FAO POLICY LEARNING PROGRAMME
Capacity Building Programme on Policies and Strategies for Agricultural and Rural Development

EASYPol
On-line resource materials for policy making

CONCEPTUAL AND TECHNICAL MATERIAL

EASYPol Module 179

Negotiation Theory and Practice

A Review of the Literature

Negotiation Theory and Practice
A Review of the Literature

Tanya Alfredson, John Hopkins University, Baltimore, Maryland, USA

and

Azeta Cungu' Agricultural Policy Support Service, Policy Assistance and Resource Mobilization Division, FAO, Rome, Italy

for the

Food and Agriculture Organization of the United Nations, FAO

About EASYPol

EASYPol is a an on-line, interactive multilingual repository of downloadable resource materials for capacity development in policy making for food, agriculture and rural development. The EASYPol home page is available at: **www.fao.org/easypol**.

EASYPol has been developed and is maintained by the Agricultural Policy Support Service, Policy Assistance and Resource Mobilization Division, FAO.

Table of contents

> "major public policies are the outcome of a complex round of negotiation between interests, choices between values and competition between resources… there are no single 'best' options for any player in this game, for the 'best' outcome depends on what others do and what deals are possible."
>
> *(Davis et.al., 1993)*

1. INTRODUCTION

"Pure" conflict defined as the existence of competing interests between parties in absence of interests that are shared, is an anomaly in international relations where the defining feature of the relationship between states is mutual dependence. Such was the observation of Thomas Schelling, noted international economist, during the height of the Cold War. In the decades that have since transpired, globalizing developments in technology, communications, finance and trade have given rise to a world in which citizens, organizations and governments engage in millions of trans-national interactions on a daily basis. In the modern age, the need for developing mechanisms and skills to manage daily exchanges has grown, as has the necessity for smoothly navigating through the impasses that arise when the satisfaction of one nation's interests, values or goals depend on the actions or intentions of another. At the national level, policies must address, and if possible, resolve tensions between the often divergent interests of an array of stakeholders. In the agricultural sphere these may include producers, consumers, business owners, laborers and environmental interest groups as well as both local and national governments. Governments must grapple with competing concerns related to environmental degradation, cultural preservation, or matters of economic interest, while also upholding national commitments related to international law and commerce.

It is unsurprising then, that in the decades since World War II and increasingly following the Cold War, a field devoted to negotiation theory has emerged. Thanks to contributions from scholars and practitioners across disciplines as varied as economics, law, international relations, psychology, mathematics and conflict management, a literature on negotiation now exists to help practitioners make better sense of the dynamics of negotiation.

The FAO helps developing and transitioning countries to develop and modernize agriculture, forestry and fisheries practices and to ensure good nutrition for people of all nationalities. In support of these aims, the FAO also acts as a neutral forum where nations meet as equals to negotiate agreements and debate policy.

This paper was prepared in the framework of a capacity building programme that FAO organized to address major strategic issues and policy challenges for agriculture and rural development, in developing countries. The programme aimed at enhancing the capacity of senior officials by providing cutting-edge knowledge, facilitating exchange, and reviewing practical mechanisms to implement policy changes in a context where policy space is increasingly limited by regional and international agreements and treaties. Owing to the

increasingly important role that negotiation plays in policy-making processes, policy experts are becoming more and more aware of the need for mainstreaming negotiation into the policy cycle. To address a demand to enhance participants' knowledge of negotiation and related skills, the programme contains a component which instructs on the practice of negotiation through a combination of theory and practical application.

This paper is intended as an easy-to-read reference material on negotiation. It presents an overview of the defining theoretical perspectives, concepts and methods that are central to the theory and practice of negotiation.

The paper is structured in the following manner. Section two discusses the relevance of negotiation to policy-making processes. Section three discusses the foundations of negotiation theory, introduces basic definitions and concepts, and provides an overview of some of the main schools of thought contributing to the existing negotiation literature. Section four provides an overview of the essential elements of principled negotiations, and section 5 concludes.

Readers can follow links included in the text to other EASYPol modules or references[1]. See also the list of EASYPol links included at the end of this module[2].

2. NEGOTIATION AND POLICY-MAKING PROCESSES

In an increasingly globalised world, policy-making is a matter of national and regional as well as international significance. For instance, it has been argued that policy formation related to international trade agreements should take into account broader issues of public welfare, natural resource management and local subsistence economies in order not to jeopardize the development and poverty reduction prospects of developing nations and avoid an increase in domestic conflicts (Hall, 2006; Ramirez, 1999). Negotiation is a central component of national policy-making processes from setting agendas, to determining what issues are to be addressed by policy makers, exploring options, finding solutions and securing needed support from relevant parties in order to ensure that planned policies are sustainable.

Negotiations are a vehicle of communication and stakeholder management. As such, they can play a vital role in assisting policy-makers to obtain a better grasp of the complex issues, factors and human dynamics behind important policy issues. Growing linkages, interdependencies and the rapid pace of change in spheres affecting important agri-food issues including economics, trade, governance and regional and international relations, have created a greater need for skillful negotiators among agriculture policy-makers and experts.

---

[1] EASYPol hyperlinks are shown in blue, as follows:
   a)   training paths are shown in **underlined bold font**
   b)   other EASYPol modules or complementary EASYPol materials are in ***bold underlined italics***;
   c)   links to the glossary are in **bold**; and
   d)   external links are in *italics*.

[2] This module is part of the EASYPol Training Path: **Policy Learning Programme, Module 4: Policy and Strategy Formulation, Session 5: Rice Trek – Simulation game.**

Agriculture policy and related issues frequently demand intricate negotiations at the level of both national and international frameworks. Classic examples include the process surrounding the creation and subsequent reforms to the European Union's Common Agriculture Policy (CAP) as well as efforts to reduce distortions in world markets caused by agricultural protectionism and unfair trade practices of many countries that played out during multiple rounds of international trade negotiations under the GATT and WTO (Box 1).

Box 1: The CAP: An example of supranational policy-making through negotiations

The CAP was a response to the crippled agricultural sector and pervasive experience with food scarcity throughout Western Europe following the end of World War Two. Designed to meet a series of objectives set down by member states in the 1957 Treaty of Rome, its aims were to guarantee an available and affordable food supply in Western Europe, boost agricultural productivity and ensure a fair standard of living for the European agricultural community.

In the Treaty of Rome Europe endorsed the idea of a common market and a common agricultural policy. To realize these goals however, the six founding members were faced with the challenge of reconciling various diverging interests and of overcoming disagreement as to how their collective aims should be achieved. The CAP came into force five years later following negotiations between the two main powers of France and Germany. In a deal signed between Charles de Gaulle and Konrad Adenauer in 1962 France accepted a free market and a customs union that allowed German industry access to its internal markets while Germany fed subsidies to French farmers through Brussels. This marked the beginning of the complex CAP that we all know, today.

The CAP, revived and invigorated European agriculture but created a swath of highly protectionist policies in order to do so. A battery of border as well as domestic support measures were put in place, including production subsidies, quotas and variable levies on imported commodities, in order to provide guaranteed prices and protection for local producers. With time, such policies proved increasingly inefficient, trade distortive and costly to sustain. By the 1980's, the EU was store-housing vast quantities of agricultural surpluses and sustaining massive export-subsidy bills in an effort to dispose of surpluses on a large scale. At its pinnacle, CAP expenditures accounted for as much as two-thirds of EU's budget while disproportionately benefiting mainly the larger and richer farmers. Under these circumstances, the CAP drew more and more criticism from international partners for creating market distortions and posing unfair competition to producers in countries outside the block. In addition, national constituencies grew increasingly unwilling to pay the high price for continuing support to farmers.

A movement calling for CAP reform found support among many European consumers and environmental groups but drew fierce resistance from Europe's agricultural- and food-related industries. Agriculture accounts for less than five percent of the EU workforce. But owing to a well organized and politically powerful farm lobby, the sector managed to keep CAP reform out of EU's domestic policy agenda, for many years.

The first serious reform of the CAP was the MacSharry reform, in 1992. Under the new measures, some of the support to farmers was provided as income support in the form of direct payments, rather than as support to prices. The MacSharry reform paved the way for the EU to support the conclusion of the Uruguay Round of International Trade Negotiations (UR) under

GATT, in 1994. The agreement signed in the UR required countries to state commitments and set milestones for the gradual phasing out of border controls and reduction in their domestic support measures and export subsidies. The UR agreement marked the beginning of a process of pursuing liberalisation of international trade in agriculture commodities through multilateral negotiations. The agreement was also a result of lengthy and complex negotiations between the various national stakeholders. It was the latter that shaped the mandates of country negotiators at WTO, the process and ultimately the content of the agreement.

In the years to follow, European protectionism and fierce international opposition to the CAP brought the Doha round of talks under the World Trade Organization to a deadlock. Again, an intense period of public debate, domestic and inter-member negotiations ensued. During this period, France, the CAP's primary beneficiary, led a coalition of member states who lobbied to keep production-linked subsides in place and even won support for its position from Germany, the primary financial contributor to the costly CAP. In 2003 after a decade of debate and a year of hard negotiations, diplomatic maneuvering, public protests and lobbying efforts, the European Council reached a unanimous agreement for a major reform of the CAP.

The 2003 CAP reform is yet another example of supranational policy-making through negotiations. Skillful negotiation on behalf of a French-led coalition of member states succeeded in keeping production-linked subsidies in place for most farm sectors, and maintained pre-existing levels of farm spending. Yet the negotiated final reform also ensured that the vast majority of direct payments to farmers would come in the form of "decoupled" aid, thereby removing incentives for overproduction, and encouraging farmers to produce in response to market forces rather than subsidies. The reforms also addressed other negotiated interests by curbing the practice of dumping oversupply on to the world market and redirecting support payments towards environmental and rural development projects.

