

PLACEHOLDER

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PART ONE

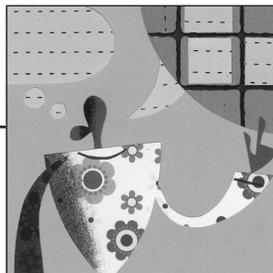
Introduction:
*Changing the Approach
When Negotiating Across Cultures*

This part of the book introduces the reader to the subject of cross-cultural negotiations. In introducing the issue, this part explains potential differences in the negotiation styles of counterparts from other cultures.

After discussing some of the most common negotiation styles found throughout the world, this part introduces ways in which U.S. negotiators can determine which styles are being employed by negotiating counterparts as well as equipping the negotiators with tools for dealing with those styles.

U.S. negotiators may find their training in interest-based, or collaborative, negotiation does not adequately prepare them for negotiating with others from different cultures. Those negotiating counterparts may be unfamiliar with concepts typically employed in interest-based bargaining.

Because this gap in negotiating styles exists, this part explains how a reflective negotiating style can be employed in almost any situation and how using this style could potentially lead to interest-based negotiation in some situations.



Chapter 1

*Tuning the Harmony
Between Negotiation and Culture*

Sara A. Stahley

A b s t r a c t

Culture is a complex spectrum consisting of ideas, thoughts, and feelings on one end and behaviors, values, and beliefs on the other. Global negotiations bring culture to the forefront because of the impact cultural relations have on negotiation.

U.S. negotiators will be prepared for different negotiation approaches and how to respond to these differences to ensure success in a negotiation.

This chapter provides tips on understanding and appreciating culture, emphasizes the importance of self reflection, and finally explores goal assessment in a negotiation and how culture, individualism, and global assessment combine to impact the negotiation.

I. Introduction

*“Culture is to negotiation what birds flying into engines are to flying airplanes . . . practical impediments.”*¹

Culture is better characterized as a spectrum rather than a term with one set definition. The spectrum is a mixture of ideas, thoughts, and feelings on one end and behaviors, values, and beliefs on the other.² To think of culture is to think of an individual. No two groups have an identical culture and each person within a group has an individual personal culture.³

As complex as culture is, studying and appreciating the concept will improve a negotiator’s effectiveness as the negotiator develops a realistic cultural empathy.⁴ A negotiator is able to place himself in the counterpart’s shoes because studying culture allows him to better understand the counterpart’s position. Developing the skills to become aware of one’s own culture and the counterpart’s culture is a cognitive and practical way to prepare for any negotiation.⁵ As Kevin Avruch of the Institute for Conflict Analysis and Resolution at George Mason University explains, “negotiation is about communication,” communication has a human element, and to be human is to possess culture.⁶

The focus of this chapter and this book is not only to provide a U.S. negotiator with cultural empathy but also to supply him with a toolbox of techniques on how to successfully approach cross-cultural negotiations. This broad focus encompasses information regarding likely negotiation approaches a U.S. negotiator will encounter when negotiating across cultures and further, ideas on how to respond to those differences while continuing to pursue the goal of the negotiation.

This chapter serves as an introduction to culture by stressing the importance of cultural appreciation and then by emphasizing the dangers of cultural stereotyping. The chapter also highlights the value of self-reflection and being aware of one’s own culture because one key to understanding culture is to concentrate on individuals. Finally, the chapter explores goal assessment in a negotiation and how culture, individualism, and goal assessment combine to impact a negotiation.

II. Appreciation of Culture

An American travels to China thoroughly prepared for a negotiation. He knows both businesses and the potential partnership inside and out. He wishes to establish a rapport and learns his counterpart has a daughter who is about to be married. He decides to present the daughter with a gift and chooses to give her a fine clock. The negotiation is ruined before it has even begun. Why?

The American knew the businesses, but he failed to learn about Chinese culture. Clocks are associated with death in China and they are an inappropriate gift. The American insulted the Chinese negotiator and the business relationship was subsequently terminated.⁷

Many problems can arise when a person negotiates without an appreciation of the differences across cultures. The example above illustrates how a negotiation can be doomed before it has even begun. Failing to recognize the importance of differences across the table can ruin relationships. The reason for failure is that people need to feel appreciated and that they have been acknowledged as a person. Ignoring culture may anger or hurt the other negotiator and therefore, trust cannot be established.⁸

Professor Gary Weaver of the School of International Service at American University⁹ designed the “Iceberg Analogy of Culture” to describe how cultures collide and the friction that results when a negotiator is not prepared for the collision.¹⁰ The iceberg analogy “allows us to identify aspects of all cultures...and consider what happens when people from different cultures come together.”¹¹ The largest part of the iceberg is the base, the portion that lies below the surface. This represents the internal culture into which one is born; the values are unconsciously developed by the surrounding environment. The base of the iceberg is difficult to change because these values have roots extending as deep as the roots of the Sequoia trees. These values are not seen on the surface and are often hard to reach; they are learned early and are taken for granted as being a basic part of who one is. Professor Weaver describes this as the primary culture, and “by understanding values, the base of the iceberg, we can understand behavior.”¹²

In contrast, the tip of the iceberg is the external culture that can be easily changed. Professor Weaver describes this as one's secondary culture. The behaviors learned are a result of the groups that one joins throughout life, such as the military. These groups allow human beings to add to their base of values, thus allowing humans to share behaviors and beliefs with someone who does not share their primary values. As an example, a U.S. Air Force pilot will share certain behaviors with a pilot from Jordan because of the similar training and education each has received. It is important to remember, however, that the secondary culture never trumps the primary culture because a person brings his primary culture into every situation he enters. It may be tempting to use the secondary culture as a way to say that certain people are the same, but "no two human beings belong to a secondary culture in the same way at the same time, so we are all unique."¹³

In order to appreciate the examples set forth in this chapter, analysis should flow through the levels of the iceberg. The clock represents a belief for the Chinese negotiator, but in order to understand what affect it will have on him, his values must be appreciated. Although the tip of the iceberg is significant, a counterpart will know that the negotiator is not from his culture and the counterpart will allow and expect a foreign negotiator to make mistakes. To minimize these types of potential missteps, a negotiator may be well served to strive to prepare well enough so as not to offend the counterpart's deepest held values. An empathic negotiator will step into his counterpart's shoes and this will open the door to negotiations. Preparation for the negotiation is key. Preparation includes being sensitive to differences around the world and doing one's best to be aware of what makes the other negotiator unique. A good negotiator is conscious of cultural differences at all times. Forgetting this, even for a moment, can destroy a successful negotiation.

