequently, such a position reflects an odd kind of compromise—one that adds up the desires of the different

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111.

General Prescriptions: Devise general prescriptive approaches.

We can now invent a wide variety of possible approaches that might solve the

problem by dealing effectively with the causes we have identified. These approaches should

be general, i.e., capable of being implemented in several different ways. For example, to deal with the diagnosis of Americans waiting to see if Soviet actions will match the rhetoric,

one approach might be, "Create programs in which Americans can see the concrete achievements of perestroika." Another approach might be, "Help Americans to understand the difficulties involved in trying to restructure a society in accordance with one's political, economic, and social goals."

IV.

Specific Action Ideas: Invent specific plans to implement the general approaches.

Finally, we can examine each of the general prescriptive approaches and invent

several specific action plans for implementation. For example, to implement the idea of

helping Americans to understand the difficulties involved in restructuring a society, one

might convene a conference of Soviet and American politicians and academics to discuss, "New Approaches to Reforming and Streamlining Bureaucracies."

Final Notes:

The Circle Chart can be used by one individual or a group preparing for a

negotiation, and can also be used by negotiators from both sides working together as joint problem solvers.

Although these four steps are the logical order in which a problem could be analyzed

and solved, the human mind often makes intuitive, non-linear leaps from one mode of thinking to another. The Circle Chart can help us keep track of those ideas: place them in

the quadrant where they seem most appropriate, and then move backwards or forwards from that idea around the Circle Chart.

Occasionally, users of the Circle Chart may be uncertain about which Quadrant an

idea should be placed. For example, "lack of trust" may be seen as a problem (Quadrant I)

, or a diagnosis (Quadrant II). The idea should be placed on the chart where it will be most

useful: that is, where it stimulates other thoughts that help address the problem.

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UNCONDITIONALLY

CONSTRUCTIVE

1. Even if they are acting emotionally

I BALANCE EMOTION WITH REASON

2. Even if they misunderstand,

I TRY TO UNDERSTAND THEM

3. Even if they don't listen,

I CONSULT BEFORE DECIDING AND

LISTEN TO THEM

4. Even if they try to deceive

I BE RELIABLE

5. Even if they try to coerce,

I BE OPEN TO PERSUASION, AND TRY.

TO PERSUADE THEM

6. Even if they reject us,

I ACCEPT THEM AS WORTHY

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Managing Internal and External Negotiations

(Outline)

1.

The Problem

Internal negotiations produce rigid positions
It is then often difficult to balance interests

11.

Possible Causes of the Difficulty

Too much focus on the element of
commitment

Negotiator has single job: deal with positions

Internal/external negotiations are separated

Negotiators role is simply that of partisan

|1|.. Suggested Approach

Instructions should cover all 7 elements
Job of negotiator should change over time
Internal/external negotiations should be one

interactive process

Each negotiator should be both a partisan

advocate and joint problem solver

J.

I

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Rules of Thumb
For Facilitators:

1. Alternatives.

Clarify BATNAs (reality-
testing)

2.

Interests:

Draw out & clarify
interests

3. Options:

Generate many options

4. Legitimacy:

Propose & help them
find external standards
of fairness

,

5. Communication: Facilitate it both ways

6. Commitment:

Craft Wise
commitments

7. Relationship:

Help build a good
working relationship

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Building Relationships As

We Negotiate

(Outline)

Symptoms: "Bad Relations"

"No Relationship"

Possible Causes:

1. Not certain what the goal of "Good

Relations" means

2. We don't know how to get there

Suggested Approach

GOAL:

An ability to deal well with

,

differences

STRATEGY:

1.

Disentangle Relationship from

Substance

2. Be Unconditionally Constructive

,

Do only those things that are

Good for the Relationship AND

Good for Us (whether or not

,

reciprocated)

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The One-Text Procedure

Implementation Steps

To use the One-Text Procedure, a third-party facilitator should follow these steps (for

more details, see *Getting to Yes*, pp. 118–122):

1.

2.

Explore underlying interests. Meet with the various parties to explore interests and concerns underlying such positions as they may have.

Write a first draft. Equipped with an initial sense of what the different parties want, write a first draft of a possible agreement. The draft should outline the key issues that need to be dealt with, and presents one way of meeting them.

Two guidelines will help avoid premature commitment:

a.

b.

Emphasize the draft's incompleteness by writing "DRAFT" at the top of each page and leaving blanks in the text.

The more sensitive the conflict, the more incomplete and non-operational this first draft should be.

3.

Discuss with each party.

a.

b.

c.

(1.

Explain the groundrules: "No one will be asked to commit to any part of this draft or to the whole draft until the end of this process. During this process, you can neither accept nor reject any part of the draft since it is not being proposed. When I am finally through with my work on it, then I will give you an opportunity to accept it or reject it."

Ask for criticism (and listen for underlying interests and concerns):
"What's wrong with this? Which legitimate interests of yours are not reasonably met by this draft? Which are?"

Avoid asking a party for a specific solution to their problem, since this runs the risk of locking them into that option.

Make no commitments to anyone regarding how you will redraft the text.

4.

Keep only one copy (your "one-text") and make no copies for anyone else. Avoid giving copies of the text to the parties. (They will tend to amend them to their complete satisfaction, take a position, and start a process of multiple texts.)

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"Good Relations"

â\200\230 ?

Affection?

Shared values?

No disagreement?

Mutual approval?

"I

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Problems with SOFT/HARD - 6

Assumption

What matters is what we tell them.

Partial Validity

Talking to them is important.

Common Error

One-way communication.

Listening is important too.

Rules of Thumb-

Consult before deciding--and listen!

Show we have heard them.

Be able to put their case as well or better
than they can.

.

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Problems with SOFT/HARD - 4

Assumption

Negotiate by conceding. -
generously or stubbornly.

Partial Validity

OK to be
flexible.

OK to be firm.

Common Error

Mix inventing with deciding.

Rules of Thumb

Separate inventing from decision-making:

-
-
-
-

Invent options without commitment or
evaluation.

Â»

Seek. options for mutual gain.
Evaluate these ideas and try to improve

,

the best,

Then, carefully, commit.

,

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The Seven Elements as a

Checklist for NEGOTIATION

Alternatives

Develop our BATNA; Consider theirs

Relationship

Deal with the relationship and the substance-
each on its own merits

a

b)

Gentle with the people, firm on the problem
Distinguish their worth as a person from the
correctness of their views or conduct

C) Speak for ourselves, not for them

Interests

Clarify interests, not positions

Options

Generate better options

3)

b)

C)

Separate inventing and deciding
Invent options for mutual gain
Give them an answer, not a problem

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PARTISAN PERCEPTIONS

How
may perceive

How
may perceive

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USING THE TOOLS -- OPERATIONAL STEPS

A. Start with their Currently Perceived Choice (CPC).

The purpose of a CPC is to give us a clear and empathetic understanding of why

someone is now saying "no " when we want them to say "yes. I! We need to know where their mind is today if we hope to change it tomorrow. A well constructed CPC will tend to make us think things like, "If that is how they see their choice, then I can see how it makes sense for them to say no.

1)

2)

3)

4)

5)

Identify the target decision-maker. Who is it that we wish to influence? Be specific here. Decisions are made by individuals, not organizations. And even if some group of people must reach a consensus on a decision, someone must put that decision before the group.

Capture the question. Imagine the fundamental question, explicit or implicit, that they currently see us asking them and to which their answer is "no."

The challenge here is capturing the question they perceive, not the question we wish they perceive.

Create "yes" and "no" columns. Below the question, create two columns. Put "if yes" on top of the left column and "if no" on top of the right column.

What are the consequences if they say "yes?" List the kinds of things that, if they were to say "yes," they might see happening to themselves, to their constituents, etc. Put a plus (+) in front of those that they would see as positive and a minus (-) in front of those that they would see as negative. Since they are currently saying "no," the negative consequences should outweigh the positive.

What are the consequences of their current "no?" Now list the contrasting consequences of their current answer in the "no" column.

B. Construct a Possible Future Choice (PFC).

If, after reflecting on their CPC, we can understand how it makes sense for them to say "no, " then we need to design a new choice for them, one to which the answer "yes" is more likely. The purpose of constructing the PFC is to help us identify the characteristics of what such a new choice might be.

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A Systematic Approach

to Influence

(Outline)

1. CURRENTLY PERCEIVED CHOICE TOOL I

(CPC)

-
-
-
-

Whom are we trying to influence?

What do they think we are asking them

-

to do?

How do they see the consequences of

â\200\230

saying "yes"?

How do they see the consequences of

saying "no"? (their BATNA)

2. TARGET BALANCE; SHEET TOOL

-

How would their future choice have to

look for them to say "yes"?

3. YESABLE PROPOSITION

-

What proposal would confront them

with a choice they might
accept?

4. RESTRAINTS ON CHOICE

-

Reality testing

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Restraints on Choice Tool

How could they announce this decision?

What could the worst significant critic say?

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like help in Clarifying interests, generating options, gathering data, suggesting appropriate criteria, or performing any other function that might lead to a good agreement, please inform the government.

10.

Request revised instructions. As the negotiations proceed, we will all learn more about the problem and about possible solutions. The government expects to revise your instructions from time to time as we move from the exploratory and creative phases of the negotiation toward the commitment stage. One of your responsibilities is to do your best to see to it that the government has the full benefit of your experience, wisdom, and judgment not only in implementing instructions but in improving them. As time and circumstances permit, please propose additions or revisions in your instructions.

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(3)

Internal and external negotiations are compartmentalized -- they are viewed as separate and distinct functions; and

(4)

Negotiators see their role as simply being partisans.

Each of these hypotheses deserves analysis. Each also suggests a proposition about what might be done to improve the process.

Focus Negotiations on More Elements than Commitment

The first hypothesis is that there is an undue focus on the single element of commitment. At the Harvard Negotiation Project, we organized much of our thinking on negotiation around seven elements:

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.

The INTERESTS of the parties -- their needs, wants, hopes, fears and concerns of all kinds such as for security, profit, recognition, or status.

The LEGITIMACY of an agreed outcome as measured by precedent, law, practice, or other external criteria of fairness that are persuasive to one or both parties.

The RELATIONSHIP that exists between the parties and between their negotiators. The better the working relationship, the easier it will be to produce an outcome that well serves the interest of all.

The BATNAs. The Best Alternative To a Negotiated Agreement that each party has. (What is the best each can do by walking away?)

The OPTIONS on which they might agree, some of which, it is hoped, will be better for each party than its BATNA.

The COMMITMENTS of the parties -- statements of what they will or won't do, made during a negotiation or embodied in an agreement.

The COMMUNICATION between the parties. The more effective that communication, the more efficient the negotiating process is likely to be.

In general, in most interactions between internal and external negotiators, too much attention is paid to the single element of the commitments to be made and the authority to make them, and too little attention is paid to what the negotiators could be doing with respect to each of the other six elements. A suggested approach to deal with this problem would be for those within a government -- or any other organization -- to develop instructions that say something about all seven elements.

Good outcomes tend to be more likely when negotiators fully understand a problem

before committing themselves or their organizations to a particular solution. This means that

better results will usually be achieved if the making of commitments is postponed until after the negotiators:

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Conflict Management Group

11/8/91

Pre-Negotiation Workshop with the A.N.C.

August 15-16, 1991

PROPOSED SCHEDULE

Recommended Advance Preparation: ARead Getting to YES by Roger Fisher and William Dry.

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9:15

10:15

10:45

INTRODUCTION:

PURPOSES OF THE WORKSHOP

The Arm Exercise

MEASURING SUCCESS IN NEGOTIATION

PREPARING FOR NEGOTIATION

Break; Read instructions for Community Con6Âficx.

Prepare by sides for Community Can6Âfict{

11:45

Negotiate Community Conflict Cl-on-11.

12:30

13:15

14:15

Review

Lunch

"SYSTEMS" OF NEGOTIATION AND SOME RULES OF THUMB

15:00 .

Consensus Exercise

15:30

A SYSTEMATIC APPROACH TO INFLUENCE

16:30

(Working Groups)

Analyze the choices of various noanNC parties.

18:00

Working Group reports

18:45

Break for dinner

20:00

(Optional)
Negoxiazian.

View excerpts from Gezzing to YES: A Video WomkÃ©hop on

21:30

Break.

Read and prepare The C0aÂfiIion PaobÂ£2m.

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11/8/91

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3.

NEGOTIATION STRATEGIES

(Bow make progress without making concessions?)

Ways of putting the elements together:

"Systems" of negotiation and some rules of thumb

What if the other side says no -

A systematic approach to influence:

Who are we trying to influence?

What is their currently perceived choice?

What do we want them to see their choice?

What is a proposition to which they might say "yes"?

What restraints do we each have on our choice?

Dealing with the media

Dealing with constituents

- ours

- theirs

Application to the issue of an interim government

Thursday Evening (optional)

Excerpts from Gezxiing 10 YES; A Video woahahop on NegaZLazion.

(A tape, intended for 0.5. corporate executive training, that illustrates how some of the theory works in practice.)

Types of Facilitators

Positional

One-Text

Lock parties into

Seek Out interests

positions

.

Ignore interests,

Clarify interests,

opponents

opponents

Ask for many
concessions

Invite criticisms

Demand numerous

Ask for one final

decisions

decision

Always ask for more

Give one final,
4 fading opportunity

Parties feel like they

are on a slippery
slope

Parties understand
consequences of
decision

~

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Possible Future Choice Tool

[How we would like, and can reasonably expect, the target decisionmaker to see his choice in the near future. Faced with a new choice (our new proposal), what favorable consequences do we want the decisionmaker to see if he says "yes" and what negative consequences do we want him to see if he says "no " ?]

DECISIONMAKER:

QUESTION: "SHALL I (WE) ACCEPT THEIR
NEW PROPOSAL, THE X PLAN?"

IF "YES 11

IF "NO N

__...__

BUT:

BUT:

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b)

Focus on understanding their perceptions. The skill that is probably

most useful (and least often apparent) in dealing with a conflict is the ability to develop an empathetic understanding of the other side's perception of the situation. Two tools help here:

1-

2-

Partisan Perception Chart: In two columns we can chart the differing perceptions of the relevant history, current facts, grievances, and goals and intentions of the parties involved in the conflict. These partisan perceptions should be presented so that typical partisans would find the statements of their adversaries' perceptions both plausible and illuminating. (See Partisan Perception charts.)