In summary, negotiation processes are critical for policy-making in democratic societies, a factor with the potential to shape policy outcomes and to influence which policies are implemented and how. This has gained increasing recognition, in recent decades. For instance, in the United States, a series of legislative initiatives and executive orders, including the Negotiated Rulemaking Act of 1990, direct agencies to identify rules and procedures for negotiated "rule-making".

However the role of negotiation within the policy cycle is often only implicitly recognized. Realistically, one could conceptualize a model that recognizes the importance of negotiation theory and skills across the core phases - **agenda setting, policy analysis, formulation, implementation,** and **evaluation** - of the policy cycle. Clearly, however, negotiation weighs more prominently in consultations when policy agendas, options and instruments are being discussed and formulated.

Negotiations begin to take shape in the *agenda setting* phase in as far as the choice of items placed on the table can set the tone and framework for the outcomes that are reached. Setting the agenda can help to either inform or restrict policy-makers thinking about a given area in accordance with the issues recognized as pertinent for discussion and parties selected for providing input and so on. Stakeholders often view agenda-setting as vital to the essence of the policy-making process. Stakes can even be so high as to induce parties break-off discussions over disagreements related to agenda setting alone. At this stage, skilled negotiators can make a difference in shaping the process and overcoming any communication hurdles that might stand in the way of an agreement.

In the ***analysis phase,*** policy makers must navigate through a complex array of issue areas where actors often comprise an increasingly diverse mix of influential parties. In light of these features, the formulation phase can sometimes approximate what Charles Lindblom has called "the science of muddling through" (Lindblom, 1958). This is a process explained by interactions that take place between decision makers, affected bureaucracies, political parties, interest groups and "deeper forces" - such as the business ethos, the dynamics of inequality, or limitations in analytical capabilities. These deeper forces structure and distort the policy process away from rational decision-making (Parsons, 1995). It is at the nexus of these two diverging frameworks, i.e., rational decision-making or contest of interests, that skillful negotiation can be vital. Negotiation strategies such as perspective taking, brainstorming or focusing on interests, as opposed to positions, can be effective in helping policy makers find more efficient and integrative policy solutions.

During *policy formulation*, integrative negotiations[3] can serve a function similar to that of "stakeholder analysis", by helping to:

- discover existing patterns of interaction through empirical observation;
- improve interventions by providing analytical underpinnings to what are otherwise intuitive actions;
- provide a tool to predict and resolve conflict (Hall, 2006).

During policy formation, effective negotiators will identify and draw together parties essential to an issue area, create a forum for sharing information, uncovering interests, and defining policy options. Once policy options have been identified negotiation again plays an important role as stakeholders and policy makers go about the business of selecting between available options and debating the merits of competing solutions. At this stage, negotiation theory teaches that searching for a *formula* to address the concerns central to the problem can help policy makers to organize their policy options into a coherent selection base from which to negotiate. A winning formula is one that directs policy makers and stakeholders to consider the key components of the problem at hand and focuses attention on principles, standards or frameworks upon which the majority of central players are most likely to agree.

Because ***implementation*** authority is frequently dispersed in modern systems of governance (think of the role of member states with respect to a regional decision-making authority such as the EU, or the reliance of a central governing authority on municipal arms of government for implementation of domestic policies), policy makers who invoke lessons from integrative negotiation processes are more apt to produce a product that is legitimately perceived, and therefore implemented by the necessary parties.

Some recent evidence indicates that elements of negotiation may even be helpful for informing the ***evaluation*** stage of the policy cycle. For example, Campbell and Mark (2006) found that factors known to facilitate integrative negotiation, including awareness of accountability to constituencies and the structure imposed on the process of dialogue, may

---

[3] A type of negotiation that often involves a process that is designed to help integrate the needs and goals of all the involved parties through creative and collaborative problem solving. Integrative negotiations are described in detail in section 4 of this paper.

be effective in facilitating better stakeholder dialogue around programme and policy evaluation.

3. NEGOTIATION THEORY: FOUNDATIONS AND APPROACHES

Negotiation theories may be prescriptive, descriptive, or normative in nature. Additionally, theorists and practitioners from various disciplines have developed and utilized a variety of approaches or levels of analysis to improve their understanding of particular aspects of negotiations. The resulting theories are diverse, and frequently highlight features that reflect salient concerns from the perspective of the disciplines from which they came. It is unsurprising then, that formal definitions of negotiation reflect the variety characteristic of the functional, conceptual, and disciplinary origins of the theories developed to explain it.

Noted statesman and negotiator Henry Kissinger defined negotiation as, "a process of combining conflicting positions into a common position, under a decision rule of unanimity" (Kissinger, 1969). Elsewhere, theorists have portrayed negotiations as events of diplomatic artistry, mechanical reflections of relative power, weighted interactions between personality types or rational decision-making processes. While formal definitions of negotiation vary, theorists do accept certain basic tenets. Foremost among them is the assumption that parties who negotiate agree in at least one fundamental respect; they share a belief that their respective purposes will be better served by entering into negotiation with the other party. Implicitly then, negotiating parties have come to the conclusion, at least for a moment, that they may be able to satisfy their individual goals or concerns more favourably by coming to an agreed upon solution with the other side, than by attempting to meet their goals or concerns unilaterally. It is this mutual perception that leads to the onset of negotiations and betrays the dependence that exists (to whatever degree) between negotiating parties. This common interest in a shared agreement is the starting point for the "common interest and mutual dependence that can exist between participants in a conflict with which, Schelling writes, "negotiation is concerned" (Schelling, 1960)[4].

3.1. Basic concepts of negotiation

Strategies and Tactics

Before turning to our discussion of the various approaches to negotiation reflected in the existing literature, it is helpful to say a word here about strategies and tactics and how they fit into the various schools. A *strategy* is "a careful plan or method, especially for achieving an end." Whereas the use of *Tactics* refers to "the skill of using available means" to reach that end[5]. Structural, strategic and process oriented approaches to negotiation tend to share a

---

[4] This pertains to negotiations generally. However, it should be noted that in some instances an insincere participant may enter into a negotiation not to reach an agreement but in order to satisfy some other motive such as buying time (stalling) or perhaps to gain some political advantage by virtue of being seen to enter into the process of negotiating (regardless of the participant's actual commitment to seeing the negotiations succeed). Even in such cases, however, deals may sometimes be made as a consequence of the dynamics that negotiations introduce.

[5] *The Merriam-Webster Dictionary, 1*994. Merriam-Webster, Incorporated.

distributive understanding of negotiations[6]. These approaches involve the presupposition that negotiations are *zero-sum* transactions. In other words, negotiators look at negotiations as contests over a limited or fixed amount of some mutually desired benefit such that one person's gain is another person's loss. The totality of available benefits is often represented metaphorically as a 'pie'. Because negotiators battle over a *fixed* amount of some good or benefit, negotiators hope to 'win' a portion or 'slice' of the pie at the expense of a corresponding loss (of pie) by the other (see Figure 1a). This approach is in contrast to approaches that seek to use negotiations as a way to *enlarge the pie*, or in other words, to multiply gains in order to make both parties better off (Figure 1b).

As a result, these approaches tend to invoke strategies that are *distributive* or *predatorial* in nature. **Distributive Strategies**, also known as "zero-sum", competitive, or "win-lose" strategies are based on this competitive view of negotiations. They are designed to secure the biggest slice possible of the proverbial pie for one side (also called "claiming value"), while leaving the other side with the smallest helping possible.
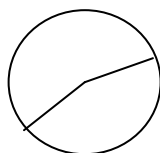
Figure 1a: Fixed Pie   **Figure 1b: Expanding the pie**
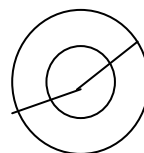
The tactics used in distributive bargaining are therefore intended to help those who use them to claim value for themselves while defending against the efforts of an opponent to do the same. Because competitive strategies produce win-lose outcomes, many (particularly those who ascribe to the integrative school) view such strategies as destructive. Examples of tactics used in distributive bargaining are provided in Box 2 below.

Box 2. Tactics characteristic of distributive bargaining:

Coercion: using force, or the threat of force to wrestle concessions from an opponent.

Opening strong: starting out with a position that is higher than what you realistically estimate you can achieve.

Salami tactics: prolonging a negotiation to a painstakingly slow pace, only giving a very small concession to the other side when it can no longer be avoided in order to placate the other side for a little while longer.

(Saner, 2000)

---

[6] These approaches will be discussed in greater detail later on in this paper.

Reservation point, bottom lines and ZOPAs

What makes a negotiated solution possible? To answer this question, we turn briefly to several key concepts used in both distributive and integrative approaches to negotiations. In any negotiation, each side has a ***reservation point,*** sometimes referred to as a 'bottom line'. It is a point beyond which a person will not go and instead breaks off negotiations (Raiffa, 1982). It is also a point that is not generally known by opposing parties and a value, which Raiffa and others argue, should be kept secret.

The reservation points of negotiating parties help to frame the likelihood and possible scope of an agreement. To understand how, consider the following:

Box 3: A sweet deal: when reservation points overlap

> Imagine a local sugar processor and its main sugar beat supplier are negotiating a new 3-year contract. Though the processor may hope to pay less, he knows that the purchase would still be worth his while at a price of up to 5€/ton. In this example, 5€/ton is the processor's **reservation point**. Now imagine that the supplier knows that (despite hoping to win a higher price through negotiations) she would be willing to sell her stock of raw sugar to the processor for a *minimum* of 4 €/ton. This amount is the reservation price of the seller because for less than this amount the seller will not make a deal.

