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# Introduction

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## 1

# Negotiation: an overall framework

**N**EGOTIATION is involved, either at personal, group or international levels, in managing almost every arena of human affairs. In particular, joint solutions are required in many public spheres, both domestic and international, sometimes with grave consequences to the welfare of larger collective communities. Many international actors argue over the terms of settling territorial boundaries, arms control, termination of long-term hostilities, reduced pollution, protection of endangered species, free trade, monetary systems or other shared problems. When more than one solution exists, actors may have different preferences for types of mutually desirable agreements. This produces dilemmas for negotiation.

Negotiation is a unique set of social interactions in which negotiators differ but have complementary needs or desires. Facing one of the largest threats to the future of humanity, for instance, every reasonable person would accept the necessity for collective action to reduce greenhouse gas emissions responsible for the irrevocable damage to the global atmosphere, but it has proven difficult for governments to agree to measures to be taken to obtain the objective. Though it has now become part of history (from the 1950s to the early 1990s), the United States and the Soviet Union kept increasing their stockpiles of nuclear weapons the use of which would have left neither side with any chance of survival. Although both sides realized the need to control the arms race through negotiation, they still competed to gain military superiority. It took more than two decades and cost approximately one million lives to end the civil war between the Sudanese government and the south's 'liberation forces' prior to the conclusion of a peaceful settlement in 2005. In all these incidents, any one actor's security and welfare cannot be achieved alone, requiring mutually agreed actions.

In entering negotiation, each party has certain expectations, but one's objectives cannot be realized without joint solutions to the shared problems. In negotiation settings, a mutually acceptable solution is sought by two or more parties, who have differing preferences over feasible outcomes. Even if the attainment of one party's goals is in fundamental conflict with those of the other parties, negotiation still takes place due to converging interests as well as opposing ones. Incompatible preferences can be resolved

through the recognition of the interdependence in which cooperation becomes an inevitable part. Trading concessions for getting something desired is, in part, the heart of a negotiation. The process can be less competitive if the interests are complementary, not overlapping.

In a classic academic definition, “negotiation is a process in which explicit proposals are put forward ostensibly for the purpose of reaching agreement on an exchange or on the realization of common interest where conflicting interests are present” (Iklé 1964, 3–4). The present book conceptualizes, to a great extent, international negotiation as a strategic interaction between and among various types of actors who are engaged in establishing conditions for improving mutual welfare in many arenas of world affairs. The main attention is paid to negotiator strategies to influence each other’s behavior as well as their interactive patterns which are composed of competition and cooperation. The complexity of negotiation increases with the involvement of more actors, their perceptual and cognitive differences, institutional and group decision-making requirements, the necessity of coalition-building, and the impact of external events on bargaining dynamics.

Negotiators may want to promote cooperation for mutual welfare as opposed to competition that might be very costly, as exemplified by managing an arms race, trade wars, a deadly ethnic conflict, overexploitation of an ecological system, etc. In all of these cases, it would be difficult to develop strategies for coordinated actions in the absence of the identification of shared interests. Negotiators can deploy a diverse set of strategies either to influence the other’s motives and calculations or to minimize the negative effects of an opposing party’s actions. In this process, different patterns of conflict and cooperative relationships emerge as an underlying negotiation structure. Prior to reaching a landmark agreement with Iran on July 14, 2015, the United States and other major powers were engaged in a decade-long struggle to put substantial restrictions on Tehran’s nuclear capabilities. In defiance of economic sanctions crippling its economy, Iran continued to expand a uranium-enrichment program with bomb-making potential. Despite the vast differences initially perceived to be too wide to be narrowed, a compromise for a contained nuclear program was eventually struck with the realization that the alternative was a far more costly confrontation heading toward a military strike and smoldering war.

International negotiation is a divergent phenomenon, given that multiple factors – actor-specific or idiosyncratic as well as system-oriented – all have an impact on the negotiator’s understanding of one’s own interests, the other’s motives and the surrounding environment for their interactions. Various characteristics of each negotiation differ by decision-making systems of actors, issue characteristics (e.g., the environment, trade and security, which have different prospects for coordinative actions) as well

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as the dynamics of mutual interactions. Each party may face variant external-system constraints as well as dissimilar abilities to cope with a spectrum of challenges to meeting their own objectives. As an overview of the entire book, this introductory chapter presents an overall picture of negotiating problems and conceptual analysis as well as a negotiation process that will be explained in a more in-depth manner in the following chapters.