Role Reversal Exercise: To increase our awareness of how the same "facts" can be perceived differently depending on our point of view and to stimulate our thinking on the implications of partisan perceptions, we can use the Role Reversal Exercise. (See "Role Reversal Guidelines.")

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PERCEPTIONS*

Understanding Theirs and Shaping Ours

We all face a complex world. To make sense out of it, we develop perceptions, or views. We perceive that a woman is a mother when we see her holding a child. We don't ask her; we assume. We question these perceptions when we recognize disconfirming data: if the woman and Child have different skin color, then we might assume that we were wrong. If these two are then greeted by a man of different skin color than the woman, our perception might change again. And so on.

1.

What we perceive differs. The problem is that different people see things differently. Depending on our specific perspective, our perceptions vary. Terrorists tend to be seen as freedom-fighters by the freed; freedom-fighters tend to be seen as terrorists by the terrorized. Perceptions differ. They always will. Dealing skillfully with these differences in perception is, in large part, what conflict management is all about.

How we perceive is the same. Confronted with huge amounts of experiential data, we focus on some and not others. Based on these selective data, we develop perceptions. Once we have a perception, we then observe new data with this perception in mind. When we notice things that confirm our view, we see this as evidence of how correct our perception is. Furthermore, we tend to ignore disconfirming data. They don't seem so worthy of consideration. The more convinced we become of our view, the more we filter out information that would lead us to question our underlying assumptions. To the extent that our current perceptions are distorted, our future perceptions may become even more so. As our perceptions become more entrenched, the more obvious it is that we are right and others are wrong.

In difficult situations, the more

How might we cope? Given that each party to a conflict is likely to have different perceptions, what can we do to improve the ways we cope with these differences?

a)

Look for disconfirming data. One way to avoid the trap of self-fulfilling prophecies is to search actively for disconfirming data. This is particularly difficult when we feel strongly about a perception. Here we may need the help of third parties or people from the other side in order to see things that we may be currently unaware of. We might say:
need your help. Having said that, my perception is.

"I am aware that I may be blind to certain things here, so I may

.

"

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Yesable Proposition

A proposal is YESABLE if, as a response,

the single word YES is --

-: Sufficient

- Feasible

- Operational ,

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Negotiation Power =

POWER TO INFLUENCE ANOTHER'S DECISION

We fail to enhance our negotiating power:

. There is power in:

1. A good BATNA

N

Understanding interests

°

9

An elegant option

5

:

Persuasive criteria of fairness

"

S

Well-crafted commitments

° Effective communication

F

7. A good working relationship

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Currently Perceived Choice Tool

[Whom are we trying to influence? What is the primary decision they see themselves facing? From their perspective, what are the pros and cons of that decision .7]

DECISIONMAKER:

QUESTION: Shall I (we)

?

IF "YES"

IF "NO"

[negative consequences of saying "yes " to
the above question, in possible order of
importance]

[favorable consequences of saying "no " to
the above question, listed in order of the
subjects on the left]

-

-

-

-

-

BUT: [favorable consequences
of saying "yes "]

+

+

+

+

+

+

+

BUT: [negative consequences of
saying "no"]

..

..

Internal and External Negotiations Should Become an Interactive Process

People tend to see internal negotiations as a process that is wholly distinct and separate from the external negotiations that may be taking place on the same subject. In a typical big negotiation, a large number of people with different perspectives, differing interests, and different talents will be involved. Some of these people will be working within one organization, some within another, and some will be the negotiators themselves or their staffs. Outside experts and people from other organizations or governments might also have a contribution to make. One who will be conducting external negotiations will often participate in the internal discussions as well. In the role in the drafting of their own instructions. But the internal negotiations on each side are likely to be compartmentalized and kept quite apart from the external negotiations.

In fact, negotiators often play a significant role

In a

A highly structured division between internal and external negotiations tends to

If an all-knowing God were considering an international problem in which,

restrict the contributions of knowledgeable people to what each can do within a carefully prescribed role.

say, 22 people were involved, each of whom knew different things and represented a particular point of view, and if His objective were to produce an optimal outcome -- one that could not be better for one country without being worse for the other -- it is unlikely that He would design the current model. He would not put ten people in one room and ten people in another, each group to issue positional instructions to its diplomat, the two of whom would then meet and bargain. Even without divine guidance, we should be able to design a process that will do better. Such a rigid and adversarial structure is unlikely to be the best way of engaging multiple parties with diverse interests and skills in successful joint problem solving. We will want to use a process that permits people to build on each other's knowledge and skills.

The talents of all of those involved, whether a member of an "internal" team or a

"negotiator" -- whether within one government or another -- should be orchestrated to produce the best possible outcome. This means that the structure of the negotiations should be flexible and open, with substantial use of prenegotiating sessions and nongovernmental experts. Contacts among all of them should probably be planned and encouraged rather than discouraged. Subcommittees, joint fact-finding teams, brainstorming sessions, and small working groups of specialists from both sides (such as military officers, lawyers, or technical experts) should be put to good use.

Every Negotiator Has a Dual Role: Both Partisan Advocate and Co-Mediator

A negotiator may understandably have a bias in favor of his own side.

In fact, a

diplomat may correctly perceive his mandate to behave as a zealous advocate of his nation's interests. But arguing in favor of one set of interests is less than half his job. Two diplomats negotiating on behalf of their respective countries also have the joint task of efficiently producing a workable agreement that reconciles as well as can be the inte

rests of
the two governments in a manner that is acceptable to both. Although each negotiator's task
can thus be seen as that of a co-mediator, the normal relationship between internal and
external negotiations does not make it possible for two negotiators to use the tools and
techniques that a skilled mediator might employ. Instructions to negotiators should maximize
the chance that they can function effectively together and jointly develop a solution that will

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HARVARD NEGOTIATION PROJECT AND CONFLICT MANAGEMENT

For more than 25 years, Professor Roger Fisher and his associates have advised world leaders, diplomats, community groups, non-governmental organizations, business leaders, educators and labor organizations in many countries on how to resolve complex and difficult disputes involving public issues, economics, politics, labor, and other areas.

Comprised mainly of faculty and graduates of Harvard University, the group combines pioneering theory developed at the Harvard Negotiation Project - probably the world's leading university center devoted to such work -- with experience handling real-world problems. The combination provides a powerful resource that enables organizations to resolve their problems through more skillful use of negotiation, facilitation, and other problem-solving methods.

The professionals work in South Africa, the Soviet Union, Europe, Latin America, the U. S.

the Middle East, Asia and elsewhere. Demand for such work has risen amid the faster pace of international contact and conflicts in trade, culture and politics. CMG has:

- 9 Trained a wide array of diplomats and trade officials to negotiate more effectively.
- 0 Assisted countries and companies in dealing more skillfully with foreign investors.
- 0 Helped nations reduce internal turmoil by teaching factions negotiation skills.
- 9 Helped firms devise joint approaches for more productive, equitable operations.
- 0 Advised schools, unions, managers, lawyers and others on how to resolve differences.
- 0 Aided non-governmental groups in social, political and economic change.

The U.S. Foreign Service Journal called Professor Fisher "the leading authority on conflict resolution."

A Harvard Law School professor and Director of its Harvard Negotiation Project, Professor Fisher played a key role in designing the negotiating procedure leading to the Camp David Accords between Israel and Egypt; helped establish a negotiation framework leading to the 1981 release of U. S. hostages in Iran; was the first American to teach at the Diplomatic Academy of the Soviet Foreign Ministry in Moscow, and advised several Central American presidents on achieving regional stability. Mr. Fisher co-authored 13, with 2 million copies in print in a dozen languages.

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He and his colleagues work through 3 entities: the Harvard Negotiation Project, which develops theory, research and teaching materials; Conflict Management Inc. , which advises corporations, and Conflict Management Group, which advises on international conflict. and public policy. They include professors and graduates of Harvard's Business, Law and Kennedy Schools, former Wall Street attorneys, former State Department and Congressional staff and advisers to major firms. Among them are Harvard Business School Professor Howard Raiffa, who pioneered the field of decision science; Harvard Law School International Programs Dean David Smith, and leading international law scholar Louis Sohn.

The professionals are known for creativity in resolving hard problems. They specialize in helping groups from different backgrounds deal effectively with differences. Identifying mutual interests and options for mutual gain are emphasized. Parties are advised on how to talk to one another, so poor communications and working relationships do not interfere with progress. Then, an analytical structure is provided so parties can resolve substantive issues in a way that produces the best options that will survive over the long term. This has proven to be a better and more effective alternative to the traditional adversarial, positional way of negotiating.

be acceptable to their two governments. One particular tool that they should be able to use is the "Oneâ\200\224Text Procedure," based on the concept of a single negotiating text.

When using such a text, two negotiators, without seeking or obtaining commitments from anyone, jointly prepare a rough draft of a possible agreement and then, in the light of comments from knowledgeable people in both governments, revise and reï-\201ne successive versions of that draft until they can make it no better. At that time, they jointly recommend the draft as a proposal to their two governments.

A Way to Begin

A useful way to think clearly about how best to relate internal negotiations to external ones is to try to draft some standard clauses for instructions that might be given to all international negotiators. Despite the magnitude of the task -- in fact, because of it â\200\224- it may be worthwhile to get started. Here is a i-\201rst attempt:

Some Possible Standard Instructions

An Illustrative Draft

- 1.
- 2.

Unclassiï-\201led. Although you will also receive some confi-\201dential instructions, this part of your instructions is open. You are free to show these instructions to the other side, and are encouraged to do so. Thereafter they may be made public.

Authority. You have full authority to discuss any issue relevant to the subject matter of these negotiations about which either you or the negotiator with whom you are dealing wishes to talk.

You also have authority to make procedural commitments with respect to agenda, the time and place of meetings, etc.

Further, you may make personal commitments of substantive recommendations that you will make to your government, but are encouraged to be cautious in doing so. You should emphasize that such statements are your recommendation to the government, not necessarily the action the government will take.

If at any time you believe that such authority would be

You will be given explicit authority to make substantive commitments at an appropriate time. helpful to you, please request it. In the meantime, knowing that what you say will not commit the government gives you great freedom to pursue the tasks necessary to generate an agreement that will well serve the interests of this government as well as serving the legitimate interests of others involved.

- 3.

National interests. You are negotiating in order to advance the national interests of your government broadly conceived. These interests, in their normal order of priority, are as follows:

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4.

WORKING RELATIONSHIPS

How build relationships without making concessions?

How build relationships with those we don't trust?

Strategies for building relationships with:

- Members of a Patriotic Front
- The Government
- ~ Inkatha

5.

DESIGNING A PROCESS FOR MULTI-PARTY NEGOTIATIONS

Multi-party negotiation in practice - an illustrative exercise:
Coalition Problem

The

How avoid letting internal negotiations impede progress in negotiations with others?

Strategies for coordinating internal and external negotiations

How manage complex negotiations among many parties?

A method for producing specific terms for an agreement

- without making concessions
- ~ before making commitments:

The One-Text Procedure

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Consulting Session

African National Congress

2 - 3 August 1991

Conducted by:

Conflict Management Group

50 Church Street

Cambridge, MA 02138

(617) 354-5444

Teaching Staff:

Roger Fisher

Diana Chigas

Bruce Patton

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3W. Wï-\202liston Profmsor of Law, HarvardÂ» Law School. Taught. there since.
1958. Director, Harvard Negotiation Project. Founder, CMG/CM. 30 years. as. adviser and
strategist on international conï-\202ict. Advised Iran and U.S. governments in negotiatio
ns for
rdme- of American hostages in 1981. Helped design process for successï-\201n Camp-David
negotiations. between Israel and Egypt in 1978. Advised. Presidents. of Guatemala, Costa;
Rica,
and Nicaragua before the 1987 Esquipulax II treaty on regional pace; Co-author, 59mm
- .With 2 million copies in a dozen languages.

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and government ofï-\201cials on negotiation strategy. Called "the leading authoï-\201tyâ
\200\230 on conï-\202ict
resolution" by U.S. Foreign Service journal.

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W. Staï-\202 Consultant, CMG. Specmhzes m. Latm Manx South Aï-\201icn,

Europe. Taught international conflict, negotiation at Harvard: developments editor,
International law Journal. Worked at Steptoe & Johnson and. Bryan, Cave, McPheeter &
McRoberts, Washington, D.C.; Sidley & Austin, New York; Werner & Sieber, Geneva.
Fluent: British, Greek; conversant: Spanish, German. B.A. Yale. I.D. , Harvard
; M.A. -
expected, Fletcher School of Law and: Diplomacy.

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W. Deputy Director/co-founder, Harvard Negotiation Project and: CMI;
Baal Lecture: on Law, Harvard Law School; Director, CMG. Teaches Negotiation
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Workshop and Advanced Negotiation Seminar at Harvard law School. Mediated disputes:
Central America, South- Afr'ca, 1980 Iranian hostage conï¬\202ict, business/labor. Design
ed.
negotiation programs for NATO Defense and U.S. Air. War colleges, International Institute
.
for Applied Systems Analysis, IBM, I.P. Morgan, Deloitte and Touche, Florida and Canada:-
bar associations- Co-authon'ng textbook on: negotiation; A.B. , LD. , Harvard.

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Negotiation: A Good Outcome

No Agreement, or else an agreement that:

1 .

Is better than our BATNAâ\200\224â\200\224Best Alternative

To a Negotiated Agreement

Satisfies Interests

Ours, well

Theirs, acceptably

Othersâ\200\231, tolerably

Is an elegant, no-waste solution: among

the best of many Options

Is Legitimateâ\200\224-N0 one feels taken

Includes Commitments that are well-

planned, realistic, and operational

Is reached efficiently--there is effective

Communication

7.

Helps build a good working Relationship

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The Seven Elements as a

Checklist for PREPARATION (cont) .

Commitments

'What is our authority? Theirs?

What might some illustrative, well-crafted
commitments look like?

Relationship

What kind would we like to have?

What can we do that would be
unconditionally constructive?

Communication

What do we want to learn from them?

How can we improve our listening?

What messages do we want left in their
heads?

What is our process strategy? What might we
say to start off?

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INTERNAL/EXTERNAL NEGOTIATIONS

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Be unconditionally constructive on relationship issues

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Every diplomatic negotiation is a small part of an ongoing relationship between two countries. This working relationship is the pattern of behavior through which the two countries handle their differences. Some countries may deal with their differences through armed conflict, others through hostile hard bargaining, others through cooperative problem-solving. The diplomat might see his purpose as establishing a good working relationship â\200\224-one that can handle any problem that might arise between the two countries.

