



The Game of Trade Negotiations- Everyone Wins

A presentation by

Dr. Jayant Dasgupta

Former Ambassador of India to the WTO

UN Economic and Social Commission for West Asia

Workshop on Facilitating the Launch of the Arab Customs Union

2-3 July, Cairo

Outline of the presentation

- Definition
- Stages
- Main factors influencing the outcomes
- How do plurilateral negotiations proceed
- Key points to remember

What is a Negotiation?

- A Negotiation is a **field of knowledge** and **endeavor** that focuses on **gaining the favor of people** from whom **we want things**.
- It is the use of **information** and **power** to **affect behavior** within a “**web of tension**.”
- **Science** of negotiation: **systematic analysis** for **problem solving**
- **Art** of negotiation: includes **interpersonal skills**, the **ability to convince** and **be convinced**, the ability to employ an array of bargaining ploys, and the **wisdom** to know **when** and **how** to use them

Why study negotiating strategies?

- Although the subject matter and the players change from one negotiations to another, the **essential ingredients are three**, and they remain the same.
- The art and science of negotiation **can be learnt and applied**
- **Over the decades, similar strategies appear to have been used repeatedly by countries, who have had much wider and prolonged experience of trade negotiations**

Types of negotiation

- Distributive
- Integrative
- 2-party
- Multi-party
- **Strategies to be employed can change with the type of negotiation.**

Stages of negotiation

- Planning
- Opening gambit
- Negotiating dance
- Prolonged period of inactivity or suspension of negotiations
- End game
- Conclusion?

Moving pieces of plurilateral negotiations

- Work programme
- Negotiating mandate
- Negotiating submissions
- Chair's summary and consolidated negotiating texts (Modalities)
- Iterative process of negotiating submissions and refinement in Modalities
- Review and consolidation of decisions in successive Ministerial meetings

Main factors influencing outcomes

- **Information:** your needs and BATNA, needs of other parties and their BATNAs, rules of negotiations, alliances in action (formal and informal).
- It is often common strategy for one or both sides to conceal their true interests, needs and priorities in the beginning. The initial positions articulated fix the boundaries within which the negotiations have to take place. These cannot be expanded.
- **Power:** capacity or ability to get things done ... to exercise control over people, events, situations, oneself- **Asymmetry of Power among nations**
- **Time:** all the action occurs at the eleventh hour

[***BATNA- Best Alternative to a Negotiated Agreement**]

A few Do's and Don'ts

- A trade negotiation is NOT A WAR.
- It is only a friendly and focussed discussion among partners on reaching a common goal - of course interlaced with a certain degree of antagonism and tension.
- Negotiations should be carried out in a civilised and urbane manner, without shouting, recriminations and finger pointing- though on rare occasions these do occur.
- It helps immensely if you get to know your counterparts from the partner countries not only officially, but more importantly socially and personally.

[Suggested Readings- (i)Raiffa Howard (1982): “The Art and Science of Negotiation” , Harvard University Press

(ii) Walder Francis (1958): “The Negotiators”, McDowell, Obolensky, New York]



How to engage effectively in trade negotiations- Some suggestions

Chinese Philosopher Sun Tzu in Art of War 3.17:

“These are 5 essentials of victory:

1. He will win who knows when to fight and when not to fight.

2. He will win who knows how to handle both superior and inferior forces.

3. He will win whose army is animated by the same spirit throughout all its ranks.

4. He will win who, prepared himself, waits to take the enemy unprepared.

5. He will win who has military capacity but is not interfered-with by the sovereign.”

5- Star approach to trade negotiations

Planning & Preparation

Petulance

Persuasion

**Patience &
Perseverance**

Partnership



Planning and preparation

- **Information gathering- stakeholder consultations**
- Your needs, priorities, bottomline and BATNA
- Assessing needs, priorities, bottomline and BATNA of others

If you know the enemy and know yourself, you need not fear the result of a hundred battles. If you know yourself but not the enemy, for every victory gained, you will also suffer a defeat. If you know neither the enemy nor yourself, you will succumb in every battle. (Sun Tzu 3.18)

Planning and preparation(contd.)

- Building strong domestic consensus : political and among stakeholders.
- Timing the submission of proposals
- Sequencing issues for negotiations
- Handling deadlines
- When to resist, when to yield
- Flexibility to change strategy, without compromising on basic objectives

Planning and preparation (contd.)

- Recognise the pitfalls contained in innocuous proposals at an early stage and nip them in the bud

When ills are recognized in advance (and only the prudent can do this), they are quickly cured. The man who does not recognize ills at their inception does not have true wisdom, and this is given to few. (The Prince)

Persuasion

- Using legal and economic arguments to advance negotiating objectives
- Ability to put oneself in the shoes of the other and accept what is reasonable
- Important point- Can we all live with it?

Partnership

- Building coalitions with countries with similar interests: important... but how should it be done?
- Domestically, partnership among political masters (and most importantly the opposition), civil society, industry, negotiators, trade lawyers and economists/academics would provide effective support in the negotiations

Patience and Perseverance

- Doggedly pursue basic objectives, although tactics might change.

Therefore, just as water retains no constant shape, so in warfare there are no constant conditions. He who can modify his tactics in relation to his opponent and thereby succeed in winning, may be called a heaven born captain. (Sun Tzu 6.22 & 6.33)

The general who thoroughly understands the advantages that accompany variation of tactics knows how to handle his troops. (Sun Tzu 8.4)

Petulance

- Cannot be used frequently.
- Should NOT be used at the initial stages of negotiations.
- Seek to keep an opening for negotiated outcome, even at the last minute

Parting thoughts

- A successful negotiation has to be a win-win for all
- No one can get all that he wants.
- Every negotiator should be able to go back to his country and be able to sell the deal to his stakeholders.
- Compromises among parties is an essential element of successful negotiations. Most often these take place off the table in small groups or one on one meetings.
- Forming personal bonds with counterparts helps immensely.



THANK YOU