III. Miscalculating Culture

A U.S. Air Force unit was deployed to Kosovo attempting to get the railroad in order for commerce to get back on track. The reason it was no longer in operation was because of disagreement between the Serbians who managed the operation and the Albanians who worked the trains. After a period of ethnic violence, the two groups refused to work with one another. The United States went in with an economic point of view; it was in the country's best interest for the railroad to run. The Serbian and Albanian held the point of view that working together was impossible because of the violence. After days of frustration and impasse, an American saw the Serbians and Albanians outside enjoying a cigarette break. The two sides were laughing and talking with one another! The American quickly went over and started a conversation. He asked why, since they had always been friends, they could talk together, but they couldn't work together? He was told that he just did not understand, the violence had torn the groups apart and to save face in their respective communities, the workers could not work together in public. It was not a matter of economic efficiency; it was rooted much more deeply. The Americans assumed that each side held the same values and they did not appreciate the differences between the cultures.

How was it resolved? By recognizing this cultural gap and separating the two cultures instead of grouping them together, the Americans helped the Serbians and the Albanians set up a system where the Serbians would operate the train in the Serbian area and then would stop the train as it approached an Albanian area and the Albanians would take over.¹⁴

Just as it is unwise to ignore culture, Professors Frank Sander of Harvard Law School and the late Jeffrey Z. Rubin of Tufts University suggest it is dangerous to inappropriately use cultural stereotypes to explain all cultural differences.¹⁵ Culture is constantly changing; there is no "single" culture.¹⁶ Every member of a group has a unique personality developed by that person's own individual experiences. Stereotyping a group means that a negotiator failed to appreciate the person with whom he was negotiating. Professors Sander and Rubin also advance the prospect that although it may seem easier to stereotype, the negotiation will be robbed of true success and the other negotiator will be robbed of his individuality.¹⁷ It is important to remember that "you need the other person if you are to reach your goals."¹⁸

Professor Weaver suggests that generalizing cultures is not necessarily harmful, as long as the negotiator knows that it is a generalization. Generalizations may be helpful to understand the basics of a culture, as long as one remembers that, as soon as the generalization is no longer applicable, it should be discarded. The danger lies in taking these generalizations one step further and engaging in stereotyping.

Stereotyping is simply not acceptable. The ramifications of stereotyping can severely cripple cross-cultural negotiations.¹⁹ Dr. Weaver proposes that forcing everyone to do one thing in every situation is just not feasible. Stereotypes are hard to abandon and total panic can ensue when something happens to defy the stereotype.²⁰ Stereotypes are often “false and misleading . . . and promote unrealistic expectations.”²¹

Stereotyping is just as harmful as disregarding culture entirely. The counterpart may become angered, trust may be sacrificed, and a relationship may not become established. A good negotiator is aware of cultural differences; negotiating across cultures is not a process of using one set of rules or tactics when dealing with counterparts from one country while using entirely different tactics for a counterpart from another country. Rather, it is recognizing that differences exist, being empathic to those differences and doing one’s best not to let those differences hinder the negotiation.²² “Culture is not reducible to behavior; to ‘know’ a culture is not to be able to predict each and every act of each and every member of a group.”²³ Stereotypes and the ramifications of stereotyping are discussed more fully in Chapter 6.

IV. Looking Inward to Look Outward – An Emotional Journey

“Know thyself” is an ancient Greek phrase applicable to cross-cultural negotiations because the first step to preparation is to understand who one is as a person. Professor Weaver suggests that it is necessary for a negotiator to examine his own culture to understand how he has been shaped to look at the world and solve problems.²⁴ As this chapter proposes, it is easier to understand why a counterpart is reacting the way he is if one has an understanding of the counterpart’s culture. Similarly, if a negotiator understands himself, not only will he be able to understand why he reacts how he does but also he will be able to “anticipate where misunderstandings and conflict will take place when we interact with those who are culturally different.”²⁵

Training negotiators to be prepared involves teaching them to open their eyes to themselves and the world.²⁶ If a negotiator learns to take responsibility and control over his own actions, he will gain control over the negotiation. This control will flow from eliminating questions as to how he will react; he has addressed himself and therefore he recognizes and avoids bringing in any stereotypes or other relationship barriers.²⁷

Points for negotiations to look inward include:

- How much knowledge do I have about the situation?
- How much experience do I bring?
- What personal attributes do I have that can make this negotiation a success?

In order to understand why a person is reacting in a certain way, it is important to be aware of personal reservations and inhibitions that person may have entering into the negotiation. Some of the situations a negotiator faces may be risky because he is entering unfamiliar territory. The negotiation may consist of groups, issues, and geographical areas that the negotiator has never yet addressed or encountered. A negotiator needs to be cognizant of his emotions and what part they will play. For example, nervousness as a result of these unfamiliar areas may cause one to lose sight of the goals of the negotiation. By first attempting to tackle the nervousness, a negotiator can use negative emotions as a tool in the negotiation because it will eliminate a factor that could have taken one by surprise.²⁸ Minimizing potentially harmful factors over which one can exert control will promote successful negotiations.²⁹

Another piece of understanding who one is as a negotiator is understanding what biases and predispositions that person brings to the table. It is important to remember that biases and predispositions are not always categorized as negative. For example, humans tend to make concessions for elderly people,

i.e., offering a seat in a crowded place, and men tend to show respect for women by holding open a door. These kind gestures are also predispositions that one needs to take into consideration before entering a negotiation.³⁰

There exist many unknown factors when entering into a negotiation; therefore, a negotiator will be more comfortable when dealing with those situations over which he has control. Assessing one's biases and predispositions is something the negotiator can control. By asking why one is reacting in a certain manner, a person becomes more aware of his own culture and this appreciation helps him understand what values and beliefs are most important to him.³¹ A negotiator needs to know how he will react to his counterpart in their initial meeting, if the counterpart says something the negotiator does not agree with, or if the counterpart does something to anger the negotiator.³² One's reactions to all of these situations could mean the difference between success and failure in a negotiation.

Every human carries biases and predispositions with him throughout life. These are learned traits and because they are learned, they can be altered. In order to teach a negotiator how to examine his own biases, ask him to consider the following points:

First, a negotiator needs to assess what biases and predispositions he holds.

- What do you immediately think about when you meet someone who is different than you?
- Are there any benefits to the biases that you hold?

Second, think about where your biases came from and how they developed.

- If you know where they originate, it will be easier to move on to the next step.

Third, think about how you can work to change your biases and predispositions.

Finally, you need to be aware that even after you have identified and worked to change your biases, they may resurface if you are provoked or if you let your guard down.

- Consider how you will react if someone who is different than you says or does something to anger you; will you revert back to your biases or will you be prepared enough to continue on the path to a successful negotiation.³³

By gaining confidence and an understanding of one's own culture, a negotiator can effectively appreciate his counterpart's culture. Culture misconceptions tend to arise because of both verbal and nonverbal communications.³⁴ In sum, a negotiator who understands how his own communications will be interpreted is more able to understand how to interpret his counterpart's communications.