### Essence of negotiation

When two or more actors strive for specific outcomes to be jointly determined, they often agree that a solution is possible but may still disagree over which solution is best, either individually or collectively. In spite of the desirability of making an agreement, both parties may not be exactly sure of what form it ought to take. In fact, the outcome may favor one party more than the other, but should still be considered better than a lack of a jointly agreed-upon action. In negotiation settings, each party maneuvers to attain the best deal possible within a range of available options. In general, a bargaining problem is understood in the context of how two or more agents should cooperate when noncooperation leads to an inefficient suboptimal outcome. A simple example below can illustrate the point.

Two children are given an orange and have to divide it. They each have a self-interest in dividing an orange as favorably as possible for them individually. Is it the best strategy for each child to attempt to have as much of the orange as possible? What would be an optimal outcome to this bargaining problem? Should it be a compromise of 50/50 split or disproportionate division? If the latter is the case, on what basis? And how could parents convince the children to accept it?

It all hinges on what purpose each child wants to have an orange for. The utility of the orange differs or is the same, depending on what they want to do with the orange (e.g., cooking or eating). Differences in utilities can explain whether equal or differential division of the orange is a solution to this game. If one child needs just juice for making a cake, she would be happy with only a small portion of the orange. Then it should not matter whether the other child has a larger portion for eating. As in this example of dividing the orange, a solution does not need to arise from each child's sense of fairness or benevolent acts but from self-interest.

A negotiation situation can more often be characterized by different mixtures of not only conflicting priorities and competition but also shared interests. Many solutions to shared problems entail different degrees of desirable and undesirable outcomes for individual actors, inducing them to bargain hard for their favorite settlement. Most importantly, what is desirable could be considered in terms of subjective utility functions.

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Whereas two countries may compete for more tonnage in the allocation of water in a shared river, the quantity could be adjusted to each side's seasonal needs that reflect their different strengths in industrial and agricultural production.

The effects of each actor's decisions in an interdependent world will not be fully assessed if we lack an understanding of their interactive nature. As completely opposed interests are not typical, many bargaining situations can be characterized by a potential for either mutual gain or mutual harm. As often happens in industrial disputes, for example, the business owner and workers may have opposing interests in wages and compensation, but they will be mutually better off if a factory shutdown is prevented. All could be winners or losers at the end of the dispute, as illustrated by comparison between an improved working environment and increased productivity vs. the company's decreased market share and job loss following a strike. The prosperity of the company is not an incompatible goal with the improvement in workers' wellbeing.

In many international negotiations, similarly, prosperity and security are goals to be achieved reciprocally. For instance, Israeli security might ultimately be enhanced with Palestinian cooperation that derives from the return of the West Bank and other parts of land occupied during the 1967 War. The power-sharing arrangements between Catholics and Protestants in Northern Ireland, made through the 1997 Belfast Agreement, have largely ended sectarian violence (including terrorist bombing campaigns by the Irish Republican Army), paving the way for mutual prosperity.

The strategic aspects of negotiation have been studied in the context of cooperation and competition. The outcome of interactive decision-making reflects the degree of goal divergence or convergence. In reaching a successful peace accord to end an ethnic conflict, once they realize the painful effects of war of attrition, each adversarial party must put a higher value on a shared interest in peace than on the desire for domination over the other. Then their strategies may involve coordination of divergent interests and exploration of a formula to resolve differences.

### Negotiation structure: basic analysis

The number of parties and issues has various implications for a set of feasible courses of action that determine negotiation dynamics. At the simplest structural level, two monolithic parties are engaged in a bilateral encounter over a single issue with the sole possible result of a win-lose outcome. In competitive bargains, parties value limited resources equally with almost strictly opposing interests (Raiffa 1982). In conflicts over territorial sovereignty of a small Southeast Asian island, for instance, between China and Japan, one gains and the other loses. A lack of mutually agreeable standards of fairness leads to few potential points of agreement.

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In many instances, even a simple division can be transformed by adding new or hidden issues. A territorial dispute, with seemingly no obvious single solution, can be resolved by the consideration of multiple dimensions of the issue that allow tradeoffs. In the division of land, discussion does not need to be limited to the proportion of its ownership but also its quality and usage. A distributive situation in a territorial conflict between two countries can be transformed with a focus, for example, on sharing oil revenue instead of a precise division of the available land. Multiple issues allow creative exchanges among their differently valued interests. In addition, joint gains can be made possible by expanding the zone of possible agreement with the involvement of ancillary issues.