In the case above, because there is an overlap between the maximum purchase price that the buyer is willing to pay and the minimum sell price that the seller is willing to accept, the pair is said to possess a ***Zone of Agreement*** (Raiffa, 1982) or ***Zone of Possible Agreement*** (ZOPA) (Fisher, Ury and Patton, 1991). The ZOPA constitutes the overlap range between reservation points (in our example, anything between the 4 to 5 € per ton of sugar beat). If the negotiators are successful, they will come to an agreement somewhere within this range, and thus both come out better than they would have had they gone elsewhere. If, on the other hand, the maximum buy and minimum sell price do not overlap, then no ZOPA exists. An agreement in such cases is highly unlikely and the parties may do better in some other arrangement. A graphical representation of a ZOPA is given in figure 2.

Figure 2: A graphical representation of ZOPA
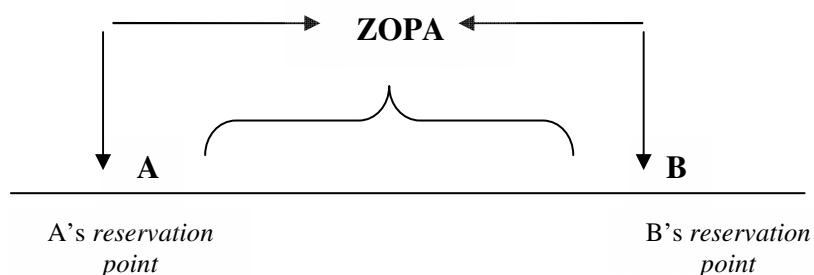
When a ZOPA exists, there is a possibility (but not certainty) that the parties may come to a mutually acceptable arrangement. Calculating where the ZOPA lies can be a difficult task given possible gaps in information, uncertainties about true values and the need for

estimations. This is, however, a critical step if the negotiator is to have a clear view of the situation.

3.2.   Negotiation approaches: An overview

Theorists differ on the question of how to categorize the main schools of thought in negotiation. For example Daniel Druckman (1997) describes the main schools of thought in negotiation theory as corresponding to four approaches to negotiation: negotiation as puzzle solving, negotiations as a bargaining game, negotiation as organizational management and negotiation as diplomatic politics. Alternatively, Howard Raiffa (1982) puts forward a typology of 'approaches' crafted around the dimensions of symmetry-asymmetry and prescription-description.

The overview of approaches to negotiation or schools of thought presented here is based on a summary offered by I. William Zartman, theorist, practitioner and researcher on negotiations. It comprises five different levels of analysis, or core approaches. These are the structural, the strategic, the processual (which we call "concession-exchange"), the behavioral and the integrative approaches[7]. The remainder of this section summarizes the fundamental assumptions, concepts and theories associated with each. It is important to acknowledge, however, that in practice most negotiators use a combination of approaches and borrow from all kind of schools of thoughts during a negotiation.

3.2.1. Structural approach

Structural approaches to negotiations consider negotiated outcomes to be a function of the characteristics or structural features that define each particular negotiation. These characteristics may include features such as the number of parties and issues involved in the negotiation and the composition (whether each side is monolithic or comprises many groups) or relative power of the competing parties (Raiffa, 1982; Bacharach and Lawler, 1981). Structural approaches to negotiation find "explanations of outcomes in patterns of relationships between parties or their goals" (Zartman, 1976). They can be deterministic in that they often view outcomes as *a priori* once structural factors are understood.

In structural approaches to negotiation theory, analysts tend to define negotiations as conflict scenarios between opponents who maintain incompatible goals [see *positions*]. Analysts who adopt a structural approach to the study of negotiations share an emphasis on the *means* parties bring to a negotiation. One of the main theoretical contributions derived from the structural approach is the theory that power is the central determining factor in negotiations (Bacharach and Lawler, 1981). In this view, the relative ***power*** of each party affects their ability to secure their individual goals through negotiations. Structural theories offer varying definitions of power. For example ***power*** is sometimes defined as the ability to win, or alternatively, as the possession of 'strength' or 'resources'.

The perspective that power serves as a central structural feature of every negotiation has its intellectual roots in traditions of political theory and military strategy including the writings of Thucydides, Machiavelli and von Clausewitz. A central idea in this school is the notion that the strong will prevail, or, in the language of classical realism, the idea that 'the strong

---

[7] In the seminal work *The 50% Solution* (1976), Zartman originally identified seven "approaches". Those categories were later compressed into five in Zartman (1988).

do what they can and the weak suffer what they must' (Thucydides, 1910). Yet even in conflicts that pit the very strong against the very weak, the range of outcomes is wide. To wrestle with this conundrum, analysts taking a structural approach have looked at additional structural properties such as symmetry-asymmetry, the availability of *alternatives [*see *alternatives],* or the role of *tactics [*see *tactics]* in detail to try to understand why victory in negotiations does not always go to the party who is ostensibly the more powerful.

Critics argue however, that structural explanations tend to emphasize the role of power, and in particular on 'hard' aspects of power. Other factors such as negotiating skill can play a key role in shaping negotiated outcomes. For example in their analysis of the negotiations between the Rwandan Patriotic Front (RPF), the Habyarimana government and opposition party leaders prior to the Rwandan genocide in 1994, Zartman and Alfredson (2006) found that negotiating skill was one of the factors that contributed to the success of the RPF in concluding an agreement at Arusha that weighed greatly in their favor.

Another limitation of structural approaches to negotiation is their emphasis on taking *positions* [see section 4 for more detail]. This limitation is also exemplified by the Rwandan example. Over the course of the Arusha process, the RFP adhered blindly to a position that a new coalition government would have to exclude the Hutu-extremist party, the Committee for the Defense of the Republic (CDR), even though there were important indications while talks were being held that such an agreement would be untenable. Though the RFP was able to convince the parties at the negotiating table to accept its position as part of the final agreement, it unwittingly undermined its own interest in protecting the lives of the Tutsi population when the CDR's refusal to accept the legitimacy of the negotiated agreement was demonstrated through a cataclysmic display of violence.

Of course, the consequences of positional bargaining are seldom so extreme. However, negotiators should be aware that a blind attachment to 'winning' all you can from a negotiation regardless of the resulting satisfaction of other parties, can be a poor long-term strategy if it means that the other side will loose its will, or ability to maintain its side of the negotiated agreement.

3.2.2. Strategic approach

Random House Dictionary defines *strategy* as "a plan, method, or series of maneuvers for obtaining a specific goal or result"[8]. Strategic approaches to negotiation have roots in mathematics, decision theory and rational choice theory, and also benefit from major contributions from the area of economics, biology, and conflict analysis. Whereas the structural approach focuses on the role of means (such as power) in negotiations, the emphasis in strategic models of negotiation is on the role of *ends* (goals) in determining outcomes. Strategic models are also models of rational choice. Negotiators are viewed as rational decision makers with known alternatives who make choices guided by their calculation of which option will maximize their ends or "gains", frequently described as 'payoffs'. Actors choose from a 'choice set' of possible actions in order to try and achieve desired outcomes. Each actor has a unique 'incentive structure' that is comprised of a set of costs associated with different actions combined with a set of probabilities that reflect the

---

[8] *Dictionary.com Unabridged (v 1.1)*. Random House, Inc. 28 Dec. 2006. <Dictionary.com http://dictionary.reference.com/browse/strategy>

livelihoods of different actions leading to desired outcomes. For an illustration, consider the example provided in Box 4, below.

Box 4: The Cod Wars: when the weak prevail – the value of ends

Britain and Iceland have a long history of conflict over British fishing rights off of Icelandic waters. Collectively these conflicts are known as the Cod Wars. The first 'Cod war' took place in 1958, when Iceland extended its coastal fishing limit, from 4 miles to 12 miles, provoking the British to contest the action. In 1972, a second Cod War started when Iceland extended its coastal non-fishing limit to 50 miles. Despite Britain's overwhelmingly superior military and economic power, in both instances negotiations over Iceland's right to assert its sovereignty over its coastal waters concluded in Iceland's favor, and resulted in significant economic losses for the British fishing industry. In examining the case of the Cod wars, Habeeb (1988) writes that weak actors may sometimes triumph in asymmetric negotiations because they have greater commitment to the issue area, when they possess a resource that is not easily found elsewhere, or when they are seen as defending highly regarded principles, such as sovereignty or defending against an injustice committed by a strong state. The near exclusive dependence of the Icelandic population on fishing as a means of livelihood meant that the extent of the Icelandic government's commitment to the issue of fishing rights far exceeded the commitment felt among the British populace.

Strategic models tend to be normative in nature. Because they are grounded in the belief that there is one best solution to every negotiation problem, they seek to represent "what ultra smart, impeccably rational, super-people *should* do in competitive, interactive [i.e. *bargaining*] situations" (Raiffa, 1982). Because they look for 'best solutions' from all perspectives of a negotiation, this approach has been called *Symmetrically Prescriptive* (Raiffa, 1982). The strategic approach is the foundation for negotiation theories such as game theory and critical risk theory, described below (Snyder and Diesing, 1977).

Box 5: Examples of strategic theories

Game theory uses formal mathematical models to describe, recommend or predict the actions parties take in order to maximize their own gains when the consequences of any action they choose will depend on the decisions made by another actor. It is concerned with "games of 'strategy', in contrast with games of skill or games of chance – in which the best course of action for each participant depends on what he expects the other participants to do" (Schelling, 1960). Games are frequently represented as matrixes or trees (in the extensive form of the games) where each player must choose between a finite number of possible "moves", each with known pay-offs.