V. Goal Assessment

Negotiation training that includes a segment on interest exploration will help negotiators be better prepared because a negotiator who determines exactly what his interests are will be able to prioritize and possibly create value by considering trade-offs.³⁵ It is important to be aware of what one is attempting to achieve by this particular negotiation because this will affect choices made during the negotiation. A goal assessment prepared before a negotiation is a useful tool to assist negotiators. In order to help prioritize, organizing a list of what is essential to accomplish in the negotiation and a list of items that could be included, but are not the main goals can help negotiators determine the best way to proceed. (See Chapter 10).³⁶

In the negotiation world, personal goals and organizational goals will not always be the same. (See Chapter 4).³⁷ Further, a study by Jeanne Brett and Tetsushi Okumura suggests that cross-cultural negotiators may possess different ideas regarding personal and organizational goals. Brett and Okumura hypothesize that some cultures tend to prioritize only goals of the organization for which he is negotiating, while other cultures value both personal and organizational goals.³⁸ A negotiator who self-reflects

will be able to recognize the schema with which he most identifies. He will then understand how the negotiation may play out by examining the list of goals and being aware of which goals are important personally and which goals are important to the organization may affect how the negotiation plays out. Brett and Okumura recommend considering these questions: what needs does one require to be satisfied for him to be effective in this negotiation and what needs does the organization require for this negotiation to be effective in the long run.³⁹

The goals that are most important personally will usually affect one's negotiation style. The reason for this is because one will generally use the negotiation style that will be most effective to accomplish what one wants. As will be discussed in Chapter 2, there are many styles and negotiation approaches from which a negotiator may choose.

It is also vital for a negotiator not to forget the bigger picture: the goals of the organization one represents. Generally, the sole reason the negotiator is in the negotiation situation is to satisfy his job duties. The issues to contemplate include whether a continuing relationship needs to be established, how important trust is to each side, how much information the organization wants the negotiator to share, how much information the organization needs the negotiator to glean, and what one's organization really needs to accomplish from this negotiation (see Chapters 5, 10, and 15). The goals that the organization must satisfy will also affect a negotiator's style.⁴⁰

A negotiator is usually expected to represent his organization first and himself second. As explained in Chapter 8, the goals of the organization combined with the negotiator's personal goals will define how much power the negotiator has.⁴¹ If the organization's goals and the negotiator's goals are aligned, the negotiator will be more comfortable with zealously negotiating because he will be able to accomplish all the goals at once. If tension exists between the goals, it is wise to stop and assess the priority of these conflicting goals and determine which style will best satisfy the most significant priorities.

One way to proceed is by utilizing checklists. Such checklists and bullet points are a useful way for a negotiator to assess whether his personal goals and organizational goals are being met. A negotiator may use the goal list he prepared prior to the negotiation and cross out each goal as it is met while making an effort to reach goals that have not been addressed.

VI. Toolbox

Culture is not a single "thing" that can be fully understood.⁴² Nevertheless, every human being possesses a unique culture, and when cultures collide, "there is often misunderstanding and conflict caused by these differences."⁴³ Therefore, culture needs to be studied and appreciated so that differences can be mitigated and negotiations can ensue. A negotiator who attempts to learn about his counterpart's culture will develop a long lasting relationship with a foundation of trust.

People vary across cultures. The dangers in using culture to stereotype and over-generalize the counterpart exist because stereotypes will offend the counterpart and destroy the negotiation. Just as the negotiator himself wishes to be respected, the negotiator should respect the person with whom he is negotiating; focusing on the individual will facilitate respect.

A negotiator needs to know who he is and how his world has shaped him before he can attempt to understand who his counterpart is. By understanding who he is and what he brings to the negotiation, a negotiator will improve the possibility of a successful negotiation. The prepared negotiator not only knows his strengths, but he has identified his weaknesses and has taken the steps to overcome them.

Finally, a good negotiator will assess both his goals and the goals of the organization he represents. The goals of each will affect the negotiator's style because style is the key to accomplishing what needs to be achieved. Tensions that are identified before the negotiation between personal goals and the goals of his organization will help the negotiator know his limits. A negotiator who has established checkpoints will be able to assess which goals have been accomplished and which goals still need to be addressed.

Endnotes

- ¹ KEVIN AVRUCH, *CULTURE & CONFLICT RESOLUTION* 43 (1998).
- ² See Jeswald W. Salacuse, *Ten Ways that Culture Affects Negotiating Style: Some Survey Results* *NEGOT. J.*, July 1998, at 221, 222.
- ³ Marshall K. Singer, *The Role of Culture and Perception in Communication*, in *CULTURE, COMMUNICATION AND CONFLICT: READINGS IN INTERCULTURAL RELATIONS*, 28, 30 (Gary Weaver ed., Pearson Press rev. 2000) (1994).
- ⁴ Lecture by Gary Weaver at the Air War College in Montgomery, Ala. (Apr. 6, 2006) (hereinafter Weaver lecture) (notes on file with author).
- ⁵ *Id.*
- ⁶ AVRUCH, *supra* note 1, at 40, 44.
- ⁷ Kathleen Kelley Reardon & Robert E. Spekman, *Starting Out Right: Negotiation Lessons for Domestic and Cross Cultural Business Alliances*, 37 *BUS. HORIZONS*, Jan.-Feb. 1994, at 71, 73.
- ⁸ For a detailed discussion of trust building in cross-cultural negotiation, see Chapter 5.
- ⁹ Dr. Weaver's publications and lectures on cross-cultural relations are extensive and this author had the pleasure of attending one of his presentations at the Air War College in Montgomery Alabama April 5-7, 2006.
- ¹⁰ Gary R. Weaver, *Contrasting and Comparing Cultures*, in *CULTURE, COMMUNICATION AND CONFLICT*, *supra* note 3, at 72, 72-74 (citation omitted).
- ¹¹ *Id.* at 73
- ¹² Weaver lecture, *supra* note 4; *see also* Weaver, *supra* note 10, at 73.
- ¹³ Weaver lecture, *supra* note 4; *see also* Weaver, *supra* note 10, at 73.
- ¹⁴ Student comment at the Air War College, April 6, 2006.
- ¹⁵ For additional information on this subject, see Jeffrey Z. Rubin and Frank E.A. Sander, *Culture, Negotiation, and the Eye of the Beholder*, 7 *NEGOT. J.* 249, 250 (1991).
- ¹⁶ ALAN S. RAU ET AL., *PROCESSES OF DISPUTE RESOLUTION: THE ROLE OF LAWYERS* 906-10 (3d ed. 2002).
- ¹⁷ Jeffrey Z. Rubin & Frank E.A. Sander, *Culture, Negotiation, and the Eye of the Beholder*, in *THE CONFLICT AND CULTURE READER* 15, 15-16 (Pat K. Chew ed., 2001).
- ¹⁸ William Briggs, *Next for Communicators: Global Negotiation*, *COMM. WORLD*, Dec. 1998, at 12, 13.
- ¹⁹ For a detailed description of stereotypes that a counterpart may hold about Americans, see Chapter 6.
- ²⁰ Weaver lecture, *supra* note 4.
- ²¹ Gary R. Weaver, *Understanding and Coping with Cross-Cultural Adjustment Stress*, in *CULTURE, COMMUNICATION AND CONFLICT*, *supra* note 3, at 177, 191.
- ²² RAU, *supra* note 16 at 906-10.
- ²³ Kevin Avruch & Peter W. Black, *Conflict Resolution in Intercultural Settings: Problems and Prospects*, in *THE CONFLICT AND CULTURE READER*, *supra* note 17, at 7.
- ²⁴ Weaver lecture, *supra* note 4.
- ²⁵ Weaver, *supra* note 10, at 72.
- ²⁶ For more information on self-assessment, see Chapter 7.
- ²⁷ Weaver, *supra* note 21, at 184.