1. A Common Problem: Many Relationships Function Poorly.

Working relationships often deteriorate when they encounter serious problems. When problems become especially severe, as they are now between the Israelis and the Palestinians in the Middle East, the relationships may break down altogether. Decisions are based on emotion rather than reason, neither side listens to or tries to understand the other. Each

party mistrusts the other and tries to influence the other through coercion. And each may

reject the other as a legitimate party with whom to negotiate, severing diplomatic relations or walking out of negotiations.

These relationships break down just when we need them the most -- when we need an effective process for resolving important differences. When two countries have a successful working relationship they should be able to handle even the most severe disputes while maintaining confidence in their ability to work on future disputes. A working relationship between countries is like a marriage. Problems and differences are bound to arise. But a good relationship, like a good marriage, will be able to deal with those problems in a way that satisfies the interests of each party and strengthens the dispute resolution process for the next problem. '

2. Why Do Many Relationships Function Poorly?

Relationship issues concern the way we deal with others: logically or emotionally, clearly or ambiguously, honestly or deceptively. Substantive issues are the subjects of discrete negotiations: the levels of armaments, the price of wheat, the terms of a verification treaty. (1) the balance of emotion with reason; (2) the level of common understanding; (3) the extent and nature of communication; (4) the degree of trust; (5) the level of coercion as a method of influence; and, (6) the degree of acceptance of the legitimacy of the negotiating partner.

It is possible to organize most relationship issues into six categories:

1

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- 5.
- 6.
- 7.
- 8.

Write Draft #2. With this new information, revise your draft in an attempt to better meet the different parties' interests by exploiting potential joint gains.

Ask for parties' criticisms again. Remind the parties that no acceptance of any terms is allowed under the ground rules.

Continue repeating this process. This procedure of drafting, asking for criticism, and then re-drafting continues until you either run out of time, or think you have a draft that cannot be significantly improved. (When President Carter used the One-Text Procedure at Camp David, he went through twenty-three iterations.)

When you finally present it, change the question. When you present the final text to the parties, don't ask for criticism. Ask for acceptance: "Having listened to your criticisms and re-drafted in light of them, I have prepared this proposal for you. This is the final text. No changes will be allowed. I now ask you for simply a 'yes' or a 'no.' Will you accept this now?"

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A Strategy for Building a Working
Relationship

First:

DISENTANGLE

Relationship

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Substantive â\200\231

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from

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Emotion/Reason

Understanding

_ Money

Terms

Communication

Conditions

Reliability

Concessions .

Coercion/Persuasion

Promises

Acceptance/Respect

Dates/Numbers

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Facilitation: Using a One-Text

, (contâ\200\231d)

8. When we conclude that the draft cannot

be improved and that the parties are close
to accepting it, freeze the draft.

9.

Present the text to the parties as a Â¥e_s_ ,or

no. choice.

10.

Each party then makes its decision;

accept these terms

or

no agreement -- at least for now

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Yesable Proposition

[Once we understand the target decisionmaker's interests and concerns, what proposal can we generate (and refine) to meet those interests .7]

PROPOSED ACTION: Who should do what, when, to address the immediate problem?

PROPOSED ACTION FORMULATED AS A YES OR NO QUESTION: Will you (do)

SUFFICIENT: The proposed action is sufficient to deal with the immediate problem because it addresses the following issues within this problem:

LEGITIMATE: The other side should regard the proposed action as legitimate because it meets the following objective criteria:

REALISTIC: There is some reasonable chance they will agree to the proposed action because it meets the following important interests of theirs:

OPERATIONAL: Once they agree to the proposed action, it can be implemented without the need for them to make further decisions.

(check)

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The Common Dilemma

Soft on Everything

Hard on Everything

"Have to talk"

"Don't have to talk"

Insist on maintaining

Insist on acceptance

relationship

of our position

Open with a

Open with an

reasonable position

extreme position

Concede generously

Concede stubbornly

Focus on what we

do; Make offers

Clarify what we won't

do; Make threats

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Design an appropriate mm:

a)

First formulate an agenda.

b) Separate inventing from

deciding.

c) Have a facilitator.

d) Consider using a fii'pchart.

8) Consider a subcommittee.

4. Choose roles that i-\201tâ\200\234

a)

Initiator, follower, critic, observer

b) AVOID ruts--e.g., "poin't-scoring";

,

"yes, but .

. ."; blaming

â\200\230 0) Choose to help

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Reciprocity as a
Relationship-Building

Strategy:

A. "The Golden Rule"?

I Do unto others as you would have

I

I

others do unto you.
Since I would like everyone to trust
me, I will trust everyone (â\200\2312)

Far too risky in many
circumstances

B. "An Eye for an Eye"?

I

Treat others as badly as they seem to .
be treating us?

I Bound to make a relationship

worse

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Problems with SOFT/HARD - 3

Assumption ,

Start with a position -

either reasonable or extreme.

Partial Validity

OK to be

reasonable

OK to anchor

Common Error

Focusing on positions

Rule of Thumb

Clarify interests, not positions;

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Designing a process for the upcoming multi-party negotiations

Purposes:

Products:

Generating wise proposals?
Developing some commitment to them?
Governmental arrangements?
Process for drafting a new Constitution?

What should be the status of those products?

People:

Whose participation is needed for successfully developing
good products and implementing them?

Process:

What process_is needed to generate these desired
products?

Plenary sessions? (For what purpose?)
Working groups? (Do do what?)
Subcommittees?

What decision-making process should be used?

Consensus?
â\200\234Sufficient political support" to go ahead?

Unanimity (veto for everyone)?

How relate local negotiations with national issues?

6.

IMPLEMENTING A PROCESS DESIGN

How organize a negotiating delegation?

What, roles?
What staff?

'How staff a secretariat?

What roles for outside parties?

- international observers?
- expert consultants?

How manage the media?

7.

GOING FORWARD

What are obstacles to applying Workshop ideas in the days ahead?
What are some ways to overcome those obstacles?
Next steps?

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NATO/Warsaw Pact. Trained diplomats of 20 nations on negotiating in new glasnost era.
European Community. Annually train EC diplomats at German Foreign Ministry.
Soviet Union. First Americans to teach diplomats at Foreign Ministry.
South Africa. Trained senior officials at the. foreign ministry, other departments.
Malaysia, Korea. Trained leading corporate and government officials.
United Nations. To train incoming diplomats in New York.

South Africa. Advised all sides since 1979. Archbishop Tutu is a sponsor. Led workshops
for major black, liberation, government groups on how to deal with differences, stem violence.

Camp David. Helped design negotiating procedure leading to Israel/Egypt Accords.
El Salvador. Advised president; trained his staff and FMLN leaders.
Iraq War. Advised U.N. diplomats from many nations on options.
Iran. Advice/assistance to Washington and Teheran, on getting U.S. hostages released.

Frggigg Investment;

Colombia. Provided 200-page step-by-step workbook, suitable for developing country
governments and companies, on how to negotiate with foreign investors.

Dominican Republic. Provided advice on renegotiating nickel mining contract with major
multinational corporation that led to \$1 billion in revenues to the nation.

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CSCE. Studying how 34 nations can better use conflict resolution.
Central America. Advised Presidents on negotiating treaty on regional stability.
Colombia. Advised on how to resolve 25-year border dispute with Venezuela.
Pakistan. Advised government on settling water rights dispute with India.
Middle East. Advice to 234 Arabs/Israelis for 20 years on resolving differences.
Yugoslavia. Advice to Slovenia, national officials on independence and unity issues.

LapQr-Mggggggment;

Canada. Advice and joint labor-management training at major smelter at which 25 % of work
time had been lost to strikes; less than one day lost in four years after our intervention
.

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General Motors, U.S. Successful advice to vice president and chief labor negotiator on how
w

to negotiate labor contracts without a multimillion dollar strike.

Boston Public Schools. Advice leading to new negotiating procedure and contract avoiding
annual "Labor Day shootout" between school teachers and administration.

South Africa. Helped resolve factory labor-management dispute by advising both sides.

U.S. Foreign. Advice and training: IBM, Kodak, Bank of America, Merck, JP Morgan,

GM, Marriott, AT&T, Nestle Olivetti, Banco Nacional de Mexico, Ciba Geigy, Reuters, British Alcan, Japan External Trade Organization, others.

(a)

(b)

(0)

Building and maintaining a good working relationship with all other governments. Our security is enhanced to the extent that problems and incidents that involve other governments and peoples can be solved acceptably at a professional level without the risk of escalating into political or military crises. The contrast between war and peace lies in how governments deal with their differences. The more serious our differences, the more important it is that we deal with them in a practical, businesslike way.

An orderly international regime based on respect for international law and for our rights under international law. reconcile our many substantive interests with our interest in peace is to pursue our substantive interests within a framework of international law and order.

In general, the way we

The prestige and reputation of our government. We want to be widely regarded as a good government with high ideals and values, one that is honest and reliable. Honesty does not require full disclosure, but what you state as fact should be so. would also like to be respected as a strong government, one that will listen to reason and be open to persuasion, but also as one that will not back down to threats or pay blackmail.

Consistent with that reputation, we

(d)

Particular interests. Your confidential instructions for each negotiation will more particularly spell out the relative priority of particular concerns of the government and the tradeoffs among them.

4.

5.

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Personal working relationships. You should seek to establish a problem-solving climate in which you and the negotiator from the other government see each other not as adversaries come to do battle, but rather as professional colleagues working side-by-side to deal with a practical situation in which your two governments have differences.

Effective communication. The better the communication between two negotiators, the greater will be their joint ability to deal well with international differences. You may not disclose classified information to the other negotiator as a means of building personal confidence in yourself. On the other hand, within your discretion you may respect confidences and need not report to the government everything that you have been told.

6.

Functions. Before committing yourself or your government to any particular solution to the problem about which you are negotiating, you should do your best to satisfy yourself that you fully understand that problem. This means that you should:

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interests, options, and criteria of fairness that are useful, and will sometimes be essential, to reaching a sensible agreement.

This suggests that, in addition to requesting an external negotiator to explore those elements, it might be well -â\200\224 during the early stages of a negotiation â\200\224- to make clear to oneâ\200\231s own representative, to the representative of the other side, and perhaps to the press and public, that the representative has no authority whatsoever to make a substantive commitment. He or she has full authority to discuss anything, can make personal commitments, and can commit the government to procedural issues like agreeing on an agenda or a date for the next meeting, but may not make any substantive concession or commitment until different instructions have been received and explained to the other side.

The Functions of a Negotiator Should Change as a Negotiation Proceeds

Traditionally each round of talks in a negotiation is seen as having essentially the same task -- to deal with positions. A government beginning a major negotiation that will continue over a period of months or years is aware that the instructions it gives a diplomat will be changed over time. At the outset, they may authorize an extreme opening position, designed to provide plenty of "negotiating room." Later, that position may be changed. Nonetheless, it seems to be true that the successive instructions tend to cover the same ground, authorizing a negotiator to advance, defend, or revise proposed commitments in an ongoing game of positional bargaining.

Yet the role of a negotiator should not be treated like that of a dog on a leash, with the length of the leash being gradually extended. Rather, a negotiator should be treated more like a handyman who is asked to undertake different tasks at different times. As a negotiation progresses, the work to be done changes, and so should the instructions.

Both internal and external negotiations will be more effective if there is an ongoing interaction between them with respect to understanding each otherâ\200\231s interests, generating a wide range of options, evaluating them in the light of persuasive criteria, and the making of commitments. The character of the instructions should be expected to change during the course of a negotiation, focusing at first on interests and options and later exchanging views on possible commitments.

This does not mean that each side should disclose its innermost secrets to the other.

A corporation, for example, may rightfully fear the consequences of disclosing business secrets. It may also fear that if it discloses how keenly it wants some particular thing it may be forced to pay a lot for it. Further, it may not wish to disclose how desperately it wants to reach agreement in view of the absence of any attractive alternative.

It is difficult to solve a problem unless the negotiators understand what that problem is. It is also difficult to reconcile interests if they remain unknown. However, it is possible to disclose the nature of oneâ\200\231s interests without disclosing the intensity of oneâ\200\231s feeling about them.

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Currently Perceived Choice Tool

DECISIONMAKER:

QUESTION:

IF II YES H

IF "NO 11

BUT:

BUT:

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Target Balance Sheet

Decision-Maker: Other Side

Question:

Shall we accept the X ' proposal?

If "Yes"

If "NO"

+ I can explain it to

- Supporters

my supporters.

divided.

+ We look

reasonable.

- We look

stubborn.

+ We can explore
some interesting
options.

+ We are not
committed.

- May miss a

good option.

- BATNA looking

Worse and worse.

- We miss a fading

opportunity.

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How Exercise Our Power?

We fail to exercise wisely such power as we have:

,

Use every element so that it is congruent

-- with each other element

with the situation

-- with yourself

Believe what you say and

say what you believe

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PARTISAN PERCEPTIONS

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Possible Future Choice Tool

DECISIONMAKER:

QUESTION: "SHALL I ACCEPT PROPOSAL X?"

IF "YES"

IF "NO"

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EDI:

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PARTISAN PERCEPTIONS

Important perceptions of

Important perceptions of

Important "facts" that
as crucial

sees

How
"facts" of

sees the important

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Lack of Negotiating Power

Some Crippling Assumptions:

"we are stronger"

-- we can relax

"we are weaker" -- there is no point in trying

"power to destroy = the power to persuade"

"military power = negotiating power"

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10/10/90

Reciprocity

Good Relationship Goal:

two-way communication
mutual understanding
mutual reliability
mutual acceptance, etc.

Good for Substance:

I

quid pro quo

POOR as a Relationship Strategy

4.

I

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10/10/90

Assumption

Insist on maintaining

Insist on

Relationship.

our position.

Partial Validity

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Relationship

is important

Substance

is important.

Common Error

Assumes that negotiators face a trade-off:

Either preserve the relationship or satisfy
our substantive interests.

Rule of Thumb

Disentangle relationship from substance:

Deal with both, each on its own merits, 1
"soft on the people, hard on the problem."

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Problems with SOFT/HARD - 1

Assumption

"Have to talk"

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"Don't have to

talk"

Partial Validity

OK to talk

—

OK to walk.

Common Error.

Ignores our Alternatives to negotiation in

115 case

Rules of Thumb

Negotiate as long as the chance of

reaching an agreement, that is better
than our BATNA and theirs, is worth the
effort.