Another strategic theory is Ellsberg's *Critical Risk Theory* of crisis bargaining (Ellsberg, 1959). Like game theory, critical risk theory uses cardinal utility numbers to explain decision-making behaviour but introduces the notion that parties use probability estimates when making rational calculations of whether or not to concede, or to stand firm in a crisis negotiation. These probabilities are derived from each player's calculus of their own critical risk, or the maximum risk of a breakdown in negotiations that the player is willing to tolerate in order to stand firm, combined with each player's estimation of the level of their opponent's inherent resolve to stand firm

Cooperative or Competitive: A Negotiators Dilemma

One of the best-known games to treat negotiations is the **Prisoner's Dilemma Game (PD).**[9] This game reflects the following scenario. Two prisoners are awaiting trial for a crime they committed. Each must decide between two courses of action: confess or not. If neither person confesses, in other words, they cooperate with each other; each prisoner will have to serve a prison term of two years. On the other hand, if both prisoners chose to 'defect' and turn evidence against one another, both prisoners will be faced with a four-year prison term.

If the game ended here cooperation by the two prisoners would be likely, but in the classic version of the PD game there is another set of alternatives. The prisoners learn that if one party cooperates and the other defects the one who defects will not serve time, leaving the one who refused to testify against his partner to serve the full five-year sentence. Because each player is seeking to maximize his own outcomes, and neither knows what the other will do, the PD game demonstrates that the rational player will choose defection every time because he realizes that by choosing to defect he will fare better in the game, no matter what his opponent does. Figure 3 below, provides a graphical representation of the PD game.

Figure 3. Prisoner's dilemma

		A	
		Cooperate	Defect
B	Cooperate	**2 years/2 years**	**5 years/0 years**
	Defect	**0 years/5 years**	**4 years/4 years**

Negotiators face a similar challenge in their decision-making as they also have incomplete information about the other negotiator's intentions. In bargaining scenarios, this formulation suggests that agreements are unlikely because each party has an incentive to defect in order to maximize his own gains. However, such an outcome is sub-optimal because players would be better-off if they both cooperated. In real life, cooperation does occur. To account for this, Robert Axelrod used a repeated version of the PD game to demonstrate that individuals who pursue their own self-interest may cooperate with each other when they realize that they may meet again. Moreover, Axelrod used computer simulations of a repeated PD game to show that, even when met with an uncooperative opponent, a player can maximize his gains by using a *tit-for-tat* strategy, a strategy that involves starting out the game as cooperative and then punishing one's opponent (defecting) whenever she fails to cooperate (Axelrod, 1984). Alternatively, when the second party responds positively to a cooperative opening by the first party employing the tit-for tat strategy in a repeated game, Axelrod demonstrated that cooperation may then arise as an equilibrium outcome. This case is illustrated in the example provided below (see Box 6).

---

[9] In January 1950 Melvin Dresher and Merrill Flood carried out, at the RAND Corporation, the experiment which introduced the game now known as the **Prisoner's Dilemma** (PD). Howard Raiffa independently conducted experiments with the Prisoner's Dilemma.

Box 6: Cooperation emerging from *Tit-for-Tat:* the case of trench warfare

One of the best-known examples of an iterated Prisoner's Dilemma where players use a "tit-for-tat" strategy to produce lasting cooperation comes from Robert Axelrod in his depiction of trench warfare between British and German troops along the Western Front, during World War I. Over the course of the war, troops dug into positions along the 500-mile of earth between France and Belgium. Once positions became entrenched, meaning neither side could win but could merely hold their positions, small bands of troops frequently realized that inflicting damage on the other side merely provoked reprisals without bringing additional gains. As isolated bands of troops sat facing one another across small tracts of land for extended periods of time the dynamics of the game frequently changed from a one-move Prisoner's Dilemma game – where defection is the dominant choice of action - to an iterated version of the game favoring cooperation.

The change occurred in this way. As bands of soldiers isolated from their central authority came to realize that victory was not an option along the stretch of earth where both camps had dug in, many concluded that cooperation might be the next best solution. The pattern of behavior that emerged reflected a very different kind of tit-for-tat than the fire and return fire version. It began when one side signaled its intention to "live and let live", to agree not to shoot at one another. Axelrod observed a pattern whereby the other side would then reciprocate in kind, having also recognized that there was an opportunity to reach a point of equilibrium around a mutual willingness not to fight.[10]

(Axelrod, 1984)

Note that in long-term interactions, the outcome of negotiations – the choice of parties to either cooperate or defect - can depend heavily on the amount of trust that is established between the two sides.

3.2.3. Behavioral approach

Behavioral approaches emphasize the role negotiators' personalities or individual characteristics play in determining the course and outcome of negotiated agreements. Behavioral theories may explain negotiations as interactions between personality 'types' that often take the form of dichotomies, such as shopkeepers and warriors or 'hardliners' and 'soft liners' where negotiators are portrayed either as ruthlessly battling for all or

---

[10] In the language of game theory, the troops realized (to the chagrin of central command) that while unilateral defection (UD) would be of greater value than unilateral cooperation, or defeat (D), the condition of reciprocity does not allow for the possibility of unilateral defection, and of the remaining options, mutual cooperation (MC) is preferable to mutual defection (MD). Therefore: UD>MC>MD>D; and MC > (MC+D/2).

diplomatically conceding to another party's demands for the sake of keeping the peace (Nicholson, 1964).

The tension that arises between these two approaches forms a paradox that has been termed the "Toughness Dilemma" or the "Negotiator's Dilemma" (Zartman, 1978; Lax and Sebenius, 1986). The dilemma states that though negotiators who are 'tough' during a negotiation are more likely to gain more of their demands in a negotiated solution, the trade off is that in adopting this stance, they are less likely to conclude an agreement at all.

The behavioral approach derives from psychological and experimental traditions but also from centuries-old diplomatic treaties. These traditions share the perspective that negotiations – whether between nations, employers and unions, or neighbors are ultimately about the individuals involved. Where game theory relies on the assumption that players to a negotiation 'game' are featureless, uniformly rational, pay-off maximizing entities, the behavioral approach highlights human tendencies, emotions and skills. They may emphasize the role played by 'arts' of persuasion, attitudes, trust, perception (or misperception), individual motivation and personality in negotiated outcomes. Other researchers from the behavioral school have emphasized factors such as relationships, culture, norms, skill, attitudes, expectations and trust.

Early diplomatic contributions to negotiation theory include that of French diplomat and writer Francois de Callieres who argued that the Good Negotiator was one who possessed the qualities of "an observant mind, a spirit of application which refuses to be distracted by pleasures or frivolous amusements, a social judgment which takes the measure of things as they are, and which goes straight to its goal by the shortest and most natural path" but also "presence of mind", "ingratiating manners" and self control (de Callieres, 1716).

Later contributions from the psychosocial literature on negotiation included theoretical and experimental work on the influence of "motivational orientations" on the behavior of individuals in negotiations. For example, researchers such as Deutsch (1958) and Messick and McClintock (1968) articulated four distinct orientations or 'types' of personal motivation formed by an individual's standing across two dimensions: degree of interest in interpersonal relationships and degree of interest in outcomes. The resulting typologies of motivational orientation are represented as continuums: the *individualistic*, the *altruistic,* the *cooperative,* and the *competitive*. A person exhibiting an *individualistic* orientation is motivated by an exclusive concern for his or her own outcomes. One who is *altruistic* displays an orientation characterized by exclusive concern for the well-being (outcomes) of other parties. A person with a *cooperative* motivational style is orientated towards concern for the well-being (outcomes) of both parties. While the *competitively*-oriented individual is one who is driven by a desire to out-do his or her opponent.

Another important contribution to come from the behavioral approach (and also addressed by theorists from other schools) is the work on **Framing**. Frames refer to the way a problem is described or perceived. Is the glass half full or half empty? The way a question is posed can make certain evaluative objectives significant and thereby influence the outcome (Raiffa, 1982). They can influence the emotional response an individual has to a statement of fact of a problem. Were the Doha Round of the World Trade Organization talks about securing maximum gains or minimizing losses related to international trade in agricultural and manufacturing markets? In negotiations, Neale and Bazerman (1985) and Bazerman, *et*

al., (1985) found that how a conflict was framed or presented to negotiators influenced whether they viewed their task as one of maximizing gains or minimizing losses. It also influenced the likelihood of reaching a negotiated settlement.

3.2.4. Concession exchange (Processual) approach

Though concession exchange theories share features of both the structural approach (power) and the strategic approach (outcomes), they describe a different kind of mechanism that centers on learning. According to Zartman, this approach (which Zartman calls the processual approach) looks at negotiation "as a learning process in which parties react to each others' concession behavior" (Zartman, 1978). From the perspective negotiations consist of a series of concessions. The concessions mark stages in negotiations. They are used by parties to both signal their own intentions and to encourage movement in their opponent's position. Parties "use their bids both to respond to the previous counteroffer and to influence the next one; the offers themselves become an exercise in power" (Zartman, 1978).

The risk inherent in this approach is that participants engaged in concession-trading may miss opportunities to find new, mutually beneficial solutions to their shared dilemma and end-up instead in a purely regressive process which leaves both sides with fewer gains than they could have had if they had pursued a more creative approach [for more details, refer to section on ***Integrative Bargaining***]

3.2.5. Integrative approach

Integrative approaches, in sharp contrast to distributive approaches, frame negotiations as interactions with *win-win* potential. Whereas a zero-sum view sees the goal of negotiations as an effort to claim one's share over a "fixed amount of pie", integrative theories and strategies look for ways of creating value, or "expanding the pie," [see figure 1b] so that there is more to share between parties as a result of negotiation. Integrative approaches use objective criteria, look to create conditions of mutual gain, and emphasize the importance of exchanging information between parties and group problem-solving (Lewicki *et al.,* 2003). Because integrative approaches emphasize problem solving, cooperation, joint decision-making and mutual gains, integrative strategies call for participants to work jointly to create win-win solutions. They involve uncovering *interests*, generating *options* and searching for commonalities between parties[11]. Negotiators may look for ways to create value, and develop shared principles as a basis for decision-making about how outputs should be claimed (and who claims them).