Interactions are influenced by alterations in the number of parties as well as number of issues. A bilateral negotiation turns into a three-way interaction with the addition of another party. While two sets of interests and one interaction exist for two parties, the network of three parties produces “three sets of individual interests, three possible interactions between any two players, and one interaction of all three” (Bazerman and Neale 1992, 128). Thus the increase in the number of actors brings about changes to bargaining interactions and options available to each party and payoff structures. At the beginning stage of the 1995 Dayton negotiation over the terms of settlement in Bosnia-Herzegovina, Serbian president Slobodan Milosevic and Croatian president Franjo Tudjman shared many ideas about territorial divisions. This apparent rapprochement between the Serbs and Croats prompted growing concerns for the Bosnian delegation, because the deal between the former two could have meant carving up the territory in favor of their own political entities. This fear created an early priority to seek “an agreement between Bosnia’s Muslims and Croats on a firmer and sounder basis for the Federation” in an effort to prevent its being annexed to either Serbia or Croatia (Bildt 1998, 127).

The presence of several parties opens the possibility of grouping on the basis of affinities to the point of relegating the negotiations to bilateral encounters. Through European Union negotiation in the early 1970s, Germany, Belgium and the Netherlands jointly faced the bloc of countries composed of France, Italy and Spain in determining not only tariff concessions but also subsidies for the modernization of fishing fleets. The two different issues within the common fisheries policy were linked together in order to reach an agreement acceptable to all involved parties (da Conceição-Heldt 2008). If a reversion to bilateralism is not possible, negotiators can form a series of crosscutting coalitions that piece together agreements out of a number of issues, as happened to producing multilateral trade pacts (e.g., the Uruguay Round of multilateral trade negotiations that involved the participation of 123 countries, spanning the period 1986–94). The complexity of negotiating many issues among multiple parties can be tamed by issue coalitions, bringing in parties behind a package of tradeoffs.

## Strategies: integrative vs. distributive bargaining

A negotiation situation generally fits in a spectrum ranging from a distributive, zero-sum structure to an integrative “win–win” one. At the zero-sum end, whatever one party gains becomes another’s loss with the division of a fixed “pie.” At the opposite end, negotiators have either shared or complementary interests, allowing them to be engaged in integrative problem-solving that increases value for all. Between the purely distributive and integrative ends lies a wide range of “mixed-motive” situations that contain both common and conflicting interests (Walton and McKersie 1965). These two elements are normally manifested simultaneously in many real-world negotiations. Whereas the absence of common interests leaves nothing to negotiate for, negotiators have nothing to settle on without any conflicting interests (Iklé 1964).

In win–lose zero-sum distributive bargaining situations, one actor gains at the other’s expense. In basic distributive conflict, the more one gets, the less is available to the other party, as commonly seen in an everyday example of haggling over a car price. In general, strictly opposed interests generate more competitive behavior to obtain relative advantage in the division of fixed resources. A distributive strategy involves a value-claiming process. Each side wants to have distributive gains in its favor by winning the biggest possible share of whatever value is to be divided. Making excessive demands as well as refusing concessions are part of maneuvers for claiming as much value as possible. It is vividly illustrated by Iceland’s recurring demands for additional fishing territories and quotas in the North Atlantic through a series of confrontations with Britain during the two decades of “the Cod Wars” between 1958 and 1976.

The Icelandic objective was the preservation of as much of the surrounding fish stock as possible for their own fishermen. In 1958, they started from a unilateral extension of the fisheries limit to 12 miles without anything in exchange. Once their goal was met through a series of harassment tactics against British trawlers in 1961, the Icelandic government announced the extension of the country’s fisheries to 50 miles with an outright demand for acceptance by the British. With much confidence gained by the previous success in unilateral extension, Iceland even used gunboats to fire on British trawlers to intimidate their fishermen in pursuing maximalist positions. Not long after the second “Cod War” ended in November 1973 with the British concession, Iceland, in 1975, initiated another confrontation with the unilateral extension of its fisheries limit to 200 miles in much the same way as the earlier two. This time, Iceland raised the stakes in the outcome by threatening to withdraw from NATO and making an overture to its Cold War opponent, the Soviet Union, beyond a series of trawler wire cuttings (Habeeb 1988). As the conflict wore down the British, Iceland eventually got its way in the negotiations. Whereas this case may illustrate the success of strictly



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adversarial tactics by the Icelandic government, this type of approach often invites a costly war of attrition, without any gain to the aggressive party, if the other party adopts the same strategy.