Consider revealing our BATNA if it's better

than they think, and discussing theirs if
it's poor- and relevant on the merits.

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Facilitation: Using a One-Text

1. Lay out the ground rules.

Listen to the views of the parties.

Prepare a draft text of a possible agreement.

Ask each party to point out which interests

are not met by the draft, and in what way
these interests are not met.

Re-draft the text in the light of what we have learned.

Ask each party again to point out which

interests are not met by the draft, and in what way.

Keep on re-drafting the text and taking it

back to the parties until we feel we cannot improve it any further.

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Restraints on Choice

[Even if our yesable proposition meets the target decisionmaker's interests, that decisionmaker will face restraints on his or her choice to say "yes" because of criticisms from third parties and/or constituents]

If the target decisionmaker agrees to our proposal, their worst responsible critic (one whose opinions can't easily be ignored) might say:

[In order to persuade our target decisionmaker, it is useful to draft a possible response to that criticism]

Our target decisionmaker can respond persuasively, "This is the best decision for us because

Meeting Design:

Making Groupsâ\200\231Effective

1. Know your gurggsez

1 Information exchange?
Invenĩ-\201ng?

Deciding?

Planning?

Motivating?

-

(Pleasure?)

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2. EnvisiOn the desired prggjgcĩ-\202s) of a

succesSful meeting:

Good understanding ofthe terrain,
Illustrative draft yesable propositions

Good basis for implementing BATNA,

if noâ\200\230 agreement can be reached

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An Ability to Deal Well With Differences
Depends Upon a Few Basic Elements

1. EMOTION balanced with REASON

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UNDERSTANDING

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GOOD COMMUNICATION

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RELIABILITY

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PERSUASION rather than COERCION

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ACCEPTANCE of each other

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Relationships function poorly when governments mix relationship issues with

substantive issues. Governments often let short-term substantive concerns dominate their interest in a long-term relationship. They may handle those shortâ\200\224term interests coercively and emotionally, thus damaging their ability to handle other issues 'in a constructive wa

y. At

other times, governments may make the relationship contingent on substantive concessions: "Unless you agree to eliminate SDI (substance), we will refuse to negotiate about strategic armaments (relationship) . " Or, "We will not improve our relationship with Vietnam (relationship) until they resolve our questions about prisoners of war (substance) . " When the relationship itself is contingent upon substantive concessions, the relationship will be unable to deal with those substantive issues.

Governments also tend to bargain about the conduct of the relationship itself, treating relationship issues as they treat substantive issues. This often leads to a tit-for-tat battle that damages the relationship.

Rationality: Since anger dominates your thinking, it will dominate mine.

Understanding:

Since you misunderstand me, I will misunderstand you - often by putting the worst interpretation on your actions.

Communication: If you do not listen to me, I will not listen to you.

Reliability:

If you violate agreements, I will be unreliable too.

Noncoercive modes of influence:

Since you try to coerce me, I will try to coerce you.

Acceptance:

Since you denigrate my interests and views, I will denigrate yours.

Each government may behave this way because they want to punish the other and thereby persuade it to behave better. But if each government lets its own conduct reflect its partisan interpretation of the other's conduct, they may never break out of a pattern of hostile interaction.

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3.

How Can Working Relationships Be Improved?

a)

b)

Separate relationship issues from substantive issues. Since mixing substance with process damages a working relationship, the first step toward a better relationship is to disentangle relationship issues from substantive issues and deal with each independently.

,

Be unconditionally constructive on relationship issues. should act in a way that will strengthen every element of the working relationship without sacrificing substantive concerns, regardless of the behavior of the other government or negotiator.

Each negotiator

-

Rationality:

Even if they act emotionally, balance emotions with reason.

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The Seven Elements as 3

Checklist for PREPARATION

Alternatives

What's our BATNA? What's theirs?
Can we improve ours? Worsen theirs?

Interests

What are ours? What are theirs?

Are there other parties to consider?

Which interests are shared, which are just
different, and which conflict?

. Options

What are some possible agreements that
might creatively satisfy both our interests?

Legitimacy

What standards might international law
suggest?

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What "ought" to govern an agreement?
How can they justify the outcome to their
constituents?

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Understanding: Even if they misunderstand us, try to understand them.

Communication: Even if they are not listening, consult them before deciding on matters that affect them.

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Reliability:

Even if they try to deceive us, be reliable.

Noncoercive modes of influence:

Even if they try to coerce us, do not yield to

coercion or try to coerce them, and be open to persuasion and try to persuade them.

Acceptance:

Even if they reject us and our concerns as unworthy of consideration, accept them as worthy of our consideration, care about them, and be open to learning from them.

Each government can follow these guidelines without sacrificing their substantive interests, regardless of the behavior of the other. And by following these guidelines, the governments will improve their ability to deal with differences in a way that will serve the national interests of both.

"i

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How Measure Success?

(Outline)

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Negotiation results are suboptimal.

One Possible Cause

No systematic definition of a good
outcome.

Many different ways to define success.

No "right way" to organize ideas.

Suggested Approach

Develop a systematic definition.

Use a manageably small number of
organizing concepts.

Other things being equal, a negotiation
outcome should be better for us, the better
it is as measured by each element.

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THE "CIRCLE CHART" AS A PROBLEM-SOLVING TOOL

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A Better Goal:

. A Good Working Relationship Requires

An Ability .

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To Deal Well .

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With Differences.

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B.

C.

D.

Ask questions that get at underlying interests and concerns. People love to criticize.

If, instead of asking you to accept my draft proposal, I ask you to criticize it, I am more likely to learn about your perceptions of the problem and how we might resolve it.

Reduce the risks of inventing. One approach is to delegate the task of inventing to a facilitator. Third parties can raise options that people directly involved would have significant fears about raising. put on the table with little cost, if any.

In this way, ideas can be

Use one cook. In multilateral negotiations, appointing one facilitator to be responsible for designing and shaping a proposed agreement helps avoid the Chaos of multiple proposals.

IV.

Specific Action Idea

The Oneâ€¢Text Procedure is a systematic, thirdâ€¢party approach for shifting a

negotiation away from concessions, eliciting underlying interests, and simplifying the process both of inventing options and deciding jointly on one. instructions.)

(See next page for specific instructions.)

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Problems with SOFT/HARD - 5

Assumption

Tell them what we ___v_v_i!_1 or yv_o_n11_ do.

Partial Validity

Offers are good.

It is often wise â\200\230

to disclose limits.

Common Error

Ignores the power of legitimacy -

what we all should do.

Rules of Thumb

Maximize legitimacy:

-
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-
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Use external standards or principles of fairness. (Seek criteria persuasive to

- them.)

Use the test of reciprocity.

Suggest fair procedures.

Be sure we are open to persuasion.

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THE SEVEN ELEMENTS

0 ALTERNATIVES

Alternatives are the walk-away possibilities that each party has if an agreement is not reached.

In general, neither party should agree to something that is worse than its "BATNA" - its Best Alternative To a Negotiated Agreement - "away from the table".

0 INTERESTS

0 OPTIONS

0 LEGITIMACY

0 COMMITMENTS

Interests are not positions; positions are parties' demands. Underlying the positions are the reasons they are demanding something: their needs, concerns, desires, hopes and fears. The better an agreement satisfies the parties' interests, the better the deal.

Options are the full range of possibilities on which the parties might conceivably reach agreement. Options are, or might be, put "on the table". An agreement is better if it is the best of many options, especially if it exploits all potential mutual gain in the situation.

Each party in a negotiation wants to feel fairly treated. Measuring fairness by some external benchmark, some criterion or principle beyond the simple will of either party, improves the process. Such external standards of fairness include laws and regulations, industry standards, current practice, or some general principle such as reciprocity or precedent.

Commitments are oral or written statements about what a party will or won't do. They may be made during the course of a negotiation or may be embodied in an agreement reached at the end of the negotiation. The promises made have been well planned and well-crafted so that they will be practical, durable, easily understood by those who are to carry them out, and verifiable if necessary.

In general, an agreement will be better to the extent that

0 COMMUNICATION

Good communication helps each side understand the perceptions and concerns of the other. Other things being equal, a better outcome will be reached more efficiently if each side communicates effectively.

0 RELATIONSHIP

Most important negotiations are with people or institutions with whom In general, a strong working relationship empowers the parties to deal well with their differences. Any transaction should improve, rather than damage, the parties' ability to work together again.

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parts of a government. In advance of U.S.-Soviet arms control negotiations, for example, the Air Force is likely to agree that the Navy can keep its new submarines so long as the Air Force can keep its new missiles. The Army and the Navy are each likely to take a similar stance in the internal negotiations. Each will agree to a position only if the interests of its department or agency are fully met. The result is likely to be a minimum position or "floor" that is floating far above the real world.

An alternative symptom, equally unsatisfying to governments, is to leave a negotiator with enormous discretion. A negotiator typically sees her job as reaching an international agreement consistent with her instructions. Of course, the more favorable to her government an agreement may be, the better the government will like it. But reaching any agreement -- even a poor one -- within instructions is likely to be considered a success, whereas failure to reach an agreement would be considered a failure. Further, a negotiator armed only with positions and arguments is unlikely to appreciate the interests of different elements of the bureaucracy. In these circumstances, there is a high risk that the goal of reaching agreement will cause a diplomat to settle for an outcome that is substantially short of the best that might have been attained. Giving a negotiator wide discretion thus runs the risk of making it too easy to reach agreement -- so easy, in fact, that an agreement does not serve a government's interests as well as it might.

Faced with this choice, a government tends to limit discretion. Our hypothetical negotiator will find her hands safely tied. She asks authority to do so, and the government can later decide if that concession is justified. The result is that international negotiations often involve three layers of positional bargaining:

If she later wants to make a concession, she can

- * one among the different interests groups within each government;
- * one between each negotiator and his or her own government; and
- * one between the two negotiators acting on behalf of their respective governments.

Such a process is hardly conducive to wise joint problem solving. What is wrong with the process? How might it be improved?

Analytically, what is

Analysis: Four Possible Causes of Difficulty

To reduce the destructive impact that internal negotiations have on external ones, we will need some hypotheses about what is going wrong. Let me advance four. The possibility of reaching a good outcome in external negotiations is handicapped to the extent that:

It appears that

(1)

(2)

Throughout the process the focus is on the single element of commitment;

The perceived function of the external negotiator remains fixed over time;

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KEY ELEMENTS IN NEGOTIATION

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THE CIRCLE CHART*

A Tool for Organized Thinking

One problem-solving tool that has proven to be particularly effective for the preparation and conduct of negotiations is the "Circle Chart" (see diagram next page). This tool divides the task of problem-solving into four modes of thinking:

I. The Problem: Identify the gap between disliked symptoms and a preferred situation.

We begin by defining the problem as the gap between "what is" and "what might be."

We can create two columns in Quadrant 1 of the Circle Chart. On the left, we can list aspects of the current situation that trouble us. Opposite each entry, we can list in the right-hand column elements of a preferred situation.

For example, if we are concerned about nuclear weapons, the "disliked symptoms"

might include too many warheads, escalating race for new technology, proliferation to other countries and terrorists, uncertainty over first use policies, etc. The "preferred situation"

would be fewer warheads, controlled pace of technological development, reduced risk of proliferation, greater certainty over first use policies. The purpose of the Circle Chart can be seen as helping us invent ways to close the gap between these two lists.

11.

Diagnoses: Consider possible causal explanations.

Next we consider what may be the causes underlying the disliked symptoms. At the outset, rather than trying to decide on a single, most important cause, we should try to list all possible causes about which we might be able to do something. For example, "past history" and "geography" are often cited as causes of a conflict, but they are causes we have no power to affect.

Note that some diagnoses are more abstract than others. Our goal is to develop more

specific diagnoses that will shed better light on possible prescriptive approaches. In this quest, more abstract diagnoses can stimulate more specific sub-diagnoses that prove helpful.

For example, suppose we are working on "uncertainty over first use policies." One possible diagnosis is, "The US. Government does not trust the Soviet pledge of 'no first use.'" Although possibly valid, this diagnosis leaves open the question why there is a lack of trust.

Here we can dig further for sub-diagnoses, such as, "Many Americans are waiting to see if

the rhetoric of perestroika will be matched in action;" "government officials have extensive personal relationships with Soviet Citizens and officials,"

etc. Keep searching for a variety of causes, at a level of specificity that begins to suggest what might be done.

"Neither American citizens or

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SUGGESTED STRATEGY:

Be Unconditionally Constructive

Do those things and only those things that
are:

»

(1) good for the relationship

and

(2) good for us

I Whether or not they reciprocate

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Possible Early Instruction to a Negotiator:

"You have no authority yet to make any substantive commitments. Keep us fully informed. You have full authority to engage in the following activities:

E.G.,

Pre-Negotiation Sessions to:

I
I
I

establish easy Communication
understand the Interests of the parties
suggest the scope of any agreement

Noâ\200\224Commitment Inventing Sessions to:

I

generate a range of creative Options

Joint Working Groups to:

I
I
I

explore criteria of Legitimacy,
evaluate options in light of criteria
draft a framework agreement

New Instructions: "Pleaserecommend to us. the authority you would like to have to make offers and commitments."

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An Ability to Deal Well With Differences
Depends Upon a Few Basic Elements

1. EMOTION balanced with REASON

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UNDERSTANDING

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GOOD COMMUNICATION

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RELIABILITY

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PERSUASION rather than COERCION

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ACCEPTANCE of each other

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Meeting Design:

Making Groupsâ\200\231Effective

1. Know your gurggsez

1 Information exchange?
Invenĩ-\201ng?

Deciding?

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Motivating?

(Pleasure?)

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Good understanding ofthe terrain,
Illustrative draft yesable propositions â\200\231

Good basis for implementing BATNA,

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Our target decisionmaker can respond persuasively, "This is the best decision for us because

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Re-draft the text in the light of what we

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"Have to talk"

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"Don't have to

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OK to talk

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OK to walk.

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Problems with SOFT/HARD - 2

Assumption

Insist on maintaining

Insist on

Relationship.

our position.

Partial Validity

Relationship

is important

Substance

is important.

Common Error

Assumes that negotiators face a trade-off:

Either preserve the relationship or satisfy
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Rule of Thumb

Disentangle relationship from substance:

Deal with both, each on its own merits, 1
"soft on the people, hard on the problem."

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mutual understanding
mutual reliability
mutual acceptance, etc.