The integrative approach to negotiations has roots in international relations, political theory, research on labor disputes and social decision-making. In 1965, looking at labor negotiations, Richard Walton and Robert McKersie published a theoretical framework for understanding the negotiation process, which they also applied to exchanges in international relations and to disputes over civil rights. They described integrative bargaining as bargaining in which negotiators employ problem solving behavior (Walton and McKersie, 1965).

---

[11] See section 4, for a discussion of these concepts.

Other notable contributions to the integrative school include "phase" theories of negotiations which view transitional periods within negotiations as stages in a joint-decision making processes. Whereas processual theories look at how concession-making behavior moves a negotiation forward, phase theories in the integrative school look at what are viewed as qualitatively distinct sub-processes (phases), that set the texture, momentum and potential of the negotiations themselves. They can provide an operational road map for negotiators. For example: Zartman and Berman (1982) maintain that negotiators can make more efficient preparations for negotiations and have a higher likelihood of moving through negotiations successfully if they tailor their preparations by thinking of negotiations as moving through three stages: a Diagnostic phase, a Formula phase and a Details Phase.

According to the above theory, the diagnostic phase describes the series of events and behaviors that take place before actual negotiations begin. In this phase parties evaluate an issue area, ascertain the appropriateness of negotiations, attempt to signal their willingness to negotiate with the other party, and test the other party's willingness to engage in, and sincerity of commitment to possible negotiations. In the formula phase, parties knowingly or unknowingly search for a framework or set of mutually agreed upon principals on which to base a potential agreement. The chance of finding a successful formula increase if parties share information openly, consider the perspective of the other side and strive to build upon commonly shared principals or values. Finally, in the details phase, parties move from broad principles to working out the details of an agreement. In practice, the three phases do not necessarily fall in this sequence, and often negotiators move back and forth between phases as events in one phase force a shift back to an earlier phase.

Above all, the authors maintain that negotiation is a *process*. As such, planning for and negotiating over the process itself are as critical for the outcome of a negotiation as the negotiation over the substantial issues themselves. Parties must take time to consider questions such as: Who will be negotiating? What issues will be discussed? How will these be discussed? What should the order and value of the issues be? And how will commitments be decided?. Taking the time to negotiate the process before diving into talks is beneficial to all the parties involved. It might be time consuming, but in the long run "[negotiating the process] will not only save time, but it also will enable wiser, more robust, and more valuable deals" (Wondwosen, 2006).

Timing is considered to be another important factor in negotiations. Zartman has argued that parties are unlikely to enter talks before a situation is '***ripe for a solution***', a condition that occurs when the parties realize that the status quo "is a lose-lose situation, not a win-lose situation." However, the authors maintain that ripeness, while necessary, is not a sufficient condition for successful negotiations. For this, the presence of a **Mutually Hurting Stalemate** is also required, a condition of intolerable 'hurting' or mutual loss (Zartman and Berman, 1982). This kind of a stalemate arises out of the suffering that results when parties fail to solve an important problem. In general, parties enter into negotiations to escape an unpleasant state of affairs when they believe that in doing so they have a better chance of achieving a favorable outcome, than by any other means.

Principled Negotiation is another phase theory of negotiations that falls in the integrative school. In their book *Getting to Yes: Negotiating Agreement Without Giving In* Roger Fisher and William Ury argued the merits of "win-win" problem solving as an approach to negotiations (Fisher and Ury, 1981). Principled negotiation, they argue, goes beyond the

limited strategic choices of distributive bargaining. They frame negotiation as a three-phase process, whose efficiency depends on how negotiators treat four essential elements: *interests, people, options, and criteria.* In a later work, these four pillars were refashioned into the "seven elements" of negotiation comprising *interests, relationships, options, legitimacy, alternatives, commitments and communication.* In the principled negotiations model, the "essential elements" (outlined below) serve as prescriptive components for negotiations modeled on an integrative approach. These elements will be discussed in detail in section 4.

3.3.   Summary of approaches

Though the descriptions provided in section 3 aim to broadly summarize key analytical traditions in negotiation theory, precise categorizations of existing theoretical frameworks differ.   Numerous theorists have also commented on the value of using various insights complementarily and the lack of neatness in the space *between* the various approaches (except perhaps when applied in ideal form). The table below summarizes the main points discussed thus far. It is an attempt to systematize the information presented, though readers should bear in mind that clear-cut categorizations are difficult, and that important overlaps among approaches often exist with respect to assumptions, as well as to the use of strategies and tactics.

Approach	Basic features	Assumptions	Limitations
Structural	Focus on means, positions and power	Win-Lose	• Lock into positions might lead to lost opportunity for mutually beneficial agreement. • Over-emphasis on power
Strategic (e.g., Game Theory)	Focus on ends, rationality, positions	Win-Lose, existence of optimal solutions and rationality of players	• Excludes use of power, players undifferentiated (apart from differences in the quality of options open to each)
Behavioral (e.g., diplomatic treatises, personality types)	Focus on personality traits	Win-Lose, role of perceptions and expectations	• Emphasis on positions
Consession Exchange (Processual)	Focus on concession making behavior, positions	Win-Lose, moves as learned (reactive) responses	• Emphasis on positions • Lack of predictiveness
Integrative (e.g., phase theories, process models, principled negotiations)	Focus on problem solving, creating value, communicating, win-win solutions.	Win-Win potential	• Parties should still recognize and be prepared for encounters with non-integrative bargainers • Time consuming

Figure 4, below, provides a simplified graphical representation of the above information.

Figure 4.: Summary of negotiation approaches
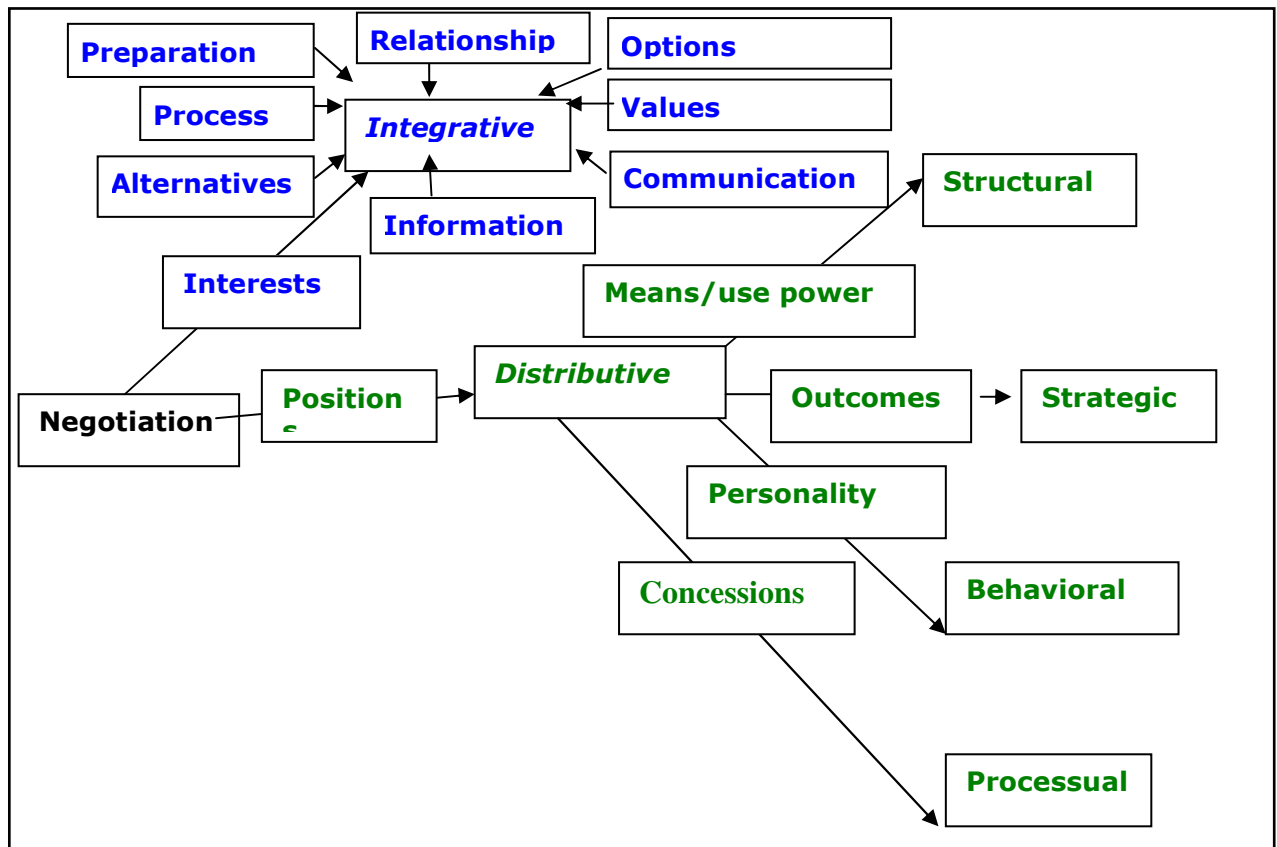
In practice, negotiators often invoke strategies based on their conscious or unconscious understanding of the negotiation process. Negotiation theories, however, help us think analytically about negotiation processes. The insights they provide can help us shape the way we negotiate and, as a consequence, help influence the outcomes we achieve. For instance, when used deliberately, the theoretical lessons and techniques that we employ can assist us in transforming negotiation theory into practical expertise.

In the reminder of this paper, we turn to some practical steps to integrative approaches, as developed by Fisher and Ury, in their seminal work on Principled Negotiations, in 1981.