- ²⁸ See Jennifer M. George et al., *The Role of Affect in Cross-Cultural Negotiations*, 29 J. INT'L BUS. ST., 4th Q. 1998, 749, 753, 764.
- ²⁹ For additional information, see Jackie Mayfield et al., *How Location Impacts International Business Negotiations*, 19 ST. JOHN'S U. REV. BUS. (1998).
- ³⁰ Sondra Thiederman, *Toward Bias-Free Leadership: Your Association Wins When You Identify and Snuff Out Your Biases; Bias-Free Leadership, Guerrilla Bias*, 7 ASSOC. MGMT. July 2004, at 53.
- ³¹ Weaver lecture, *supra* note 4.
- ³² For a detailed description of stereotypes that counterparts may hold of Americans, how those stereotypes may anger a U.S. negotiator, and how a U.S. negotiator may wish to respond, see Chapter 6.
- ³³ Thiederman, *supra* note 30.
- ³⁴ See Chapters 11 and 12 for more information on verbal and nonverbal communications.
- ³⁵ Lecture by Linda Myers at the Air War College in Montgomery, Ala. (Apr. 5, 2006).
- ³⁶ For detailed information on setting the agenda, refer to Chapter 10.
- ³⁷ For more information on tension between self-interests and collective interests, see Chapter 4.
- ³⁸ Jeanne M. Brett & Tetsushi Okumura, *Inter- and Intracultural Negotiation: U.S. and Japanese Negotiators*, 4 ACAD. MGMT. J., Oct. 1998, at 495, 496.
- ³⁹ See *id.* at 496-97, 502-03, 506.
- ⁴⁰ *Id.*
- ⁴¹ For a discussion concerning the dynamic of power, see Chapter 8.
- ⁴² See Kevin Avruch, *Culture and Negotiation Pedagogy*, NEGOT. J., Oct. 2000, at 339, 340-41.
- ⁴³ Weaver, *supra* note 10, at 72.

Chapter 2

Varied Negotiation Approaches

Carrie Luria Cooper

A b s t r a c t

This chapter includes a discussion of varied negotiation approaches utilized in the United States and abroad. It also contains a negotiator's toolbox of behaviors tending to indicate the negotiation style of the counterpart. Use of these identifiers can help a negotiator know what to expect and plan how to respond.

I. Introduction

This chapter serves to help the U.S. negotiator to recognize the varied styles of negotiation that are most often used domestically and abroad. As noted in Chapter 1, the U.S. negotiator can be better prepared to negotiate with any counterpart if he is able to evaluate his idea of negotiation approaches as well as his basic values. Then, the U.S. negotiator needs to be able to think about and recognize other common negotiation approaches most often found outside the United States. Once a negotiator is able to recognize if his negotiating counterpart has a different approach, the negotiator can use that information as a clue into the values of the negotiating counterpart, and he can then decide how to best proceed with the negotiation.

II. Thinking About Negotiation Approaches

When a U.S. negotiator thinks about different types of negotiation, she usually thinks of competitive versus cooperative styles of negotiation.¹ The competitive negotiator is thought of as aggressive, adversarial, and as someone who negotiates by setting out positions.² The cooperative negotiator often uses principled or problem-solving techniques, sometimes called “interest-based negotiation.”³ The cooperative negotiator tries to expand the resources available and come up with new ideas to help all parties become satisfied. This latter technique is also called collaborative negotiation.⁴ A classic example of an interest-based negotiation is when two parties are deciding who will get or how to split the only available orange. The parties, through collaborative negotiation eventually learn that one person wants the peel while the other is interested in obtaining the seeds. Once this information is known, the parties can each have all of the peel and all of the seeds respectively instead of simply splitting the orange, which they may have done had they not explored each other’s interest in the orange.⁵

While interest-based negotiation may work in some situations, as will be detailed in Chapter 4, this type of negotiation style is not always the best approach. Although the ideas in interest-based negotiation encompass many positive features, the underlying principles are embedded in American notions of what is good and important. It reflects U.S. culture and places value on principles such as fairness, justifiability, equality, and predictability.⁶ If one is negotiating with a counterpart who does not share, or does not perceive to share, these underlying values or use these approaches, the interest-based approach may not be the best way to reach a favorable agreement.⁷

III. Presumptions Prevalent in U.S. Culture

Listed in this section are just a few presumptions prevalent in U.S. culture that may not be true in every other culture. A U.S. negotiator, during his own self-evaluation, should consider if he also holds these notions:

Time is money.⁸ People in the United States are often in a hurry and feel that faster is better.⁹ People want to be and want others to be “efficient,” believing that being efficient is being good. When a person is efficient, he can get more done. If one can find a way to consolidate tasks and do something more efficiently, then that is a better way to do just about anything from working to running errands to finding the quickest route from A to B.

Issues can be separated. If a negotiator’s checklist includes multiple items or issues, the negotiator and counterpart may be able to resolve some issues but not others. In other words, the issues are not necessarily interconnected. Negotiating counterparts can discuss and come to an agreement and conclusion on one or more issues regardless of if there is agreement on the others.¹⁰ Similarly, U.S. negotiators often like to discuss one issue at a time. For example, a negotiator may feel it appropriate to negotiate the issue of laborer wages with the workers even before the final plans of the project are available for the workers to review. This concept is further developed and evaluated in Chapter 10.

The individual’s rights and interests are often most prominent. Americans believe that each individual person is his own person and should be viewed and judged as an individual.¹¹ This ideal is embodied in the U.S. Constitution in the promise of equal protection for every individual citizen. As individuals, people are free to make their own choices (within the boundaries of the laws), but a person should not be penalized for making an unpopular decision. Further, in the United States, people often feel that a person who gets something done by himself is independent and smart, and those attributes are viewed as positive.¹²

Forthright disclosure equals honesty. In the U.S. people often appreciate being told information outright or straightforwardly.¹³ Many subscribe to the common phrase, “it’s not personal, it’s just business,” thus noting that those in the United States treat other differently depending on whether they encounter one another in a business or personal setting. The tendency for those in the United States to speak in a forthright manner stems from the notion that it is easier to fix a problem or address an issue if one is talking about it openly. To couch or mask information in complex expression can get in the way of efficient communication and leaves room for misinterpretation.