Good for Substance: f

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quid pro quo

POOR as a Relationship Strategy

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Lack of Negotiating Power

Some Crippling Assumptions:

"we are stronger"

-- we can relax

"we are weaker" -- there is no point in trying

"power to destroy = the power to persuade"

"military power = negotiating power"

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No systematic definition of a good
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Many different ways to define success.

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The Seven Elements as 3

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Are there other parties to consider?

Which interests are shared, which are just
different, and which conflict?

. Options

What are some possible agreements that
might creatively satisfy both our interests?

Legitimacy

What standards might international law
suggest?

,

What "ought" to govern an agreement?
How can they justify the outcome to their
constituents?

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2:

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Relationships function poorly when governments mix relationship issues with

substantive issues. Governments often let short-term substantive concerns dominate their interest in a long-term relationship. They may handle those short-term interests coercively and emotionally, thus damaging their ability to handle other issues 'in a constructive way. At other times, governments may make the relationship contingent on substantive concessions: "Unless you agree to eliminate SDI (substance), we will refuse to negotiate about strategic armaments (relationship) . " Or, "We will not improve our relationship with Vietnam (relationship) until they resolve our questions about prisoners of war (substance) . " When the relationship itself is contingent upon substantive concessions, the relationship will be unable to deal with those substantive issues.

Governments also tend to bargain about the conduct of the relationship itself, treating relationship issues as they treat substantive issues. This often leads to a tit-for-tat battle that damages the relationship.

Rationality: Since anger dominates your thinking, it will dominate mine.

Understanding:

Since you misunderstand me, I will misunderstand you - often by putting the worst interpretation on your actions.

Communication: If you do not listen to me, I will not listen to you.

Reliability:

If you violate agreements, I will be unreliable too.

Noncoercive modes of influence:

Since you try to coerce me, I will try to coerce you.

Acceptance:

Since you denigrate my interests and views, I will denigrate yours.

Each government may behave this way because they want to punish the other and

thereby persuade it to behave better. But if each government lets its own conduct reflect its partisan interpretation of the other's conduct, they may never break out of a pattern of hostile interaction.

,

3.

How Can Working Relationships Be Improved?

a)

b)

Separate relationship issues from substantive issues. Since mixing substance with process damages a working relationship, the first step toward a better relationship is to disentangle relationship issues from substantive issues and deal with each independently.

,

Be unconditionally constructive on relationship issues.
should act in a way that will strengthen every element of the working
relationship without sacrificing substantive concerns, regardless of the
behavior of the other government or negotiator.

Each negotiator

-

Rationality:

Even if they act emotionally, balance emotions with reason.

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interests, options, and criteria of fairness that are useful, and will sometimes be essential, to reaching a sensible agreement.

This suggests that, in addition to requesting an external negotiator to explore those elements, it might be well -â\200\224 during the early stages of a negotiation â\200\224- to make clear to oneâ\200\231s own representative, to the representative of the other side, and perhaps to the press and public, that the representative has no authority whatsoever to make a substantive commitment. He or she has full authority to discuss anything, can make personal commitments, and can commit the government to procedural issues like agreeing on an agenda or a date for the next meeting, but may not make any substantive concession or commitment until different instructions have been received and explained to the other side.

The Functions of a Negotiator Should Change as a Negotiation Proceeds

Traditionally each round of talks in a negotiation is seen as having essentially the same task -- to deal with positions. A government beginning a major negotiation that will continue over a period of months or years is aware that the instructions it gives a diplomat will be changed over time. At the outset, they may authorize an extreme opening position, designed to provide plenty of "negotiating room." Later, that position may be changed. Nonetheless, it seems to be true that the successive instructions tend to cover the same ground, authorizing a negotiator to advance, defend, or revise proposed commitments in an ongoing game of positional bargaining.

Yet the role of a negotiator should not be treated like that of a dog on a leash, with the length of the leash being gradually extended. Rather, a negotiator should be treated more like a handyman who is asked to undertake different tasks at different times. As a negotiation progresses, the work to be done changes, and so should the instructions.

Both internal and external negotiations will be more effective if there is an ongoing interaction between them with respect to understanding each otherâ\200\231s interests, generating a wide range of options, evaluating them in the light of persuasive criteria, and the making of commitments. The character of the instructions should be expected to change during the course of a negotiation, focusing at first on interests and options and later exchanging views on possible commitments.

This does not mean that each side should disclose its innermost secrets to the other.

A corporation, for example, may rightfully fear the consequences of disclosing business secrets. It may also fear that if it discloses how keenly it wants some particular thing it may be forced to pay a lot for it. Further, it may not wish to disclose how desperately it wants to reach agreement in view of the absence of any attractive alternative.

It is difficult to solve a problem unless the negotiators understand what that problem is. It is also difficult to reconcile interests if they remain unknown. However, it is possible to disclose the nature of oneâ\200\231s interests without disclosing the intensity of oneâ\200\231s feeling about them.

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(a)

(b)

(0)

Building and maintaining a good working relationship with all other governments. Our security is enhanced to the extent that problems and incidents that involve other governments and peoples can be solved acceptably at a professional level without the risk of escalating into political or military crises. The contrast between war and peace lies in how governments deal with their differences. The more serious our differences, the more important it is that we deal with them in a practical, businesslike way.

An orderly international regime based on respect for international law and for our rights under international law. reconcile our many substantive interests with our interest in peace is to pursue our substantive interests within a framework of international law and order.

In general, the way we

The prestige and reputation of our government. We want to be widely regarded as a good government with high ideals and values, one that is honest and reliable. Honesty does not require full disclosure, but what you state as fact should be so. would also like to be respected as a strong government, one that will listen to reason and be open to persuasion, but also as one that will not back down to threats or pay blackmail.

Consistent with that reputation, we

(d)

Particular interests. Your confidential instructions for each negotiation will more particularly spell out the relative priority of particular concerns of the government and the tradeoffs among them.

4.

5.

â\200\230

Personal working relationships. You should seek to establish a problem-solving climate in which you and the negotiator from the other government see each other not as adversaries come to do battle, but rather as professional colleagues working side-by-side to deal with a practical situation in which your two governments have differences.

Effective communication. The better the communication between two negotiators, the greater will be their joint ability to deal well with international differences. You may not disclose classified information to the other negotiator as a means of building personal confidence in yourself. On the other hand, within your discretion you may respect confidences and need not report to the government everything that you have been told.

6.

Functions. Before committing yourself or your government to any particular solution to the problem about which you are negotiating, you should do your best to satisfy yourself that you fully understand that problem. This means that you should:

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NATO/Warsaw Pact. Trained diplomats of 20 nations on negotiating in new glasnost era.
European Community. Annually train EC diplomats at German Foreign Ministry.
Soviet Union. First Americans to teach diplomats at Foreign Ministry.
South Africa. Trained senior officials at the. foreign ministry, other departments.
Malaysia, Korea. Trained leading corporate and government officials.
United Nations. To train incoming diplomats in New York.

South Africa. Advised all sides since 1979. Archbishop Tutu is a sponsor. Led workshops
for major black, liberation, government groups on how to deal with differences, stem violence.

Camp David. Helped design negotiating procedure leading to Israel/Egypt Accords.
El Salvador. Advised president; trained his staff and FMLN leaders.
Iraq War. Advised U.N. diplomats from many nations on options.
Iran. Advice/assistance to Washington and Teheran, on getting U.S. hostages released.

Frggigg Investment;

Colombia. Provided 200-page step-by-step workbook, suitable for developing country
governments and companies, on how to negotiate with foreign investors.

Dominican Republic. Provided advice on renegotiating nickel mining contract with major
multinational corporation that led to \$1 billion in revenues to the nation.

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CSCE. Studying how 34 nations can better use conflict resolution.
Central America. Advised Presidents on negotiating treaty on regional stability.
Colombia. Advised on how to resolve 25-year border dispute with Venezuela.
Pakistan. Advised government on settling water rights dispute with India.
Middle East. Advice to 234 Arabs/Israelis for 20 years on resolving differences.
Yugoslavia. Advice to Slovenia, national officials on independence and unity issues.

LapQr-Mggggggment;

Canada. Advice and joint labor-management training at major smelter at which 25 % of work
time had been lost to strikes; less than one day lost in four years after our intervention
.

â\200\230

General Motors, U.S. Successful advice to vice president and chief labor negotiator on how

to negotiate labor contracts without a multimillion dollar strike.

Boston Public Schools. Advice leading to new negotiating procedure and contract avoiding
annual "Labor Day shootout" between school teachers and administration.

South Africa. Helped resolve factory labor-management dispute by advising both sides.

U.S. Foreign. Advice and training: IBM, Kodak, Bank of America, Merck, JP Morgan,

GM, Marriott, AT&T, Nestle Olivetti, Banco Nacional de Mexico, Ciba Geigy, Reuters, British Alcan, Japan External Trade Organization, others.

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Designing a process for the upcoming multi-party negotiations

Purposes:

Products:

Generating wise proposals?
Developing some commitment to them?
Governmental arrangements?
Process for drafting a new Constitution?

What should be the status of those products?

People:

Whose participation is needed for successfully developing
good products and implementing them?

Process:

What process_is needed to generate these desired
products?

Plenary sessions? (For what purpose?)
Working groups? (Do do what?)
Subcommittees?

What decision-making process should be used?

Consensus?
â\200\234Sufficient political support" to go ahead?

Unanimity (veto for everyone)?

How relate local negotiations with national issues?

6.

IMPLEMENTING A PROCESS DESIGN

How organize a negotiating delegation?

What, roles?
What staff?

'How staff a secretariat?

What roles for outside parties?

- international observers?
- expert consultants?

How manage the media?

7.

GOING FORWARD

What are obstacles to applying Workshop ideas in the days ahead?
What are some ways to overcome those obstacles?
Next steps?

PARTISAN PERCEPTIONS

Important perceptions of

Important perceptions of

Important "facts" that
as crucial

sees

How
"facts" of

sees the important

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Possible Future Choice Tool

DECISIONMAKER:

QUESTION: "SHALL I ACCEPT PROPOSAL X?"

IF "YES"

IF "NO"

+

+

+

+

+

+

+

EDI:

-

-

-

-

-

-

-

-

-

-

_B_U_T_:

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+

+

PARTISAN PERCEPTIONS

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How Exercise Our Power?

We fail to exercise wisely such power as we have:

,

Use every element so that it is congruent

-- with each other element

with the situation

-- with yourself

Believe what you say and

say what you believe

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Target Balance Sheet

Decision-Maker: Other Side

Question:

Shall we accept the X ' proposal?

If "Yes"

If "NO"

+ I can explain it to

- Supporters

my supporters.

divided.

+ We look

reasonable.

- We look

stubborn.

+ We can explore
some interesting
options.

+ We are not
committed.

- May miss a

good option.

- BATNA looking

Worse and worse.

- We miss a fading

opportunity.

,

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Currently Perceived Choice Tool

DECISIONMAKER:

QUESTION:

IF II YES H

IF "NO 11

BUT:

BUT:

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Be unconditionally constructive on relationship issues

3/21/89

Every diplomatic negotiation is a small part of an ongoing relationship between two countries. This working relationship is the pattern of behavior through which the two countries handle their differences. Some countries may deal with their differences through armed conflict, others through hostile hard bargaining, others through cooperative problem-solving. The diplomat might see his purpose as establishing a good working relationship â\200\224-one that can handle any problem that might arise between the two countries.

1. A Common Problem: Many Relationships Function Poorly.

Working relationships often deteriorate when they encounter serious problems. When problems become especially severe, as they are now between the Israelis and the Palestinians in the Middle East, the relationships may break down altogether. Decisions are based on emotion rather than reason, neither side listens to or tries to understand the other. Each

party mistrusts the other and tries to influence the other through coercion. And each may

reject the other as a legitimate party with whom to negotiate, severing diplomatic relations or walking out of negotiations.

These relationships break down just when we need them the most -- when we need an effective process for resolving important differences. When two countries have a successful working relationship they should be able to handle even the most severe disputes while maintaining confidence in their ability to work on future disputes. A working relationship between countries is like a marriage. Problems and differences are bound to arise. But a good relationship, like a good marriage, will be able to deal with those problems in a way that satisfies the interests of each party and strengthens the dispute resolution process for the next problem. '

2. Why Do Many Relationships Function Poorly?

Relationship issues concern the way we deal with others: logically or emotionally, clearly or ambiguously, honestly or deceptively. Substantive issues are the subjects of discrete negotiations: the levels of armaments, the price of wheat, the terms of a verification treaty. (1) the balance of emotion with reason; (2) the level of common understanding; (3) the extent and nature of communication; (4) the degree of trust; (5) the level of coercion as a method of influence; and, (6) the degree of acceptance of the legitimacy of the negotiating partner.

It is possible to organize most relationship issues into six categories:

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Restraints on Choice Tool

How could they announce this decision?

What could the worst significant critic say?

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A Systematic Approach

to Influence

(Outline)

1. CURRENTLY PERCEIVED CHOICE TOOL I

(CPC)

-
-
-
-

Whom are we trying to influence?

What do they think we are asking them

-

to do?

How do they see the consequences of

saying "yes"?

How do they see the consequences of

saying "no"? (their BATNA)

2. TARGET BALANCE; SHEET TOOL

-

How would their future choice have to

look for them to say "yes"?

3. YESABLE PROPOSITION

-

What proposal would confront them

with a choice they might
accept?

4. RESTRAINTS ON CHOICE

-

Reality testing

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USING THE TOOLS -- OPERATIONAL STEPS

A. Start with their Currently Perceived Choice (CPC).

The purpose of a CPC is to give us a clear and empathetic understanding of why

someone is now saying "no " when we want them to say "yes. I! We need to know where their mind is today if we hope to change it tomorrow. A well constructed CPC will tend to make us think things like, "If that is how they see their choice, then I can see how it makes sense for them to say no.

1)

2)

3)

4)

5)

Identify the target decision-maker. Who is it that we wish to influence? Be specific here. Decisions are made by individuals, not organizations. And even if some group of people must reach a consensus on a decision, someone must put that decision before the group.

Capture the question. Imagine the fundamental question, explicit or implicit, that they currently see us asking them and to which their answer is "no."

The challenge here is capturing the question they perceive, not the question we wish they perceive.

Create "yes" and "no" columns. Below the question, create two columns. Put "if yes" on top of the left column and "if no" on top of the right column.