4. PRACTICAL STEPS TO INTEGRATIVE BARGAINING: THE SEVEN ELEMENTS OF PRINCIPLED NEGOTIATION

Incorporating and extending upon previous literature on integrative bargaining Fisher and Ury summed up their approach to integrative bargaining with what they call the "seven essential elements" of principled negotiation: interests, people, alternatives, options, criteria/legitimacy, commitments and communication (Fisher and Ury, 1981). These elements are explored in the following.

4.1. Identifying interests

According to Fisher and Ury, the first step in principled negotiations is to identify the *interests* involved in an issue area as opposed to dealing with *positions* of the negotiating parties. This distinction is an important one in the integrative school. *Positions* represent the stated stances and objectives of the negotiating parties, and are the focus of distributive bargaining whereas *interests* are the underlying reasons that explain people's positions. Integrative approaches maintain that to negotiate efficiently negotiators should go beyond positions and seek to satisfy true underlying interests. In so doing, negotiators can approach issues of mutual concern with greater creativity, understanding and flexibility. Interests may be harder to identify than positions and may be unspoken or even hidden behind a party's stated demand or position. Often parties may not have carefully defined their own underlying interests in a particular issue for themselves. To better understand the differences between interests and positions, consider the example in *Box 7*.

Box 7: Separating interests from positions

Two siblings enter into a quarrel over who can have a single orange. Though each sibling may maintain the position that he should get the orange (a zero-sum situation), when stated in terms of the sibling's interests the problem may appear to be much less irreconcilable. For example, the siblings in the story turn to their underlying reasons for wanting the orange. One sibling desires the flesh of orange because he wants to make juice. The other has need of the rind to flavor a cake. When framed this way, in terms of interests instead of stated positions, the problem appears to become a positive-sum or win-win solution. The siblings discover that each may in fact have what he or she needs from the orange without depriving the other of his or her interests.

Coming to understand another party's interests may not always be so straightforward. A party may have a reason to want to intentionally conceal their underlying interest in a particular subject matter, or their interests may be difficult to decipher simply because they may be multiple. When the parties involved are not individuals but groups of individuals, the complexities increase even more. In these situations parties may have to divine not only the groups' interests but also interests of individual members.

4.2. People

Another element of integrative strategies involves *People.* In *Getting to Yes*, Fisher and Ury argue that parties in a dispute often forget that the other side consists of people who, just like themselves, are subject to the human frailties such as emotions, potentials for misunderstandings and mistaken assumptions. Another rule for the principled negotiator is therefore to *separate the people from the problem*. This means finding a way for solving a problem without getting distracted by personal elements, and coming to an agreement in a manner that will preserve the relationship.

The better the relationship, the more cooperation each side will get from the other, the more information can be shared comfortably, and the higher the prospects for arriving at a win-

win solution. To help build relationships, Fisher and Ury recommend considering the use of tactics that can help negotiators to get to know the other party. This may include finding ways to meet informally, arriving early to chat or staying on after formal negotiations end *[see negative emotions]*. Negotiators should also remain aware of important tactics and considerations that help negotiators to feel as though they can emerge from the negotiation with self-respect, and the good opinion of others. This may mean taking steps to make sure that neither party is forced to loose face or appear personally compromised as a consequence of having accommodated the other party's demands. Saving face can be the key to negotiations that have reached a stalemate or to situations where negotiations have not started. It may involve offering gestures that give an opponent a way to justify a change in their own position, perhaps before an interested constituency.

On the other hand, negotiators should be aware that protecting against loss of face should not become so central to the process that it swamps the importance of the tangible issues at stake, or generates intense conflicts that can delay or prevent progress toward agreement.

Honesty and Trust. Negotiators should never underestimate the importance of Honesty and Trust in negotiations. It is critical. The perception negotiators have of each other is a crucial factor influencing the fluidity of negotiations. Being respectful, diplomatic and maintaining one's credibility is essential to creating positive personal relationships and preventing negative emotions that can result in a return to distributive tactics. This is sometimes easier said than done; trust in relationships is slow to build and easy to destroy. Honoring commitments is one way that parties build trust, and thus serves as another essential element of negotiations (Fisher and Ertel, 1995).

4.3. Alternatives

In order to set realistic goals, negotiators must start by considering certain fundamental questions: where will each side be if no agreement is reached? What alternative solutions are available for meeting your goals if you cannot count on the cooperation of the other side? As seen earlier, attention to alternatives is an important feature of distributive as well as of integrative-based approaches. However, in contrast to the emphasis that is placed on concepts such as reservation points and bottom lines in positional approaches to bargaining, integrative approaches tend to take a slightly more nuanced view of the role of alternatives in negotiation. Fisher and Ury argue that it is crucial for both parties to know their **Best Alternative to a Negotiated Agreement (BATNA)** both before and throughout all stages of a negotiation. Fisher and Ury argue that having a resolute bottom line can come at high costs. By its nature, a bottom line can be inflexible and onerous. It can prevent creative thinking and lock parties into positions that may prevent them from coming to a favorable solution.

A BATNA provides negotiators with a measure of flexibility that is lacking from a bottom line. Unlike bottom lines, BATNA's change when negotiators perceive a change in their alternatives. When negotiations are viewed in terms of BATNAs, as opposed to positions or bottom lines, the negotiation can continue even when figures are rejected because negotiators are freer to continue to explore additional possible solutions. Moreover, because negotiation is viewed as a joint decision making process in the integrative approach, there is always a possibility of either side reconsidering their position in mid-stream and deciding to pursue a different course than originally planned. Negotiators who fail to evaluate (and re-evaluate) their alternatives to an agreement both before and during the process may therefore also be in danger of rushing to an agreement without having fully considered their

or the other party's alternatives, leading one side to end up with a deal that should have been rejected.

BATNAs can be an important source of power or strength in a negotiation. A more 'powerful' party with a weaker BATNA will need to come to a negotiated agreement more than its rival. For this reason, Fisher and Ury maintain that developing a BATNA can be the best tool when facing powerful negotiators. In agricultural trade negotiations, having alternative trading partners, for example, multiple potential buyers for a stock of wheat who may be willing to incorporate side agreements into the primary purchase agreement, strengthens the seller's BATNA vis-à-vis other potential buyers.

Negotiators need to assess and develop their BATNAs before and during a negotiation. To do so, parties begin by making a list of the alternatives available if an agreement is not reached. Negotiators should also take the time to understand and anticipate the BATNAs of the other side, consider the options available given the two sets of BATNAs, develop a plan for implementing them and then choose the best of these developed alternatives.

Knowing your BATNA provides you with "a measure for agreements that will protect you against both accepting an agreement you should reject and rejecting an agreement you should accept"(Fisher & Ury, 1981 p99). In short, it is good to consider your limitations beforehand but a good negotiator will not let his limitations inhibit his imagination and the ability to recognize fruitful opportunities.

4.4.   Identifying the options

Once parties have begun to build relationships and to exchange information in order to gain a clearer understanding of the interests at stake, the parties should turn to the task of generating *options***.** In negotiations, options are possible solutions to a problem shared by two or more parties. In integrative bargaining, options represent possible ways of meeting as many of *both* parties' interests as possible. As the story of the orange reveals, when two people (or two companies or two nations) get locked into solutions or habitual patterns of thinking, they easily become blinded to the possibilities that a little creative thinking might reveal. Because the process of identifying options, or possible solutions to a problem, promotes creative thinking and expands problem-solving capabilities, it is as critical to the negotiation process as identifying underlying interests. Generating options through techniques such as *brainstorming* —a technique which involves inviting all parties to list any idea that comes to mind without criticizing or dismissing those ideas - helps to encourage creative thinking about a problem and increases the chances that the parties involved will formulate a "win-win" solution.

4.5.   Criteria/Legitimacy

When bargaining over positions, negotiators create a situation in which one side must concede his original claim in order for the negotiations to succeed. Positional bargaining is bargaining in which two sides lock into incompatible positions. According to Fisher and Ury, this can lead to a contest of wills, bitterness, and deadlock. They maintain that when negotiations are approached in this way, even when a deal is made, it may come at a high cost. For example, positional bargainers may finally arrive at a solution that appears to "split the difference" between their two positions, even though a more rationally composed

solution would have suited both parties interests better. Lastly, agreements that are concluded in this manner may prove tenuous to implement if parties later conclude that the agreement called for a solution without legitimacy. The authors maintain that there is a better way to approach the negotiation process. This involves invoking ***objective criteria*** as part of the negotiation process.

Consider the following example. In a dispute over pricing of an environmentally friendly fertilizer substance produced in one country, a country interested in importing the fertilizer clings to the position that it should pay no more than 5 euro per pound of the substance. Meanwhile, the producing country may cling with equal commitment to the position that it should export the substance at 10 euro per pound. How will this difference in positions be overcome? Though the position of each party may be clear, what is unclear is the basis for their respective price demands. In the course of negotiations, arguments will be more meaningful and solutions, more acceptable, if they do not appear to be arbitrary.

Where can these criteria be found? At the minimum, chosen criteria should be independent of the will of either party. One method is to appeal to ***fair standards*** relevant to the issue under review. Fair standards are markers outside of the parties to a conflict, for assigning some value to or for serving as the basis for a solution to a problem. The problem is not always so easily resolved because there may be multiple, potentially acceptable standards available from which to choose. For example, in our earlier illustration, should prices be based on market rates for similar products or domestic production costs? One party may maintain that a fair standard for determining the price of exported goods is the world market price. Another party may argue that, a fair standard is the domestic price of the exported commodity, in its country of origin. What other possible criteria can become the basis for a mutually acceptable fair standard? There are many. In negotiations of this type, parties often turn to arenas such as precedent, scientific judgment, professional standards, efficiency, costs, moral standards, equal treatment, tradition or reciprocity as plausible criteria for decision making. For example, can the importing country persuade the producer to reduce the cost of their environmentally friendly fertilizer because it will be used to produce agricultural products that will, in turn, be exported back to the country which provides the fertilizer to grow them?