An integrative approach seeks joint gains by enlarging the benefits available to all negotiating parties (e.g., increased company profit to be shared with labor after a growth in productivity). Cooperative strategies are essential to integrative bargaining which has to create a larger amount of value to be shared (Walton and McKersie 1965). The difference between the status quo and status quo ante for each party becomes a more important concern than how well each fares relative to the other. A mutually satisfactory solution can be found by value creation that contributes to absolute gains to all (Odell 2002). When complementary interests form the basis for a mutually beneficial exchange, the benefit stems from tradeoffs between different priorities.

In a quest for one's own goals, most importantly, both value creation and claiming have to be put in a broader context of a competitive-cooperative realm. Value creation does not necessarily eliminate a competitive aspect of negotiation. Even after the creation of a larger pie (through an integrative process), negotiators still have to work on how to divide it. The parties may turn to competition by demanding a larger share through distributive bargaining. As integrative and distributive strategies become interdependent components within a single negotiation, there is a latent tension between value-claiming and value creation within a process of conflict and cooperation. At different stages of a negotiation, one of these strategic approaches is likely to be predominant. In the end, some negotiations tend to be tilted toward the distributive side of the spectrum while others are slanted toward the integrative pole (Odell 2000).

### Bargaining range

For each negotiator, possible settlements are found within a range of outcomes from an upper to a lower boundary. The upper boundary is referred to as a negotiator's aspiration point, and the lower one is identified as a reservation (i.e., walk-away) point. While the former represents an ideal outcome from the negotiation, the latter constitutes a minimum outcome. Negotiators are likely to set their ultimate goals within this range of acceptable solutions between the minimum and maximum values. At a reservation point, a party prefers exercising "outside options" as an alternative to negotiation because an agreement is no longer advantageous. Indeed, a rational actor would not be willing to take less than the value they can get by acting unilaterally (Hopmann, 1996; Odell 2000; Princen 1992). Therefore, a bargaining range is a set of settlement points that each side prefers over their nonagreement outcome.

If a bargaining space permits only a more or less linear division, negotiators reach agreement through concession-making until the positions of the parties converge

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somewhere in the middle. If there is no such bargaining space, either one or more parties may misperceive that there is such a space, or there may be a real conflict of interest. In bilateral negotiation, outcomes do generally fall within the rough bargaining space that exists between the opposite ends of two reservation levels. If a seller's reservation price (i.e., the lowest acceptable price) is \$200,000 in the example of a house sale, a buyer's reservation price (i.e., the highest price he is prepared to pay) should be larger than the seller's. If a buyer's reservation point is \$250,000, a deal can be struck somewhere between the two reservation values.

Theoretically speaking, any settlement in the possible agreement zone brings at least some gain to both sides (in the case above, between \$200,000 and \$250,000), being considered better than reverting to no agreement. At the same time, multiple settlement points along the continuum have varied values for each side. When concessions are made in a linear bargaining range between the two opposing reservation levels, settling on one point is essentially distributive, benefiting one side more than the other. In order to maximize an individual gain of a particular kind, each party desires to settle near the other's reservation value. In fact, concessions can be offered up to a point where a stalemate is preferred over continuing negotiation (Princen 1992). In this indeterminate situation, a negotiation's fate depends on what the other side does, but neither is likely to know the other's intentions and reservation value clearly, often producing a costly delay.

A process of bargaining is comprised of concessions and convergence toward producing an agreement. Its key aspects are illuminated by (1) initial offers presented by each party to the other, (2) an initial adjustment to each other's positions, (3) commitments to a particular value with an effort to stand firm, (4) concessions required to move closer to one another and (5) resistance against the pressures of diversion in an endeavor to converge upon agreement (Hopmann 1995). Bargaining's competitive nature is highlighted by a struggle to advance one's own interests relative to the other.

The distribution of costs and benefits can follow once an end point is discovered, with convergence of opposing positions onto a joint one. In converging through a series of concessions, each party attempts to move the other closer to its own position. While not revealing or even manipulating information about one's own genuine objectives and priorities (e.g., a seller's faking the existence of a competitive bidder), negotiators may even exaggerate their reservation points for an advantage. The negotiator's bargaining behavior tends to be shaped by initial expectations and modified by the perceptions of the other party's concession behavior. In this reactive process, the concession patterns of one party can be adjusted to the other side's shifting bargaining behavior (from tough to soft or vice versa).

In high-stakes negotiations, each side wants to test the other's limits before it is ready to close. The amount of ultimate concessions might be attributed, for example, to