What are the consequences if they say "yes?" List the kinds of things that, if they were to say "yes," they might see happening to themselves, to their constituents, etc. Put a plus (+) in front of those that they would see as positive and a minus (-) in front of those that they would see as negative. Since they are currently saying "no," the negative consequences should outweigh the positive.

What are the consequences of their current "no?" Now list the contrasting consequences of their current answer in the "no" column.

B. Construct a Possible Future Choice (PFC).

If, after reflecting on their CPC, we can understand how it makes sense for them to say "no, " then we need to design a new choice for them, one to which the answer "yes" is more likely. The purpose of constructing the PFC is to help us identify the characteristics of what such a new choice might be.

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PARTISAN PERCEPTIONS

How
may perceive

How
may perceive

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The Seven Elements as a

Checklist for NEGOTIATION

Alternatives

Develop our BATNA; Consider theirs

Relationship

Deal with the relationship and the substance-
each on its own merits

a

b)

Gentle with the people, firm on the problem
Distinguish their worth as a person from the
correctness of their views or conduct

C) Speak for ourselves, not for them

Interests

Clarify interests, not positions

Options

Generate better options

3)

b)

C)

Separate inventing and deciding
Invent options for mutual gain
Give them an answer, not a problem

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Types of Facilitators

Positional

One-Text

Lock parties into

Seek Out interests

positions

Ignore interests,

Clarify interests,

opportunity

opportunity

Ask for many
concessions

Invite criticisms

Demand numerous

Ask for one final

decisions

decision

Always ask for more

Give one final,
4 fading opportunity

Parties feel like they

are on a slippery
slope

Parties understand
consequences of
decision

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3.

NEGOTIATION STRATEGIES

(Bow make progress without making concessions?)

Ways of putting the elements together:

"Systems" of negotiation and some rules of thumb

What if the other side says no -

A systematic approach to influence:

Who are we trying to influence?

What is their currently perceived choice?

What do we want them to see their choice?

What is a proposition to which they might say "yes"?

What restraints do we each have on our choice?

Dealing with the media

Dealing with constituents

- ours

- theirs

Application to the issue of an interim government

Thursday Evening (optional)

Excerpts from Gezxiing 10 YES; A Video woahahop on NegaZLazion.

(A tape, intended for 0.5. corporate executive training, that illustrates how some of the theory works in practice.)

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Pre-Negotiation Workshop with the A.N.C.

August 15-16, 1991

PROPOSED SCHEDULE

Recommended Advance Preparation: ARead Getting to YES by Roger Fisher and William Dry.

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8:30

9:15

10:15

10:45

INTRODUCTION:

PURPOSES OF THE WORKSHOP

The Arm Exercise

MEASURING SUCCESS IN NEGOTIATION

PREPARING FOR NEGOTIATION

Break; Read instructions for Community Con6Âficx.

Prepare by sides for Community Can6Âfict{

11:45

Negotiate Community Conflict Cl-on-11.

12:30

13:15

14:15

Review

Lunch

"SYSTEMS" OF NEGOTIATION AND SOME RULES OF THUMB

15:00 .

Consensus Exercise

15:30

A SYSTEMATIC APPROACH TO INFLUENCE

16:30

(Working Groups)

Analyze the choices of various noanNC parties.

18:00

Working Group reports

18:45

Break for dinner

20:00

(Optional)
Negoxiazian.

View excerpts from Gezzing to YES: A Video WomkÃ©hop on

21:30

Break.

Read and prepare The C0aÂfiIion PaobÂ£2m.

(3)

Internal and external negotiations are compartmentalized -- they are viewed as separate and distinct functions; and

(4)

Negotiators see their role as simply being partisans.

Each of these hypotheses deserves analysis. Each also suggests a proposition about what might be done to improve the process.

Focus Negotiations on More Elements than Commitment

The first hypothesis is that there is an undue focus on the single element of commitment. At the Harvard Negotiation Project, we organized much of our thinking on negotiation around seven elements:

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.

The INTERESTS of the parties -- their needs, wants, hopes, fears and concerns of all kinds such as for security, profit, recognition, or status.

The LEGITIMACY of an agreed outcome as measured by precedent, law, practice, or other external criteria of fairness that are persuasive to one or both parties.

The RELATIONSHIP that exists between the parties and between their negotiators. The better the working relationship, the easier it will be to produce an outcome that well serves the interest of all.

The BATNAs. The Best Alternative To a Negotiated Agreement that each party has. (What is the best each can do by walking away?)

The OPTIONS on which they might agree, some of which, it is hoped, will be better for each party than its BATNA.

The COMMITMENTS of the parties -- statements of what they will or won't do, made during a negotiation or embodied in an agreement.

The COMMUNICATION between the parties. The more effective that communication, the more efficient the negotiating process is likely to be.

In general, in most interactions between internal and external negotiators, too much attention is paid to the single element of the commitments to be made and the authority to make them, and too little attention is paid to what the negotiators could be doing with respect to each of the other six elements. A suggested approach to deal with this problem would be for those within a government -- or any other organization -- to develop instructions that say something about all seven elements.

Good outcomes tend to be more likely when negotiators fully understand a problem

before committing themselves or their organizations to a particular solution. This means that

better results will usually be achieved if the making of commitments is postponed until after the negotiators:

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like help in Clarifying interests, generating options, gathering data, suggesting appropriate criteria, or performing any other function that might lead to a good agreement, please inform the government.

10.

Request revised instructions. As the negotiations proceed, we will all learn more about the problem and about possible solutions. The government expects to revise your instructions from time to time as we move from the exploratory and creative phases of the negotiation toward the commitment stage. One of your responsibilities is to do your best to see to it that the government has the full benefit of your experience, wisdom, and judgment not only in implementing instructions but in improving them. As time and circumstances permit, please propose additions or revisions in your instructions.

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Managing Internal and External Negotiations

(Outline)

1.

The Problem

Internal negotiations produce rigid positions
It is then often difficult to balance interests

11.

Possible Causes of the Difficulty

Too much focus on the element of
commitment

Negotiator has single job: deal with positions

Internal/external negotiations are separated

Negotiators role is simply that of partisan

|1|.. Suggested Approach

Instructions should cover all 7 elements
Job of negotiator should change over time
Internal/external negotiations should be one

interactive process

Each negotiator should be both a partisan
advocate and joint problem solver

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UNCONDITIONALLY

CONSTRUCTIVE

.1. Even if they are acting emotionally

I BALANCE EMOTION WITH REASON

2. Even if they misunderstand,

I TRY TO UNDERSTAND THEM

3. Even if they don't listen,

I CONSULT BEFORE DECIDING AND

LISTEN TO THEM

4. Even if they try to deceive

I BE RELIABLE

5. Even if they try to coerce,

I BE OPEN TO PERSUASION, AND TRY.

TO PERSUADE THEM

6. Even if they reject us,

I ACCEPT THEM AS WORTHY

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111.

General Prescriptions: Devise general prescriptive approaches.

We can now invent a wide variety of possible approaches that might solve the

problem by dealing effectively with the causes we have identified. These approaches should

be general, i.e., capable of being implemented in several different ways. For example, to deal with the diagnosis of Americans waiting to see if Soviet actions will match the rhetoric,

one approach might be, "Create programs in which Americans can see the concrete achievements of perestroika." Another approach might be, "Help Americans to understand the difficulties involved in trying to restructure a society in accordance with one's political, economic, and social goals."

IV.

Specific Action Ideas: Invent specific plans to implement the general approaches.

Finally, we can examine each of the general prescriptive approaches and invent

several specific action plans for implementation. For example, to implement the idea of

helping Americans to understand the difficulties involved in restructuring a society, one

might convene a conference of Soviet and American politicians and academics to discuss, "New Approaches to Reforming and Streamlining Bureaucracies."

Final Notes:

The Circle Chart can be used by one individual or a group preparing for a

negotiation, and can also be used by negotiators from both sides working together as joint problem solvers.

Although these four steps are the logical order in which a problem could be analyzed

and solved, the human mind often makes intuitive, non-linear leaps from one mode of thinking to another. The Circle Chart can help us keep track of those ideas: place them in

the quadrant where they seem most appropriate, and then move backwards or forwards from that idea around the Circle Chart.

Occasionally, users of the Circle Chart may be uncertain about which Quadrant an

idea should be placed. For example, "lack of trust" may be seen as a problem (Quadrant I)

, or a diagnosis (Quadrant II). The idea should be placed on the chart where it will be most

useful: that is, where it stimulates other thoughts that help address the problem.

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Negotiating Inside Out:

What are the Best Ways to

Relate Internal Negotiations with External Ones?

Roger Fisher

In every negotiation involving an organization, internal negotiations have a major impact on external ones. When a union, a corporation, a government, or even a family is about to engage in negotiations, discussions and decisions among the "insiders" are likely to make it difficult for that body—as an entity—to conduct ideal problem-solving negotiations with others. No matter how creative and flexible the internal process may be, it is likely to result in instructions that unduly tie the hands of a negotiator acting on behalf of an institution.

An institution is not a single rational actor, nor does it behave like one. Within a government, for example, individuals pursue their own careers and seek to advance the interest of their own particular office or agency as well as seek to advance the cumulative interests of the government as a whole. Another complicating factor concerns the role negotiators believe they play in the process. Many negotiators view themselves as someone who "represents" the institution and defends its position; they do not perceive themselves as persons hired to work out an optimal solution. But how should a government, a corporation, or other institution relate its internal negotiations to those it has with outsiders?

Suppose high officials of two corporations are contemplating the possibility of negotiating a complex agreement. What is the best advice that experts could give them on how to structure those negotiations to maximize the chance that they would not only reach an agreement, but also would reach an optimal one -- an agreement that could not be better for one corporation without being worse for the other? Having formulated the best advice that we could give the two together, would our advice to one alone be significantly different?

Consider, for instance, the case of a diplomat who will be negotiating under instructions from his government. Both he and the government are likely to see the problem either the negotiator will believe that he has too little freedom of action or the government will believe that he has too much. Instructions are likely to be written before government officials have done much hard thinking about the interest of the other government or much creative thinking about possible ways of reconciling the differing interests of the two governments.

When discussions take place within a government in advance of an international negotiation, participants are likely to assume that their task is to reach internal agreement on something. Traditionally, that "something" is a position—a statement of what the negotiator will demand or the minimum that he or she has authority to accept. Frequently, such a position reflects an odd kind of compromise—one that adds up the desires of the different

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CIRCLE CHART

The Four Basic Steps in Inventing Options

WHAT IS WRONG

WHAT MIGHT BE DONE

IN THEORY

Step LI; Analysis

Diagnose the problem.

Sort symptoms into
categories.

Suggest causes.
Observe what is lacking.
Note barriers to resolving
the problem.

Step Ill: Apmachee

What are possible strategies
or prescriptions?

What are some theoretical
cures?

Generate broad ideas about
what might be done.

IN THE

REAL

WORLD

Step 1: Emblem What's wrong?

What are the current
symptoms?

What are disliked facts
contrasted with a
preferred situation?

Step 1y; Agtign Idea:

What might be done?

What specific steps might be

taken to deal with the
problem?

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Problems with SOFT/HARD - 4

Assumption

Negotiate by conceding. -
generously or stubbornly.

Partial Validity

OK to be
flexible.

OK to be firm.

Common Error

Mix inventing with deciding.

Rules of Thumb

Separate inventing from decision-making:

-
-
-
-

Invent options without commitment or
evaluation.

Â»

Seek. options for mutual gain.
Evaluate these ideas and try to improve

,

the best,

Then, carefully, commit.

,

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Problems with SOFT/HARD - 6

Assumption

What matters is what we tell them.

Partial Validity

Talking to them is important.

Common Error

One-way communication.

Listening is important too.

Rules of Thumb-

Consult before deciding--and listen!

Show we have heard them.

Be able to put their case as well or better

than they can.

.

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"Good Relations" : ? .

-

Affection?

Shared values?

No disagreement?

Mutual approval?

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The One-Text Procedure

Implementation Steps

To use the One-Text Procedure, a third-party facilitator should follow these steps (for

more details, see *Getting to Yes*, pp. 118–122):

1.

2.

Explore underlying interests. Meet with the various parties to explore interests and concerns underlying such positions as they may have.

Write a first draft. Equipped with an initial sense of what the different parties want, write a first draft of a possible agreement. The draft should outline the key issues that need to be dealt with, and presents one way of meeting them.

Two guidelines will help avoid premature commitment:

a.

b.

Emphasize the draft's incompleteness by writing "DRAFT" at the top of each page and leaving blanks in the text.

The more sensitive the conflict, the more incomplete and non-operational this first draft should be.

3.

Discuss with each party.

a.

b.

c.

(1.

Explain the groundrules: "No one will be asked to commit to any part of this draft or to the whole draft until the end of this process. During this process, you can neither accept nor reject any part of the draft since it is not being proposed. When I am finally through with my work on it, then I will give you an opportunity to accept it or reject it."

Ask for criticism (and listen for underlying interests and concerns):
"What's wrong with this? Which legitimate interests of yours are not reasonably met by this draft? Which are?"

Avoid asking a party for a specific solution to their problem, since this runs the risk of locking them into that option.

Make no commitments to anyone regarding how you will redraft the text.

4.

Keep only one copy (your "one-text") and make no copies for anyone else. Avoid giving copies of the text to the parties. (They will tend to amend them to their complete satisfaction, take a position, and start a process of multiple texts.)

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Building Relationships As

We Negotiate

(Outline)

Symptoms: "Bad Relations"

"No Relationship"

Possible Causes:

1. Not certain what the goal of "Good

Relations" means

2. We don't know how to get there

Suggested Approach

GOAL:

An ability to deal well with

,

differences

STRATEGY:

1.

Disentangle Relationship from

Substance

2. Be Unconditionally Constructive

,

Do only those things that are

Good for the Relationship AND

Good for Us (whether or not

,

reciprocated)

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Rules of Thumb
For Facilitators:

1. Alternatives.

,

Clarify BATNAs (reality-
testing)

2.