The negotiator at the table should have at least some autonomous authority to commit and make decisions. The idea is that the U.S. negotiator comes to the negotiating table ready to “negotiate.” Inherent in the term “negotiate” is the authority to make demands as well as concessions.¹⁴ This follows from the idea that parties can only reach an agreement if the people at the table can take such steps and progress towards that agreement.¹⁵

Impasse in negotiation is bad.¹⁶ U.S. negotiators are often adverse to impasse in negotiation because impasse means that the negotiation, and therefore the negotiator, failed. If a negotiator is sent to make an agreement and when no agreement is made, he may feel that he has failed at his task.

The American way is the best way. There is the cultural idea in the United States that the U.S. way is the best. Americans think that they have a large influence on other cultures. Thus, once people know how “we do it in the United States,” they will want to do it that way too.

Conclusion. A negotiator should think about himself after looking at this nonexhaustive list. A negotiator should ask: Do I think these things? Are there other American ideas that I have in addition to these? Do I expect others and particularly my negotiating counterpart to think this way as well?

After analyzing how one thinks, the negotiator may realize that a negotiating counterpart from another culture may not share these ideas and ideals. Thus, the negotiator from another culture may have a different approach to negotiation based on his own ideas and ideals that are inherent to him and his culture.

IV. Presumptions Prevalent in Other Cultures

Below is a non-exhaustive list of negotiation approaches that are found most often outside of the United States. These differing styles stem from the different ideas and ideals that people throughout the world hold as core values. Professor Jeanne Brett from Northwestern University identifies cultural values, norms, and ideologies as elements shaping a negotiator’s strategy.¹⁸ Specifically, culture will shape negotiation strategy because it helps define what the negotiator’s interests are and what negotiating behavior is acceptable.

Community based.¹⁹ The community-based negotiator negotiates using the interests of the community as his underlying motivator. Here, the word “community” means whatever constituency the negotiator represents. That is, “community” could mean a negotiator’s family, village, group, tribe, or state. Often the individual negotiates with the interests of stability and prosperity in the community in mind. Community acceptance and harmony are an important part of the negotiated agreement. For example, under a community-based approach, a farmer may not be willing to sell more than a certain portion of his crop to a military base such that there will be a shortage of crops in the community.

The underlying values in this context include the idea that the good of the community is intertwined with an individual’s desires.²⁰ Also, that preservation of the community and perhaps their way of life outweighs the desire for individual or economic gain.

Religion/world/moral based. The religious-based negotiator will only come to a negotiated agreement if such agreement harmonizes with that negotiator’s religious and moral beliefs.²¹ For example, a herdsman who believes that it is wrong to eat meat may not be willing to sell his flock for slaughter. These religious and/or moral principles may be at the forefront or lurk behind a party’s other interests. This idea of religion in negotiation is covered in depth in chapter 9 of this book.

Ritual. For some cultures, there is a ritual that surrounds a negotiation.²² An example of a negotiation ritual is haggling. In some cultures, if a person wants to do something as simple as buying a loaf of bread, that person must participate in the haggling ritual to come to an agreement. If the person does not participate in the haggling, then he will either pay too high of a price, or the two sides will not come to an

agreement. There are many negotiating rituals, and they are sometimes described as a dance in which the parties must participate in order to come to an agreement.²³

Other examples of rituals may not have such a direct effect on the negotiated outcome as much as it relates to common courtesy. A ritual in negotiation may be to drink tea or coffee or share a meal with the negotiating counterpart. These rituals may symbolize the act of having a relationship with one another, which may be one of the goals of the negotiating counterpart.

Full proposal. Some negotiators may feel that nothing is settled until everything is settled. They either may not want to separate issues from one another or may not want to commit to any issues without commitment on the whole proposal.²⁴ The negotiator may have to jump from topic to topic before settling on any or all issues.

Hierarchical. In some cultures and societies, social hierarchy affects a negotiation and its outcome.²⁵ In a hierarchical society, the negotiator with the higher position and more power may be more likely to dictate the outcome of the negotiation and its terms.²⁶ A negotiator from a hierarchical culture will likely spend time trying to evaluate which person at the negotiating table has the most power. The concept of power in negotiation is explored further in Chapter 8.

Saving Face. Some cultures put great importance on “saving face.”²⁷ A negotiator may not agree on an outcome that makes him ashamed or embarrassed.²⁸ The problem may not be in the terms of the agreement, but how it is framed or how the negotiator will appear in the community.

V. Elements of Negotiation Styles Contrasting with the Predominant U.S. Style

As this chapter has discussed, a U.S. negotiator may have some expectations of her negotiating counterpart based on what a U.S. person perceives to be the common negotiation approaches and procedures. However, one must keep an open mind as much as possible regarding what the negotiating counterpart is there to do and what she wants and expects to happen. Culture can play a large role in a negotiator’s approach, as shown in Charles M. Hampden-Turner and Fons Trompenaars’ *Building Cross-Cultural Competence*. This text describes six differing “cultural dimensions” through survey data taken of 46,000 managers from over forty countries.²⁹ Building on these findings, this chapter suggests ways in which a U.S. negotiator might identify a contrasting “cultural dimension” in her negotiating counterpart.

This section will examine some common non-U.S. negotiation approaches as contrasted with some common U.S. negotiation approaches. It will also give the negotiator a toolbox of identifiers that are associated with the contrasting negotiation approach. These identifiers, as well as the knowledge about the possibility of this type of negotiation and the differences in possible approaches will thus help the negotiator collect information which he can use to decide how to proceed and behave in the negotiation.

Autonomous authority vs. delegate. A negotiator with autonomous authority has decision-making and bargaining power whereas a delegate can only give and collect information. A U.S. negotiator is almost always given some authority to bargain and to commit to an acceptable agreement. It may be, though, that the negotiation counterpart is a delegate and does not have authority to make concessions, accept new ideas, or commit to a decision. The delegate can only collect information and take it back to those who do have such decision-making authority.³⁰

It would be helpful for a negotiator to know whether or not his negotiating counterpart has decision-making authority or is a delegate. But, a negotiator may not want to ask outright about the extent of the counterpart’s authority. In such circumstances, the negotiator may be better served looking for cues from the counterpart. Some of these signals include the use of the word “we” when the negotiator is alone and references to his superiors. Further, although the U.S. negotiator may not want to ask outright, he may want to ask interrogative questions about the counterpart’s position and background to get clues as to if he is in a decision-making role. Also, the negotiator can ask the counterpart to make any decision and gauge the counterpart’s reaction and response. The negotiator will often be able to figure out if the counterpart has decision-making authority or is a delegate by asking questions and listening. Once the negotiator knows the role of his counterpart, he can negotiate accordingly.