Parties will have a greater chance of influencing negotiations favorably and will increase the likelihood that the negotiation results in a rational, value-adding solution when they are crafted around mutually acceptable principles. Furthermore, negotiated agreements are more likely to prove to be durable, and acceptable to the constituencies of both sides when they provide solutions that are perceived to be legitimate.

An alternative way to approach the task of creating a legitimate basis for agreement is to invoke what both parties agree to be a fair ***procedure*** for deciding the matter. A simple illustration of this is given in box 8, below.

Box 7. Let's eat cake!

> Two children complain that they each want the last piece of cake. Their father could divide the cake and arbitrarily decide which child gets each piece but this runs the risk that neither child will be content with their allotted portion. Another way to approach a problem such as this would be to invoke a *fair process.* The father tells the children that one child will cut the cake and the other will choose who gets each piece. Because the process itself is seen to be legitimate, neither child can easily dispute the legitimacy of the outcome.

In negotiations, joint decision-making is a process that increases the perceived fairness of the negotiations, improves satisfaction with outcomes, promotes positive relations between parties, enhances the legitimacy with which agreements are viewed, and helps to create a willingness to abide by the commitments made. By framing negotiations as a decision making process based upon ***objective criteria***, negotiators free themselves and the other side from needing to cling to a position stubbornly in order not to appear (or feel) weak or disingenuous. Whether negotiators chose fair standards or fair procedures, the essential point, according to the theory of principled negotiation, is to jointly frame a sound basis for logical decision making that both adds value to the process, and ensures that parties can look back on the negotiated solution as a legitimate solution. Moreover, negotiations conducted in this manner become more efficient. Rather than spending their time attacking one another's positions, negotiators can focus their energies on analysis and problem solving and stand a greater chance of crafting agreements that parties will view as legitimate as time goes on.

4.6. Commitments

A negotiated settlement is only enduring if all parties honor the commitments that they make. Of course, those that fail to follow through on their promises stand to suffer a loss of integrity, be subject to the resentment of the other side, and risk that their partner in the negotiations (and possibly others outside of the deal as well if word of their reputation escapes) will refuse to deal with them in the future. No party to a negotiation should intentionally create commitments that they do not intend to honor. Fisher and Ertel (1995) argue that during the negotiating process, parties should think carefully about the kind of commitments they should be prepared to make. Are they capable of honoring them? How broad should commitments be? When will each party be expected to make good on their promises? One way to build trust is to create a commitment structure that can be implemented in stages. Parties may be more willing to make a deal with an opponent when there is an opportunity to demonstrate that each side is honoring their commitments along the way. Once trust is broken, how can parties recover? Gestures are one way through which a party who has lost integrity with another party due to past bad-faith actions may begin to compensate for earlier grievances. For example, a party who failed to make payment on a contractual obligation may need to offer advance payment on a new contract in order to convince a poorly treated trading partner that they are worth doing business with in the future.

4.7. Communication

Negotiation is only possible through communication. Fisher and Ury maintain that feeling heard is also a key interest for both sides in a negotiation. Good communication can change attitudes, prevent or overcome deadlock and misunderstandings and help to improve relationships. Moreover, good communication skills are essential to cogently relay your message, and to thoroughly understand the message of the other side (Wondwosen, 2006). In addition, integrative approaches stress the importance of sharing information as a means of uncovering interests and of helping parties to explore common problems or threats. Still, negotiators are frequently hampered in their roles by common communicational errors or inefficiencies. For example parties may concentrate only on their own responses and forget to listen to what the other side is saying. Listening provides important information about the other side and demonstrates that you are being attentive to the other side's thoughts, and respectful of their concerns.

To improve communication skills, Fisher and Ury recommend *active listening*. This means listening "not to phrase a response, but to understand [the other party] as they see themselves" (Fisher and Ury, 1981). Asking questions, paraphrasing without necessarily agreeing, and constantly acknowledging what is or is not said are good ways to demonstrate that you are listening actively (Wondwosen, 2006).

To insure good communication, CMG-Mercy Corps recommends adhering to four rules:

1. *Listen actively to both verbal and non verbal cues.*
2. *Get beneath the surface – ask questions to learn.*
3. *Describe your "Data".*
4. *Inquire, don't try to persuade.*

(Mercy Corps, 2006))

Misunderstandings can be especially prevalent when different languages or cultures are involved. Fisher and Ury provide the following example of the kinds of problems that can arise in multilingual encounters:

"...In Persian, the word 'compromise' apparently lacks the positive meaning it has in English of a 'midway solution both sides can live with,' but has only a negative meaning as in our integrity was compromised.' Similarly, the word 'mediator' in Persian suggests a 'meddler,' someone who was uninvited. In the early 1980, UN Secretary General Waldheim flew to Iran to seek the release of American hostages, His efforts were seriously set back when Iranian national radio and television broadcast in Persian a remark he reportedly made on his arrival in Tehran: "I have come as a *mediator* to work out a *compromise*." Within an hour of the broadcast, his car was being stoned by angry Iranians."

(Fisher & Ury, 1981, p 33-34).

Even when communication skills are good, communication problems can still arise. Negative emotions can cloud a negotiator's ability to communicate effectively. In addition,

the existence of an audience to a negotiation – be it a constituency, a superior, or a mediator, can all influence communication style and efficiency.

Many integrative theorists have emphasized the role of framing in effective communications. As a communication tool, frames can help the other side to understand and relate to your concerns. Moreover, Fisher and Ury argue that proper framing of a topic can promote a shared definition of a problem and the process needed to resolve the dispute. They maintain that by presenting the negotiations as a mutual problem to be solved together negotiators help to create a sense of ease, camaraderie, and openness. In integrative approaches, framing is thus both a communication skill and a tool for improving the channels of communication.

Finally, negotiators should become attuned to the necessity of learning how to deal skillfully with *difficult emotions*, which frequently arise in the course of negotiations. Fisher and Ury argue that it is important to allow one's counterpart in a difficult negotiation express whatever emotions they are feeling. Allowing the other negotiator to release his or her feelings is an effective tactic for improving communication because it helps to clear the air of unwanted emotions and get talks back on track rather than let them be hung up on bad feelings. Thus, they recommend giving the other side the opportunity to let off steam when needed. If what the other party is feeling comes out in the form of verbal attacks or long and polemical speeches, they advise listening and being patient. Integrative theorists often stress the importance of confronting difficult emotions when they arise and making them explicit as a way of underscoring the seriousness of the problem, acknowledging their legitimacy, and making the negotiations more pro-active. To increase awareness of and understanding of emotions, Fisher and Ury (1981) also counsel negotiators to examine and identify their own emotions. Negotiators should ask themselves how they would *like* to feel, and then ask the same questions from the perspective of the other side.

5. CONCLUSIONS

In the end, negotiation is a process that can be approached in many ways. No matter what strategy you choose, success lies in how well you prepared. The key to negotiating a beneficial outcome is the negotiators' ability to consider all the elements of the situation carefully and to identify and think through the options. At the same time, negotiators must be able to keep events in perspective and be as fair and honest as circumstance allows. Because a common ground or interest has brought the parties to the negotiating table, a negotiator can benefit by trying to capitalize on this common ground. By looking at the other side as a partner rather than an opponent and by working together, negotiators have an opportunity to craft a solution that will be beneficial to both sides.

6.   READERS' NOTES

6.1.   Time requirements

Time required to deliver this module is estimated at about 1 hour.

6.2.   EASYPol links

This module belongs to a set of modules which are part of the EASYPol training path
**Policy Learning Programme, Module 4: Policy and Strategy Formulation,
Session 5: Rice Trek – Simulation game**

Readers can follow other EASYPol documents under Module 3, which is structured as
follows:

Module 4: Policy and Strategy Formulation

Session 1: Making sense of policy processes

Session 2: Two case studies: Making sense of policy processes

Session 3: Key factors in state citizen synergy

Session 4: Extrapolate

Session 5: Rice trek – Simulation game

Session 6: Ministerial Loan Bargain Game

Session 7: Pulling it all together

7. REFERENCES AND FURTHER READINGS

Axelrod, R., 1984. *The Evolution of Cooperation*. USA: Basic Books.

Bacharach, S. and Lawler E., 1981. Power and Tactics in Bargaining. *Industrial & Labour
Relations Review,*.34(2):219-233.

Bazerman, M. H., Magliozzi, T. and Neale, M. A., 1985. Integrative Bargaining in a
Competitive Market. *Organisational Behaviour and Human Decision Processes,*
35:294-313.

Campbell, B. and Melvin M., 2006. Toward More Effective Stakeholder Dialogue:
Applying Theories of Negotiation to Policy and Programme Evaluation". *Journal of
Applied Social Psychology,* 36: 2834-2863.

Druckman, D., 1997. Negotiating in the International Context, in *Peacemaking in
International Conflict: Methods and Techniques,* I. Zartman, W. and Rasmussen, J. L.
(eds.), Washington DC: United States Institute of Peace Press, pp. 81-124.

Davis, G., Wanna, J., Warhurst, J. and Weller, P., 1993. *Public Policy in Australia*, Allen & Unwin, Sydney, Australia.

Ellsberg, D., 1959. *The Theory and Practice of Blackmail*. Unpublished lecture at the Lowell Institute, Boston. March 1959.

de Callieres, F., 1716. *On the Manner of Negotiating with Princes*.

Deutsch, M., 1958. Trust and Suspicion. *Journal of Conflict Resolution*, 2: 265-279.