Interests:

Draw out & clarify
interests

3. Options:

Generate many options

4. Legitimacy:

Propose & help them
find external standards
of fairness

,

5. Communication: Facilitate it both ways

6. Commitment:

Craft Wise
commitments

7. Relationship:

Help build a good
working relationship

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- (a)
- (b)
- (C)
- (d)
- (e)
- (f)

understand in some detail the interests and concerns of the other government, as they perceive them to be, and demonstrate to the other negotiator that you do understand them;

explain our basic interests honestly, and make sure that the other negotiator understands them (Do not disclose secret information nor should you disclose the value we place on some particular interest if that will make us vulnerable);

tentatively establish a proposed scope for a substantive agreement that lists the subjects and issues to be covered;

generate a range of options that might conceivably be acceptable to both governments and might meet their interests as well as they can be reconciled;

identify different standards of fairness, equality, or reciprocity that might provide a sound basis for satisfying the leaders and constituents of each country that it is being fairly treated in an agreement; and

revise and improve those options that either negotiator believes hold promise of meeting the legitimate concerns of both governments.

Structure of meetings. You should feel free to design your own negotiating sessions in a variety of ways: sometimes formal, sometimes informal; sometimes in a private meeting and sometimes with other invited to join you; sometimes in "brainstorming" sessions designed to generate fresh ideas, and sometimes in sessions designed to evaluate and improve ideas that have been generated. You should feel free to invite people from either government and nongovernmental experts to join you as you and your fellow negotiator may decide.

Subcommittees, consultants, and facilitators. You and your fellow negotiator may find it useful to ask specialists on each side to form a subcommittee for the purpose of gathering information, developing new options, or studying and refining some proposal.

If a part of the negotiation involves secret information that one side or both is reluctant to disclose, you may find it helpful to obtain the assistance of a trusted neutral who could speak with each side in confidence and recommend ways to proceed. Such a neutral third party might also play a useful role in facilitating meetings where progress is otherwise difficult.

Propose work for the government. The work that you are doing with the other negotiator and the internal work being done by your government constitute a single, ongoing, and interactive process. Whenever you would

- 7.
- 8.
- 9.

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- * have established a good personal working relationship;
- * have developed easy and effective communication;
- * have come to understand the interests of both parties;
- * have explored precedents and other possible criteria of fairness that might be persuasive to one government or the other;
- * have fully understood their own alternatives to a negotiated agreement and have estimated those of the other side; and
- * have considered a range of possible options that might form a basis for agreement.

To the extent that this premise is correct, instructions from an organization to a negotiator should reflect the fact that much work should be done before either of them decides on the commitments that ought to be made.

During the early stages of a significant negotiation, communication between a government and its negotiator should be concerned with interests, options, and criteria of fairness. Beyond standard instructions regarding establishing effective communication and a good working relationship, a government would be well advised to instruct its negotiator about the interests at stake in the negotiation, the government's current thinking about the relative priority of those interests, and possible tradeoffs among them. Internal negotiations might also produce a number of options that the negotiator could explore with the negotiator from the other side. and evaluating precedents and other external standards of fairness that would be both highly satisfactory to "our" government and persuasive to the other side.

Further, early internal negotiations might be directed toward finding

This means that, instead of establishing "demands or "positions," early instructions should limit the authority to commit. There is an ironic contrast between power and authority. The more power that a diplomat has to make commitments, the more tightly a government is likely to confine the exercise of that power and the less practical ability that diplomat is likely to have to engage in constructive work. An ambassador is typically "plenipotentiary." Vis-à-vis another government, an ambassador has full power. Under international law, any commitment that an ambassador makes is binding on his or her government. Even an oral statement by someone with full powers can have serious consequences. In 1933, for instance, the World Court held that when the Norwegian Minister of Foreign Affairs had said that his government "would not make any difficulties" in the settlement of the Greenland question, it placed Norway "under an obligation to refrain from contesting sovereignty over Greenland as a whole."

Because of this extraordinary power, governments typically give an ambassador instructions that set firm limits on what the ambassador is allowed to do. For fear that something a diplomat might say would constitute a commitment, the diplomat is instructed not to discuss any issue on which the government does not wish to be committed. Such instructions preclude a diplomatic negotiator from engaging in the kind of exploration of

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8:30

BUILDING A GOOD WORKING RELATIONSHIP

Application to nonĩ\201ĩ\202NC parties in South Africa

10:

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Break

10:

11

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12:

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13:

45

15:

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15:

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17:

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18:

00

Coalition Problem

COORDINATING INTERNAL AND EXTERNAL NEGOTIATIONS

THE ONE-TEXT PROCEDURE

Lunch

.Application to the.All~Party Congress

IMPLEMENTING A PROCESS DESIGN

RELATING LOCAL NEGOTIATIONS WITH NHTIONAL ISSUES

GOING FORWARD

wrap-Up:

_NECOT18TION POWER

End of Workshop

THE ONE-TEXT PROCEDURE

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PrerNegotiation Workshop with the A.N.C.

August 15-16, 1991

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1.

INTRODUCTION: PURPOSES OF THE WORKSHOP

To increase awareness of critical process issues
To provide tools and approaches for dealing with these issues
To help generate options
(Not to propose or reach agreement on substantive solutions)

2.

PREPARATION FOR NEGOTIATION

(An ongoing process that never ends)

PURPOSES: What are the purposes of preparation?
PRODUCTS: What are products of good preparation?

Understanding the terrain of negotiation -
Seven important elements:

INTERESTS

What are our real concerns and needs?
What are those of other parties?

OPTIONS

What are some possible ways to meet those interests?

LEGITIMACY

What external standards of fairness might be
persuasive (to us, to constituents, to other parties,
to the international community)?

COMMITMENTS

Exactly what commitments should we seek?
When?

From whom?

RELATIONSHIPS

How well are we dealing with those with whom we
disagree?

COMMUNICATION

Are we being heard?

Are others?

ALTERNATIVES

What is our best course of action if we don't reach agreement?

What will others do?

PEOPLE: Who should participate in preparation?

PROCESS: What is a good process for becoming prepared?

Preparation in practice -- an illustrative exercise:

Community Conflict

The Seven Elements as 3

Checklist for NEGOTIATION (cont)

Legitimacy

Maximize legitimacy

- a)
- b)
- 0)

Use external standards

Pass the test of reciprocity

Be sure we are open to persuasion

Communication

Promote two-way communication-â\200\224First listen,
and show that we have heard

Commitment

Commit with care, after inventing

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PARTISAN PERCEPTIONS

Important "facts" that
as crucial

sees

How
facts of

sees the important

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THE CURRENTLY PERCEIVED CHOICE TOOL

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2)

3)

4)

Focus on their current Choice -â\200\224 as they would see it. Since we want to influence their decision, and since they are the ones confronting the choice, their thinking is crucial. We need to know what their perceptions are, not what we wish they were.

If their "no" makes sense, then change their choice. from their perspective it makes sense for them to say "no," then we need to change their Choice as they see it. Sometimes increasing pressure may Change their choice -â\200\224 but too often it simply reinforces their current reasons for saying "no." perceive it. A new choice that meets our interests well, but is also sensitive to their realistic constraints, increases our chances of getting a "yes."

In planning a new choice it is critical to consider how they will

If we can understand why

Give them a "yesable" proposition. Craft a proposition to which the word "yes" is enough (where no more is required of the decision-maker) and makes something happen (it is clear who does what tomorrow morning).

IV. Speciiï-\201c Action Idea

We can use three sequential thinking tools to help us implement this kind of choice analysis. They are: Tool, and 3) Yesable Proposition Tool. (See next page for speciiï-\201c instructions.)

1) Currently Perceived Choice Tool, 2) Possible Future Choice

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Negotiation Workshop

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THINK ABOUT THEIR CHOICE*

1. Problem

Too often we face difficult situations where people are acting in ways we dislike. They either do things we wish they wouldn't, or they don't do things we wish they would.

11. Diagnoses

1)

2)

3)

4)

We see them as unimenable. We tend to believe we are fair and reasonable, but suspect the other side may not be. When they don't do what we want them to do when they say "no" rather than "yes" their behavior simply confirms our view that they are unimenable or even irrational.

We ignore the choice they perceive. We look at the situation from our own perspective, not theirs. We usually don't analyze what might be leading them to say "no."

And if we do, we often do so without much empathy. Instead of trying to understand first, the choice they think they face, and second, the kinds of consequences that saying "yes" and "no" would mean for them (both personally and professionally), we attribute nasty motives to them.

When they say "no," we escalate. When people don't do what we want them to do, we often react by trying to apply more "pressure." We come up with more reasons and arguments explaining why what we are asking for makes sense. The problem is that this often leads them to react with counterarguments, causing them to dig their heels in further. As we step up our pressure, they step up theirs.

We present them with problems, not answers. Too often we present them with proposals that require complicated answers: they cannot say simply "yes" or "no." Rather than offering them a solution, we burden them with another problem. Such proposals tend to end up at the bottom of paper-piles instead of the top.

II. General Approach

1)

Operate on the assumption that they are imenable. If we see them as imenable, then we are more likely to make a genuine attempt to understand their thinking. And if we do that, we're more likely to understand how we might influence them.

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Mediation Using

The One-Text Procedure

I.

The Problem

Complex, high-stake, multi-issue negotiations, both bilateral and multilateral, do not

seem to work as well as they might. Agreements, when reached, too often reflect lowest common denominator thinking. Deadlocks are frustrating and can be costly.

II.

Some Causes

A.

B.

C. I

D.

In tough negotiations, we tend to focus
We measure progress by concessions.
on positions and define progress by the number of concessions made. In this way, we learn little about what the other side really wants and what most concerns them, and run the risk of missing significant opportunities for joint gain.

Questions focus on positions. When asked "Will you accept this today?" it is often most logical to say "no." Committing to a proposal makes little sense when others are not yet committed and you can still wait. Saying "no" today can also lead to a better package tomorrow. As a result, people get increasingly locked into their positions, and reveal little about the interests and concerns underlying those positions.

Lack of inventing. Faced with fears like appearing (too) inflexible, getting taken, and being misunderstood as committed when we're not, we tend to do little inventing with the other side. Given this, we may stay on the same course not because of its merits, but because we fear the costs of suggesting change will be too great.

Too many cooks cause indigestion.
hundred and fifty, cannot constructively discuss fifty different proposals. Nor can they make concessions contingent upon mutual concessions by everyone else.

Fifty negotiating parties, let alone one

111.

General Approaches

A.

Proceed without making concessions. Use a procedure that facilitates agreements without requiring any concessions, thereby avoiding positional, bargaining dynamics that may get in the way of achieving better outcomes.

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Common Errors

Ignore alternatives

Assume a choice: Relationship or substance

Focus on positions, ignore interests

Mix inventing and deciding, limiting. options

Ignore legitimacy: What parties should do

One-way communication: Talking at them

Commitment before listening

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INTERNAL/EXTERNAL NEGOTIATIONS

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Facilitation: Using a One-Text

, (contâ\200\231d)

8. When we conclude that the draft cannot
be improved and that the parties are close
to accepting it, freeze the draft.

9.

Present the text to the parties as a Â¥e_s_ ,or
no. choice.

10.

Each party then makes its decision;

accept these terms

or

no agreement -- at least for now

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A Strategy for Building a Working Relationship

First:

DISENTANGLE

Relationship

1. Substantive

Substantive

from

1. Emotion/Reason

Emotion/Reason

Understanding

— Money

Terms

Communication

Conditions

Reliability

Concessions .

Coercion/Persuasion

Promises

Acceptance/Respect

Dates/Numbers .

2. Relationship

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- 5.
- 6.
- 7.
- 8.

Write Draft #2. With this new information, revise your draft in an attempt to better meet the different parties' interests by exploiting potential joint gains.

Ask for parties' criticisms again. Remind the parties that no acceptance of any terms is allowed under the ground rules.

Continue repeating this process. This procedure of drafting, asking for criticism, and then re-drafting continues until you either run out of time, or think you have a draft that cannot be significantly improved. (When President Carter used the One-Text Procedure at Camp David, he went through twenty-three iterations.)

When you finally present it, change the question. When you present the final text to the parties, don't ask for criticism. Ask for acceptance: "Having listened to your criticisms and re-drafted in light of them, I have prepared this proposal for you. This is the final text. No changes will be allowed. I now ask you for simply a 'yes' or a 'no.' Will you accept this now?"

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Currently Perceived Choice Tool

[Whom are we trying to influence? What is the primary decision they see themselves facing? From their perspective, what are the pros and cons of that decision .7]

DECISIONMAKER:

QUESTION: Shall I (we)

?

IF "YES"

IF "NO"

[negative consequences of saying "yes " to the above question, in possible order of importance]

[favorable consequences of saying "no " to the above question, listed in order of the subjects on the left]

-

-

-

-

-

BUT: [favorable consequences of saying "yes "]

+

+

+

+

+

+

+

BUT: [negative consequences of saying "no"]

..

..

Negotiation Power =

POWER TO INFLUENCE ANOTHER'S DECISION

We fail to enhance our negotiating power:

. There is power in:

1. A good BATNA

N

Understanding interests

°

9

An elegant option

5

:

Persuasive criteria of fairness

"

S

Well-crafted commitments

Effective communication

F

7. A good working relationship

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Yesable Proposition

A proposal is YESABLE if, as a response,
the single word YES is --

-: Sufficient

- Feasible

- Operational ,

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PERCEPTIONS*

Understanding Theirs and Shaping Ours

We all face a complex world. To make sense out of it, we develop perceptions, or views. We perceive that a woman is a mother when we see her holding a child. We don't ask her; we assume. We question these perceptions when we recognize disconfirming data: if the woman and Child have different skin color, then we might assume that we were wrong. If these two are then greeted by a man of different skin color than the woman, our perception might change again. And so on.

1.

What we perceive differs. The problem is that different people see things differently. Depending on our specific perspective, our perceptions vary. Terrorists tend to be seen as freedom-fighters by the freed; freedom-fighters tend to be seen as terrorists by the terrorized. Perceptions differ. They always will. Dealing skillfully with these differences in perception is, in large part, what conflict management is all about.

How we perceive is the same. Confronted with huge amounts of experiential data, we focus on some and not others. Based on these selective data, we develop perceptions. Once we have a perception, we then observe new data with this perception in mind. When we notice things that confirm our view, we see this as evidence of how correct our perception is. Furthermore, we tend to ignore disconfirming data. They don't seem so worthy of consideration. The more convinced we become of our view, the more we filter out information that would lead us to question our underlying assumptions. To the extent that our current perceptions are distorted, our future perceptions may become even more so. As our perceptions become more entrenched, the more obvious it is that we are right and others are wrong.