The element of time. Often, a negotiator from the U.S. feels that a negotiated agreement can be reached quickly, yet can still be a “good” agreement that is both fair and final.³¹ However, people in some other cultures may feel that spending time in a negotiation is an element of the ritual that cannot be foregone.³² Some feel that it is only with time that they can start to trust the other party. (See Chapter 4). Others may feel that a fast agreement is rushed and suspect. In some cultures, individuals feel that the commitment of time to a negotiation is important and that patience will be rewarded in the end. A negotiator would want to know if his counterpart is in the latter category and believes that an appropriate length of time is essential to the negotiation, thus denoting the counterpart is a “time-based” negotiator.

In order to figure out if a negotiation counterpart is time-based, a negotiator can use his knowledge of background about the culture or try to figure it out at the beginning of the negotiation. One might find that a time-based negotiating counterpart will not talk about the “meatier” issues of the negotiation right away, or even in the first meeting. Building on that, the counterpart may already have scheduled a second or a series of meetings. The counterpart may also ask a lot of related, peripheral, or unrelated questions before discussing the major topics. Figuring out if the negotiating counterpart is time-based is important because such a negotiator may put off or avoid issues if they are brought up too early in the negotiation.

Results vs. Method Based. A U.S. negotiator is often considered results based. That is, the outcome is generally the most important part of the negotiation. A person in the United States might judge how he did or be judged on how he did in the negotiation based on the negotiated outcome. Other cultures may feel that the method of the negotiation is just as important, or more important than the negotiated outcome.³³ For example, if the U.S. negotiator has a counterpart who will only haggle, although the U.S. negotiator may be offering a price the counterpart is willing to accept, the U.S. negotiator may still have to engage in the haggling “dance” and work towards that acceptable price before the parties will have an agreement. This may be true with any counterpart who feels that the negotiating ritual is just as or more important than the outcome reached.

Research about the commercial culture or negotiation styles of a culture should help the U.S. negotiator determine if the counterpart’s culture includes a negotiating ritual or method that the negotiator should know to expect. Some face-to-face indicators include the counterpart avoiding commitment for seemingly no reason or the counterpart wanting something to happen or to be done that is unrelated to the issues being negotiated. Perhaps it is a cultural ritual to have coffee or a meal while or before negotiating.³⁴ Further, a negotiator should be aware of extreme high and low offers as a sign that there is a certain negotiating process that needs to occur.³⁵

Individualism vs. Collectivism.³⁶ In the United States, as discussed earlier, there is much importance placed on the rights and the wants of the individual.³⁷ Further, as discussed, there are some cultures that place greater value on a group larger than the individual, whether it is the family, the tribe, the community, or the state.³⁸ Thus, it would be helpful for the U.S. negotiator to know what the underlying values of his counterpart are in order to best proceed in the negotiation.

Again, the negotiator should have a general idea about the culture of his negotiating counterpart and have an idea as to whether this matter will be an issue upon meeting his negotiation counterpart. Still, a community-based negotiator might signal these values through his conversation in the negotiation. The counterpart may speak in the plural or in the collective. He may inquire about the negotiator’s family or constituency. He may ask how the agreement would affect his community. Further, he may want to make sure that he saves face in the outcome so that he will not have shame in the community.

Unilateral vs. Compartmentalized Negotiators. Depending upon the situation, the U.S. negotiator may have unilateral authority. That is, the U.S. negotiator may have the authority to make all of the arrangements and determine all of the details necessary to reach an overarching agreement. The negotiating counterpart may also have this authority. Conversely, the U.S. negotiator (or his counterpart) may only have compartmentalized authority to negotiate one or more specific aspects of a larger negotiation.³⁹ Similar to the situation involving delegates, a negotiator would be well served to know the scope of his counterpart’s authority in order to best proceed.

The U.S. negotiator may have a hint the counterpart may engage in compartmentalized negotiating based on the counterpart's culture. Still, a negotiator can prepare himself to be able to figure out if the counterpart has compartmentalized authority by knowing the issues, listening, and asking questions. A negotiator can tune in to whether or not the counterpart is focusing on specific issues or is asking broad questions, but only giving answers about some narrow issue. Further, asking personal conversational questions of a negotiating counterpart and finding out more about his position can help identify if the counterpart only has compartmentalized authority. For further exploration of this topic, see Chapter 5.

Goal-based vs. Relationship-based.⁴⁰ As previously discussed, a U.S. negotiator is often goal-based and believes that there can exist a short-term, mutually acceptable agreement that does not include a promise of further dealings or protection for the other party. In some cultures, a negotiator may feel that in order to reach any agreement, there needs to be a long-term relationship in place. He may also feel that the terms of an agreement must reflect the idea that a long-term relationship is being pursued. A U.S. negotiator would benefit from knowing if their negotiating counterpart is relationship-based rather than goal-based, so that they can better negotiate.

The relationship-based counterpart will often ask extensive personal questions about the negotiator and try to establish a relationship. A negotiator may find himself being invited to participate in social events and recreational activities. The relationship-based counterpart will probably talk about the future: future dealings, long-term agreements, and future plans in general. Further, the expectation that there will be multiple meetings can be a cue that the counterpart may want to take time to get to know a negotiator and build a relationship and establish trust before entering into an agreement.

Verbal vs. Non-Verbal and Straight Forward vs. Issue Avoiders. It is common practice in the United States to try to explain oneself as much as possible and be as clear as possible in a negotiation situation so that the best possible solution can be created.⁴¹ This would include the idea of an interest-based negotiation in which the negotiating parties are trying to explain their interests so that they can explore new ideas and new options. However, some cultures may not be so forthcoming simply because it is not custom or because they do not want to share certain information. Similarly, a negotiating counterpart may communicate non-verbally or speak in more delicate terms if he feels that it is impolite to be so straightforward.⁴²

A negotiator may wish to keep his eyes open for non-verbal cues and be aware of the context of what is being said.⁴³ This may be important especially in cases in which there is a language barrier and a translator is used. For example, in some cultures, the type of food served at a meal may reflect the negotiator's feelings. Fine food may signify respect and cooperativeness, while humble food may reflect ill will or friction. Even with verbal communication, a negotiator may benefit from paying attention to broad or vague statements that suggest that something is being veiled either to withhold information or because the counterpart feels that they cannot say something forthrightly because it is undesirable or rude.⁴⁴

VI. Conclusion

Being aware that the negotiating counterpart may not share certain core values may affect the U.S. negotiator's approach. A negotiator will be well-served to self-evaluate and be open-minded as to the different approaches his counterpart may use.

Preparation is key. Familiarity with both the culture of the negotiating counterpart and the possible types of negotiation approaches will help the negotiator decipher his counterpart's negotiation approach. Figuring out a negotiating counterpart's approach is knowledge that the negotiator can use to his advantage. Once he can identify the aspects of a counterpart's negotiation approach, the negotiator can use that insight to consider the core values of the counterpart. Chapter 3 continues with reciprocation techniques for the various negotiation approaches discussed in this chapter.

Chapter 2 Toolbox

Self-Evaluation—

- My basic values make me think that certain things are good, bad, important, or unimportant.
- My values may be different than my counterpart's.