Faure, O. and Rubin, J. Z., 1993. *Culture and Negotiation: The Resolution of Water Disputes*. Newbury Park: SAGE Publications, Inc.

Fisher, R. and Ertel, D., 1995. *Getting Ready to Negotiate, A Companion Workbook to Fisher, Ury and Patton's Classic Getting to YES*.

Fisher, R. and Ury, W., 1981. *Getting to Yes: Negotiating Agreement Without Giving In*. Penguin Books, New York:, USA.

Fisher, R., Ury, W. and Patton, B., 1991. *Getting to Yes: Negotiating Agreement Without Giving In*. Revised 2nd edition. Penguin Books, New York, USA.

Habeeb, W. M., 1988. *Power and Tactics in International Negotiation: How Weak N ations Bargain with Strong Nations*. Johns Hopkins University Press, Baltimore, USA.

Kissinger, H.A., 1969. *Nuclear Weapons and Foreign Policy*. W.W. Norton, New York, USA.

Lax, D.A. and Sebenius, J.K., 1986. *The Manager as Negotiator*. Free Press, New York, USA.

Lewicki, R.J., Barry, B., Saunders, D.M. and John, M.W., 2003. *Negotiation*, 4th edition, McGraw-Hill/Irwin.

Lindblom, C. E., 1958. The Science of Muddling Through, *Public Administration Review,* 19: 78-88.

Mercy Corps, 2006. A Mercy Corps Negotiation Skills Workshop: Building on the Ideas of Roger Fisher and his Colleagues. Mercy Corps Civil Society and Conflict Management Group. FAO, Rome, Italy. June 2006.

Messick, D. M. and McClintock C. G., 1968. Motivational Bases of Choice in Experimental Games, *Journal of Experimental Social Psychology*. 4:1-25.

Neale, M. A. and Bazerman, M. H., 1985. The Effects of Framing and Negotiator Overconfidence on Bargaining Behaviors and Outcomes, *Academy of Management Journal,* 28:34-49

Nicholson, H., 1964. *Diplomacy*. Oxford University Press, New York,USA.

Parsons, W., 1995. *Public Policy*, Edward Elgar Publishing Limited, USA.

Raiffa, H., 1982. *The Art and Science of Negotiations*. Belknap Press of Harvard University Press Cambridge, Mass., USA.

Ramirez, R., 1999. Stakeholder Analysis and Conflict Management. In Buckles, D. (ed.) *Cultivating Peace: Conflict and Collaboration in Natural Resource Management.* Canada, International Development Research Centre and World Bank. Ottawa, Ontario, Canada.

Saner, R., 2000. *The Expert Negotiator.* Klumer Law International, The Hague, The Netherlands.

Schelling, T. C., 1960. *The Strategy of Conflict*, Harvard University Press, Cambridge, MA, USA.

Snyder, G.H. and Diesing, P., 1977. *Conflict Among Nations Bargaining: Decision Making and System Structure in International Crises*, Princeton University Press, Princeton, USA.

Thucydides, 1910. *The Peloponnesian War*. London, J. M. Dent; E. P. Dutton. New York, USA.

Walton, R.E. and McKersie, R.B., 1965. *A Behavioral Theory of Labour Negotiations: An Analysis of a Social Interaction System*. McGraw-Hill, New York, USA.

Wondwosen, M., 2006. *Negotiation: A Concept Note,.* mimeo, August 2006, FAO, Rome, Italy.

Zartman, W. I., 1988. *Negotiation Journal.* Vol. 4, Number 1 (January, 1988).

Zartman, W. I., 1978. *The Negotiation Process: Theories and Applications*. Sage Publications, Beverly Hills, California, USA.

Zartman, W. I., 1976. *The 50% Solution: How to Bargain Successfully with Hijackers, Strikers, Bosses, Oil Magnates, Arabs, Russians, and Other Worthy Opponents in this Modern World*, Anchor Press. Garden City, N.Y., USA.

Zartman, W. I. and Alfredson, T., 2005. *Negotiating with Terrorists and the Tactical Question*. Proceedings of the Second Biennial on Negotiation, Paris 17-18 Nov. 2005

Zartman, W. I. and Berman, M. R., 1982. *The Practical Negotiator*,Yale University Press. New Haven, CT, USA.

Suggested readings on the practical elements of negotiation:

Buckles, D., 1999. *Cultivating Peace: Conflict and Collaboration in Natural Resource Management*. IDRC/World Bank. Also available at *http://www.idrc.ca/en/ev-9398-201-1-DO_TOPIC.html*

(Provides a basic guide to working through both collaborative and conflictual negotiations, drawing on a range of theoretical schools).

Fisher, R. and Ury. W., 1981. *Getting to Yes: Negotiating Agreement Without Giving In*.:Penguin Books. New York, USA.

(This provides the basis of the Principled Negotiations approach).

Fisher, R. and Ertel, D., 1995. *Getting Ready to Negotiate, A Companion Workbook to Fisher, Ury and Patton's Classic Getting to YES.*

(A tool to help each person design the negotiating strategy that is best for him or her in a given situation).

Paulson, D.D. and Chamberlin, K.M., 1998. *Guidelines and issues to consider in planning a collaborative process*. Institute for Environment and Natural Resources, USA

(Guidelines based on 29 case studies).

Zartman, W. I., 1978. *The Negotiation Process: Theories and Applications*. Sage Publications Beverly Hills, California, USA.

References pertinent to those involved in international negotiations:

Chomitz, K., 2007. *At loggerheads? Agricultural Expansion, Poverty Reduction and Environment in Tropical Forests*. The World Bank, Washington DC, USA.

Hall, R., 2006. Trade Liberalization, Natural Resources and Poverty, *Development,* 49: 49-55.

Pielke, R., Prins, G., Rayner, S. and Sarewitz, D., 2007. Lifting the Taboo on Adaptation", *Nature,* 445: 597-598.

Additional suggested reading:

Berton, P., Kimura, H. and I. Zartman, W.I., 1999. *International Negotiation: Actors, Struture/Process, Values*. St. Martin's Press. New York, USA.

Everett, S., 2003. The Policy Cycle: Democratic Process or Rational Paradigm Revisited? *Australian Journal of Public Administration*. 62(2): 65-70.

Kremenyuk, V., Sjostedt, G. and Zartman. W.I., 2000. International Economic Negotiation: Research Tasks and Approaches. *International Economic Negotiation: Models Versus Reality.* Kremenyuk, V. and Sjostedt, G. (eds.) Cheltenham, U.K. and Northampton, Mass.Elgar in association with the International Institute for Applied Systems Analysis; distributed by American International Distribution Corporation, Williston, Vt, 5-28.

Landau, A. and Pfetsch, F.R., 2000. Symmetry and Asymmetry in International Negotiations. *International Negotiations*, 5: 21-42.

Lindblom, C. E. and Woodhouse, E. J., 1993. *The Policy Making Process,* 3rd ed.

Odell, J.S., 2006. *Writing Negotiating Trade: Developing Countries in the WTO and NAFTA.* Cambridge University Press, New York, USA.

Raiffa, H., 2002. *Negotiation Analysis*. The Belknap Press of Harvard University Press. Cambridge & London, UK.

Sebenius, J. K., 1992. Negotiation Analyis: A Characterization and Review, *Management Science*, 38: 18-38.

Shapiro, D.L., 2006. Teaching Students How to Use Emotions as They Negotiate, *Negotiation Journal*, Jan. 2006:105-109.

Zartman, I. W., 1974. The Political Analysis of Negotiation: How Who Gets What and When. *World Politics*, 26: 385-99.

MODULE METADATA

1. EASYPol module	179

2. Title in original language	
English	FAO Policy Learning Programme
French	Programme de formation aux politiques de la FAO
Spanish	Programa de aprendizaje sobre políticas de la FAO
Other language	

3. Subtitle in original language	
English	Negotiation Theory and Practice: A Review of Literature
French	Théorie et pratique de la négociation : Approche de la littérature
Spanish	Teoría y práctica de la negociación : Una revisión de la literatura
Other language	

4. Summary

This paper was prepared in the framework of a capacity building programme that FAO organized to address major strategic issues and policy challenges for agriculture and rural development, in developing countries. The programme aimed at enhancing the capacity of senior officials by providing cutting-edge knowledge, facilitating exchange, and reviewing practical mechanisms to implement policy changes in a context where policy space is increasingly limited by regional and international agreements and treaties. Owing to the increasingly important role that negotiation plays in policy-making processes, policy experts are becoming more and more aware of the need for mainstreaming negotiation into the policy cycle. To address a demand to enhance participants' knowledge of negotiation and related skills, the programme contains a component which instructs on the practice of negotiation through a combination of theory and practical application.

This paper is intended as an easy-to-read reference material on negotiation. It presents an overview of the defining theoretical perspectives, concepts and methods that are central to the theory and practice of negotiation.

5. Date

January 2008

6. Author(s)

Tanya Alfredson, John Hopkins University, Baltimore, Maryland, USA
and
Azeta Cungu, Agricultural Policy Support Service, Policy Assistance and Resource Mobilization Division, FAO, Rome, Italy

7. Module type	☐ Thematic overview
	☒ Conceptual and technical materials
	☐ Analytical tools
	☐ Applied materials
	☐ Complementary resources

8. Topics covered	☐ Agriculture in the macroeconomic context

by the module	☒ Agricultural and sub-sectoral policies ☐ Agro-industry and food chain policies ☐ Environment and sustainability ☐ Institutional and organizational development ☒ Investment planning and policies ☐ Poverty and food security ☒ Regional integration and international trade ☐ Rural Development
9. Subtopics covered by the module	
10. Training path	**FAO Policy Learning Programme**
11. Keywords	negotiation, policy-making, negotiation approaches, strategies, tactics