In difficult situations, the more

How might we cope? Given that each party to a conflict is likely to have different perceptions, what can we do to improve the ways we cope with these differences?

a)

Look for disconfirming data. One way to avoid the trap of self-fulfilling prophecies is to search actively for disconfirming data. This is particularly difficult when we feel strongly about a perception. Here we may need the help of third parties or people from the other side in order to see things that we may be currently unaware of. We might say:
need your help. Having said that, my perception is.

"I am aware that I may be blind to certain things here, so I may

.

"

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b)

Focus on understanding their perceptions. The skill that is probably

most useful (and least often apparent) in dealing with a conflict is the ability to develop an empathetic understanding of the other side's perception of the situation. Two tools help here:

1-

2-

Partisan Perception Chart: In two columns we can chart the differing perceptions of the relevant history, current facts, grievances, and goals and intentions of the parties involved in the conflict. These partisan perceptions should be presented so that typical partisans would find the statements of their adversaries' perceptions both plausible and illuminating. (See Partisan Perception charts.)

Role Reversal Exercise: To increase our awareness of how the same "facts" can be perceived differently depending on our point of view and to stimulate our thinking on the implications of partisan perceptions, we can use the Role Reversal Exercise. (See "Role Reversal Guidelines.")

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Possible Future Choice Tool

[How we would like, and can reasonably expect, the target decisionmaker to see his choice in the near future. Faced with a new choice (our new proposal), what favorable consequences do we want the decisionmaker to see if he says "yes" and what negative consequences do we want him to see if he says "no" ?]

DECISIONMAKER:

QUESTION: "SHALL I (WE) ACCEPT THEIR
NEW PROPOSAL, THE X PLAN?"

IF "YES" 11

IF "NO" N

____â\200\224____

BUT:

BUT:

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Consulting Session

African National Congress

2 - 3 August 1991

Conducted by:

Conflict Management Group

50 Church Street

Cambridge, MA 02138

(617) 354-5444

Teaching Staff:

Roger Fisher

Diana Chigas

Bruce Patton

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The Seven Elements as a

Checklist for PREPARATION (cont) .

Commitments

'What is our authority? Theirs?

What might some illustrative, well-crafted
commitments look like?

Relationship

What kind would we like to have?

What can we do that would be
unconditionally constructive?

Communication

What do we want to learn from them?

How can we improve our listening?

What messages do we want left in their
heads?

What is our process strategy? What might we
say to start off?

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4.

WORKING RELATIONSHIPS

How build relationships without making concessions?

How build relationships with those we don't trust?

Strategies for building relationships with:

- Members of a Patriotic Front
- The Government
- ~ Inkatha

5.

DESIGNING A PROCESS FOR MULTI-PARTY NEGOTIATIONS

Multi-party negotiation in practice - an illustrative exercise:
Coalition Problem

The

How avoid letting internal negotiations impede progress in negotiations with others?

Strategies for coordinating internal and external negotiations

How manage complex negotiations among many parties?

A method for producing specific terms for an agreement

- without making concessions
- ~ before making commitments:

The One-Text Procedure

be acceptable to their two governments. One particular tool that they should be able to use is the "Oneâ\200\224Text Procedure," based on the concept of a single negotiating text.

When using such a text, two negotiators, without seeking or obtaining commitments from anyone, jointly prepare a rough draft of a possible agreement and then, in the light of comments from knowledgeable people in both governments, revise and reï-\201ne successive versions of that draft until they can make it no better. At that time, they jointly recommend the draft as a proposal to their two governments.

A Way to Begin

A useful way to think clearly about how best to relate internal negotiations to external ones is to try to draft some standard clauses for instructions that might be given to all international negotiators. Despite the magnitude of the task -- in fact, because of it â\200\224- it may be worthwhile to get started. Here is a i-\201rst attempt:

Some Possible Standard Instructions

An Illustrative Draft

- 1.
- 2.

Unclassiï-\201led. Although you will also receive some confi-\201dential instructions, this part of your instructions is open. You are free to show these instructions to the other side, and are encouraged to do so. Thereafter they may be made public.

Authority. You have full authority to discuss any issue relevant to the subject matter of these negotiations about which either you or the negotiator with whom you are dealing wishes to talk.

You also have authority to make procedural commitments with respect to agenda, the time and place of meetings, etc.

Further, you may make personal commitments of substantive recommendations that you will make to your government, but are encouraged to be cautious in doing so. You should emphasize that such statements are your recommendation to the government, not necessarily the action the government will take.

If at any time you believe that such authority would be

You will be given explicit authority to make substantive commitments at an appropriate time. helpful to you, please request it. In the meantime, knowing that what you say will not commit the government gives you great freedom to pursue the tasks necessary to generate an agreement that will well serve the interests of this government as well as serving the legitimate interests of others involved.

- 3.

National interests. You are negotiating in order to advance the national interests of your government broadly conceived. These interests, in their normal order of priority, are as follows:

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HARVARD NEGOTIATION PROJECT AND CONFLICT MANAGEMENT

For more than 25 years, Professor Roger Fisher and his associates have advised world leaders, diplomats, community groups, non-governmental organizations, business leaders, educators and labor organizations in many countries on how to resolve complex and difficult disputes involving public issues, economics, politics, labor, and other areas.

Comprised mainly of faculty and graduates of Harvard University, the group combines pioneering theory developed at the Harvard Negotiation Project - probably the world's leading university center devoted to such work -- with experience handling real-world problems. The combination provides a powerful resource that enables organizations to resolve their problems through more skillful use of negotiation, facilitation, and other problem-solving methods.

The professionals work in South Africa, the Soviet Union, Europe, Latin America, the U. S.

the Middle East, Asia and elsewhere. Demand for such work has risen amid the faster pace of international contact and conflicts in trade, culture and politics. CMG has:

- 9 Trained a wide array of diplomats and trade officials to negotiate more effectively.
- 0 Assisted countries and companies in dealing more skillfully with foreign investors.
- 0 Helped nations reduce internal turmoil by teaching factions negotiation skills.
- 9 Helped firms devise joint approaches for more productive, equitable operations.
- 0 Advised schools, unions, managers, lawyers and others on how to resolve differences.
- 0 Aided non-governmental groups in social, political and economic change.

The U.S. Foreign Service Journal called Professor Fisher "the leading authority on conflict

resolution." A Harvard Law School professor and Director of its Harvard Negotiation Project, Professor Fisher played a key role in designing the negotiating procedure leading to the Camp David Accords between Israel and Egypt; helped establish a negotiation framework leading to the 1981 release of U. S. hostages in Iran; was the first American to teach at the Diplomatic Academy of the Soviet Foreign Ministry in Moscow, and advised several Central American presidents on achieving regional stability. Mr. Fisher co-authored 13, with 2 million copies in print in a dozen languages.

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He and his colleagues work through 3 entities: the Harvard Negotiation Project, which develops theory, research and teaching materials; Conflict Management Inc., which advises corporations, and Conflict Management Group, which advises on international conflict and public

policy. They include professors and graduates of Harvard's Business, Law and Kennedy Schools, former Wall Street attorneys, former State Department and Congressional staff and advisers to major firms. Among them are Harvard Business School Professor Howard Raiffa, who pioneered the field of decision science; Harvard Law School International Programs Dean David Smith, and leading international law scholar Louis Sohn.

The professionals are known for creativity in resolving hard problems. They specialize in helping groups from different backgrounds deal effectively with differences. Identifying mutual interests and options for mutual gain are emphasized. Parties are advised on how to talk to one another, so poor communications and working relationships do not interfere with progress.

Then, an analytical structure is provided so parties can resolve substantive issues in a way that produces the best options that will survive over the long term. This has proven to be a better and more effective alternative to the traditional adversarial, positional way of negotiating.

Internal and External Negotiations Should Become an Interactive Process

People tend to see internal negotiations as a process that is wholly distinct and separate from the external negotiations that may be taking place on the same subject. In a typical big negotiation, a large number of people with different perspectives, differing interests, and different talents will be involved. Some of these people will be working within one organization, some within another, and some will be the negotiators themselves or their staffs. Outside experts and people from other organizations or governments might also have a contribution to make. One who will be conducting external negotiations will often participate in the internal discussions as well. In the role in the drafting of their own instructions. But the internal negotiations on each side are likely to be compartmentalized and kept quite apart from the external negotiations.

In fact, negotiators often play a significant

In a

A highly structured division between internal and external negotiations tends to

If an all-knowing God were considering an international problem in which,

restrict the contributions of knowledgeable people to what each can do within a carefully prescribed role.

say, 22 people were involved, each of whom knew different things and represented a particular point of view, and if His objective were to produce an optimal outcome -- one that could not be better for one country without being worse for the other -- it is unlikely that He would design the current model. He would not put ten people in one room and ten people in another, each group to issue positional instructions to its diplomat, the two of whom would then meet and bargain. Even without divine guidance, we should be able to design a process that will do better. Such a rigid and adversarial structure is unlikely to be the best way of engaging multiple parties with diverse interests and skills in successful joint problem solving. We will want to use a process that permits people to build on each other's knowledge and skills.

The talents of all of those involved, whether a member of an "internal" team or a

"negotiator" -- whether within one government or another -- should be orchestrated to produce the best possible outcome. This means that the structure of the negotiations should be flexible and open, with substantial use of prenegotiating sessions and nongovernmental experts. Contacts among all of them should probably be planned and encouraged rather than discouraged. Subcommittees, joint fact-finding teams, brainstorming sessions, and small working groups of specialists from both sides (such as military officers, lawyers, or technical experts) should be put to good use.

Every Negotiator Has a Dual Role: Both Partisan Advocate and Co-Mediator

A negotiator may understandably have a bias in favor of his own side.

In fact, a

diplomat may correctly perceive his mandate to behave as a zealous advocate of his nation's interests. But arguing in favor of one set of interests is less than half his job. Two diplomats negotiating on behalf of their respective countries also have the joint task of efficiently producing a workable agreement that reconciles as well as can be the inte

rests of
the two governments in a manner that is acceptable to both. Although each negotiator's task
can thus be seen as that of a co-mediator, the normal relationship between internal and
external negotiations does not make it possible for two negotiators to use the tools and
techniques that a skilled mediator might employ. Instructions to negotiators should maximize
the chance that they can function effectively together and jointly develop a solution that will

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Negotiation: A Good Outcome

No Agreement, or else an agreement that:

1 .

Is better than our BATNAâ\200\224â\200\224Best Alternative

To a Negotiated Agreement

Satisfies Interests

Ours, well

Theirs, acceptably

Othersâ\200\231, tolerably

Is an elegant, no-waste solution: among

the best of many Options

Is Legitimateâ\200\224-N0 one feels taken

Includes Commitments that are well-

planned, realistic, and operational

Is reached efficiently--there is effective

Communication

7.

Helps build a good working Relationship

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W. Wriston Professor of Law, Harvard Law School. Taught there since 1958. Director, Harvard Negotiation Project. Founder, CMG/CMI. 30 years as adviser and strategist on international conflict. Advised Iran and U.S. governments in negotiations for release of American hostages in 1981. Helped design process for successful Camp David negotiations between Israel and Egypt in 1978. Advised Presidents of Guatemala, Costa Rica, and Nicaragua before the 1987 Esquipulas II treaty on regional peace. Co-author with 2 million copies in a dozen languages.

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Taught and advised top corporate executives, labor union leaders, attorneys, diplomats, military and government officials on negotiation strategy. Called "the leading authority" on conflict resolution by U.S. Foreign Service journal.

W. Stait Consultant, CMG. Specializes in Latin America; South Africa,

Europe. Taught international conflict, negotiation at Harvard: developments editor, International Law Journal, World at Stetson & Johnson and Bryan, Cave, McPheeters & McRoberts, Washington, D. C.; Sidley & Austin, New York; Werner & Sieber, Geneva. Fluent: French, Greek; conversant: Spanish, German. B.A. Yale. I.D., Harvard. M.A.L.D., expected, Fletcher School of Law and Diplomacy.

W. Deputy Director/co-founder, Harvard Negotiation Project and CMI; â\200\230

Baile Lecture: on Law, Harvard Law School; Director, CMG. Teaches Negotiation Workshop and Advanced Negotiation Seminar at Harvard Law School. Mediated disputes: Central America, South Africa, 1980 Iranian hostage conflict, business/labor. Designed negotiation programs for NATO Defense and U.S. Air War colleges, International Institute for Applied Systems Analysis, IBM, L.P. Morgan, Deloitte and Touche, Florida and Canada: bar associations- Co-authoring textbook on: negotiation; A.B., J.D., Harvard.

Problems with SOFT/HARD - 3

Assumption ,

Start with a position -

either reasonable or extreme.

Partial Validity

OK to be

reasonable

OK to anchor

Common Error

Focusing on positions

Rule of Thumb

Clarify interests, not positions;

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Reciprocity as a
Relationship-Building

Strategy:

A. "The Golden Rule"?

I Do unto others as you would have

I

I

others do unto you.
Since I would like everyone to trust
me, I will trust everyone (â\200\2312)

Far too risky in many
circumstances

B. "An Eye for an Eye"?

I

Treat others as badly as they seem to .
be treating us?

I Bound to make a relationship

worse

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Design an appropriate mm:

a)

First formulate an agenda.

b) Separate inventing from

deciding.

c) Have a facilitator.

d) Consider using a fii'pchart.

8) Consider a subcommittee.

4. Choose roles that i-\201tâ\200\234

a)

Initiator, follower, critic, observer

b) AVOID ruts--e.g., "poin't-scoring";

.

,

"yes, but .

. ."; blaming

â\200\230 0) Choose to help

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The Common Dilemma

Soft on Everything

Hard on Everything

"Have to talk"

"Don't have to talk"

Insist on maintaining

Insist on acceptance

relationship

of our position

Open with a

Open with an

reasonable position

extreme position

Concede generously

Concede stubbornly

Focus on what we

do; Make offers

Clarify what we won't

do; Make threats

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Yesable Proposition

[Once we understand the target decisionmaker's interests and concerns, what proposal can we generate (and refine) to meet those interests .7]

PROPOSED ACTION: Who should do what, when, to address the immediate problem?

PROPOSED ACTION FORMULATED AS A YES OR NO QUESTION: Will you (do)

SUFFICIENT: The proposed action is sufficient to deal with the immediate problem because it addresses the following issues within this problem:

LEGITIMATE: The other side should regard the proposed action as legitimate because it meets the following objective criteria:

REALISTIC: There is some reasonable chance they will agree to the proposed action because it meets the following important interests of theirs:

OPERATIONAL: Once they agree to the proposed action, it can be implemented without the need for them to make further decisions.

(check)

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