Be Prepared—

- Have an idea of what kinds of negotiating styles are commonly used in your negotiating counterpart's country/culture.

Endnotes

¹ MARGOT TAYLOR, *NEGOTIATION 15-22* (Oxford University Press 2003); see also ROGER FISHER & WILLIAM URY, *GETTING TO YES: NEGOTIATING AGREEMENT WITHOUT GIVING IN 1-81* (Bruce Patton ed., Houghton Mifflin 1991)(1981).

² TAYLOR, *supra* note 1, at 18-19.

³ FISHER & URY, *supra* note 1, at 15-94. *The Getting to YES* “interest-based” negotiation method consists of four parts: 1) Separate the People from the Problem; 2) Focus on Interests and not Positions; 3) Invent Options for Mutual Gain; and 4) Insist on Using Objective Criteria.

⁴ TAYLOR, *supra* note 1, at 20-21.

⁵ Brad Spangler, *Integrative or Interest-Based Bargaining* (June 2003), at http://www.beyondintractability.org/essay/interest-based_bargaining/?nid=1283 (last visited July 8, 2006).

⁶ See Cecilia Albin, *Justice, Fairness and Negotiation: Theory and Reality*, in *INTERNATIONAL NEGOTIATION: ACTORS, STRUCTURE/PROCESS, VALUES 290* (Peter Berton et al. eds., 1999).

⁷ Tarja Vayrynen, *CULTURE AND INTERNATIONAL CONFLICT RESOLUTION: A CRITICAL ANALYSIS OF THE WORKS OF JOHN BURTON 5* (2001) (“In sum, the studies which emphasize the role of language, culture and identity in international conflict resolution demonstrate that conflicts do not arise only from differences in interests. Rather conflicts are over meaning, over the social construction and management of meaning.”).

⁸ Guy Oliver Faure & Jeffrey Z. Rubin, *Introduction*, in *CULTURE AND NEGOTIATION: THE RESOLUTION OF WATER DISPUTES 11* (Guy Oliver Faure & Jeffrey Z. Rubin eds., 1993).

⁹ Marita van Oldenborgh, *Court with Care*, *Int’l Bus.*, Apr. 1995, at 21.

¹⁰ See generally JAMES DAY HODGSON ET AL., *DOING BUSINESS WITH THE NEW JAPAN* (2000).

¹¹ USA Study Guide, *American Culture: US Culture Info*, at <http://www.usastudyguide.com/american-culture.htm> (last visited July 8, 2006).

¹² Howard Garner, *Learning, Chinese-Style*, in *CULTURE, COMMUNICATION AND CONFLICT: READINGS IN INTERCULTURAL RELATIONS 309, 309-11* (Gary R. Weaver ed., 2d ed. 2000) (illustrating how U.S. parents try to teach their children independence and individual problem-solving ability).

¹³ HODGSON, *supra* note 10, at 28-29.

¹⁴ *Id.* at 27.

¹⁵ *Id.*

¹⁶ JOHN S. MURRAY ET AL., *PROCESSES OF DISPUTE RESOLUTION: THE ROLE OF LAWYERS 79* (1989).

¹⁷ WIKIPEDIA, *ARTS AND ENTERTAINMENT IN THE UNITED STATES*, at http://en.wikipedia.org/wiki/Arts_and_entertainment_in_the_United_States (last visited July 8, 2006); see also Interview by USINFO Webchat transcript with Richard Pells (Apr. 20, 2006), at <http://usinfo.state.gov/eur/Archive/2006/Apr/20-897097.html>.

¹⁸ JEANNE BRETT, *NEGOTIATING GLOBALLY: HOW TO NEGOTIATE DEALS, RESOLVE DISPUTES, AND MAKE DECISIONS ACROSS CULTURAL BOUNDARIES 6-7* (2001).

¹⁹ *Id.* at 15-17; GEERT H. HOFSTEDE, *CULTURES AND ORGANIZATIONS: SOFTWARE OF THE MIND 51* (Rev. ed. 1997); Jeanne M. Brett & Shirli Kopelman, *Cross-Cultural Perspectives on Cooperation in Social Dilemmas*, in *THE HANDBOOK OF NEGOTIATION AND CULTURE 395, 396-97* (Michele J. Gelfand & Jeanne M. Brett eds., 2004) (citing GEERT H. HOFSTEDE, *CULTURE’S CONSEQUENCES: INTERNATIONAL DIFFERENCES IN WORK-RELATED VALUES* (1980)); S.H. Schwartz, *Beyond Individualism/Collectivism: New Cultural Dimensions of Values*, in *INDIVIDUALISM AND COLLECTIVISM; THEORY, METHOD, AND APPLICATIONS 85* (Uichol Kim et al. eds., 1994).

²⁰ See *supra* note 19.

- ²¹ See, e.g., Robert J. Miller, *Exercising Cultural Self-Determination: The Makah Indian Tribe Goes Whaling*, 25 Am. Indian L. Rev. 165, 189 (2000/2001).
- ²² Gerald R. Williams, *Negotiation as a Healing Process*, 1996 J. DISPUTE RESOL. 1, 28-29 (1999) (discussing how ritual can be an important part of negotiation in many cultures).
- ²³ Peter Berton, *Japanese, Chinese and Soviet/Russian Negotiators: An Analytical Framework*, in INTERNATIONAL NEGOTIATION: ACTORS, STRUCTURE/PROCESS, VALUES, *supra* note 6, at 91, 115.
- ²⁴ HODGSON, *supra* note 10, at 30.
- ²⁵ BRETT, *supra* note 18, at 98-103.
- ²⁶ See KEVIN AVRUCH, CULTURE AND CONFLICT RESOLUTION 39-50 (2004).
- ²⁷ David A. Victor, *Cross-Cultural Awareness*, in THE ABA GUIDE TO INTERNATIONAL BUSINESS NEGOTIATIONS: A COMPARISON OF CROSS-CULTURAL ISSUES AND SUCCESSFUL APPROACHES 15, 19-20 (James R. Silkenat & Jeffrey M. Aresty eds., 1994).
- ²⁸ *Id.*
- ²⁹ CHARLES M. HAMPDEN-TURNER & FONS TROMPENAARS, BUILDING CROSS-CULTURAL COMPETENCE: HOW TO CREATE WEALTH FROM CONFLICTING VALUES 11 (2000) (discussing six differing cultural dimensions categorized by nationality, including universalism/particularism, individualism/communitarianism, specificity/diffusion, achieved status/ascribed status, inner direction/outer direction, and sequential time/synchronous time).
- ³⁰ See Richard J. Erikson, *The Making of Executive Agreements by the United States Department of Defense: An Agenda for Progress*, 13 B.U. INT'L L.J. 45, 126-27 (1995).
- ³¹ HODGSON, *supra* note 10, at 28.
- ³² H. Lee Hetherington, *Negotiating Lessons from Iran: Synthesizing Langdell & Macerate*, 44 CATH. U. L. REV. 675, 683-85 (1995).
- ³³ See RAYMOND COHEN, NEGOTIATING ACROSS CULTURES 83-106 (Rev. ed. 1997) (discussing various negotiation games).
- ³⁴ Williams, *supra* note 22.
- ³⁵ HODGSON, *supra* note 10, at 38.
- ³⁶ See *supra* note 19.
- ³⁷ H. R. Markus & S. Kitayama, *Culture and the Self: Implications for Cognition, Emotion, and Motivation*, 98 PSYCHOL. REV. 224-53 (1991).
- ³⁸ *Id.*
- ³⁹ HODGSON, *supra* note 10, at 40-41.
- ⁴⁰ For a general discussion of “high context” versus “low context” communicators, see EDWARD T. HALL, BEYOND CULTURE 105-116 (1976) and EDWARD T. HALL AND MILDRED REED HALL, UNDERSTANDING CULTURAL DIFFERENCES: GERMANS, FRENCH, AND AMERICANS 6-9 (1990).
- ⁴¹ HODGSON, *supra* note 10, at 28.
- ⁴² R. Pinkley, *Dimensions of Conflict Frame: Disputant Interpretations of Conflict*, 75 J. OF APPLIED PSYCHOL. 117-26 (1990); see HODGSON, *supra* note 10, at 38-43.
- ⁴³ See Edward T. Hall, *Learning the Arabs' Silent Language*, in CULTURE, COMMUNICATION AND CONFLICT, *supra* note 12, at 17; Albert Mehrabian, *Communication Without Words*, in CULTURE, COMMUNICATION AND CONFLICT, *supra* note 12, at 23.
- ⁴⁴ Berton, *supra* note 23, at 109-11.

Chapter 3

Tit for Tat in the Global Perspective

Scott Wang

A b s t r a c t

This chapter deals with the techniques best employed when faced with the negotiation approaches described in the previous chapter. Moreover, this chapter will not simply provide a list of techniques or approaches, but it also attempts to provide a basis of understanding why people in certain cultures act in ways a typical U.S. negotiator finds unfamiliar. This chapter will also provide a general overview of the benefits of reciprocal conduct in negotiations as well as caveats for its use in certain situations.

I. Introduction: What is Reciprocity and How Do We Use it?

According to prominent game theorist Russell Korobkin, the basic idea of reciprocity in negotiation is the concept of “tit for tat.”¹ Tit for tat is a simple concept. When two parties are faced with impasse the two parties can each begin to lower their asking prices until they reach a point of agreement. Tit for tat, however, also includes a deeper understanding of negotiations. One might reciprocate various behaviors or techniques used by a counterpart during the negotiations.² This chapter aims to teach a negotiator how to respond to the unfamiliar negotiation techniques described in the previous chapter and succeed in situations in which simple haggling cannot ensure success. These techniques will be generalized as “reciprocation” or “distributional bargaining.”

Why should a negotiator reciprocate? A detailed examination of the reasons to practice such negotiation behaviors will be given later in this book; however, the short and simple answer is because it works. Research has been done with both computer models and live negotiators using reciprocal and non-reciprocal methods; in most instances the reciprocal method “succeeded”³ relative to the non-reciprocal method. Even when a specific technique is not employed in a negotiation, the knowledge imparted from understanding why another negotiator would function in that way is invaluable.⁴

Reciprocity could be described as a simple list of techniques to be used when faced with an unfamiliar negotiation style.⁵ This definition, however, just scratches the surface of the word’s meaning. To be truly reciprocal, a negotiator must not only be prepared to act in a way that will best conform to the opposing negotiator’s style but also be able to respond properly and intelligently to the other negotiator’s needs and values.⁶ This chapter will suggest possible courses of action for the U.S. negotiator, and it also attempts to give insights and reasons as to why a person acts in a certain way, other than to attribute the counterpart’s action to “culture.”

The chapter consists of two parts. The first part will cover exactly what is meant when one is asked to reciprocate. The second part will contain an overview of the negotiation styles covered previously and suggestions as to how best to reciprocate in the context of these styles.

II. What is Reciprocity or How Not to do it Like Michael Keaton?

The movie *Gung Ho*⁷ contains a classic depiction of a culture clash in the business world and is a good illustration for understanding the concepts this chapter tries to teach. In this movie, a Japanese conglomerate comes to the United States in order to operate a failing automobile factory. Quickly, culture clashes erupt leading to some clear examples of what not to do when negotiating with a counterpart employing a different negotiation style.

In the movie, the Japanese executives are greeted at the airport with a ceremony that is meant to impress them with an American embrace of Japanese culture. The ceremony, however, fails as women dressed in poor imitations of kimonos and little kids running around in karate uniforms confuse surface observation with actual understanding. The Japanese delegation is not only bewildered but also confused by the hodgepodge of conflicting cultural norms represented in the spectacle.

Later in the movie, Keaton’s character enters negotiations by himself with all of the Japanese executives. What happened in the negotiation will be discussed later, but the negotiation begins to go awry because neither party clearly understands the goals of the negotiation. Ultimately, the relationship between the parties comes under serious jeopardy, not from lack of trying, but from lack of true understanding.

Only after both parties make an effort to understand the motivations of the other can there be true compromise, leading to the development of a successful relationship. This chapter’s goal is to ensure the negotiator’s most important task will be to properly react to the negotiating counterpart’s goals and actions. Certainly, surface perceptions and behaviors matter in the course of a negotiation.* However, it is also true that in successful negotiations, the parties understand their own and their counterpart’s motivations.⁸ A successful negotiator will understand why another negotiator acts in a certain way and how best to react in a manner that will benefit the negotiation as a whole.

* This author was once slapped in the face by a sales woman while haggling for the price of Jade in China. At one point in the negotiation, this author offered what he believed to be a reasonable price of 250 Chinese Yuan. Unbeknownst to him, this price had two significant meanings in China: 1) the author was calling the other person an idiot, or 2) the author was attempting to solicit a prostitute.

A. How Reciprocation Works

The problems facing a negotiator when trying to reach an agreement with someone from another culture are many fold. Not only are there communication problems but also there are behavioral differences that can lead to misunderstandings. These misunderstandings might affect the terms to be agreed upon or even confuse the parties as to what the negotiation actually encompasses. Often, this lack of understanding will lead to frustration.⁹ This frustration can lead to impasse or possibly worse, a poorly drafted agreement. In either event, the relationship between the two parties is often soured under such circumstances.¹⁰

Reciprocating behavior in order to help communication between parties often consists of an exploration of what the other party may be “over or under communicating.”¹¹ This type of communication can involve too much gesturing or improperly communicating information to the wrong parties. Understanding how the other party communicates will help in not only assisting the parties to maintain proper decorum but also in assisting the parties to retain information that should or should not be shared with the other parties at an improper time.¹² (See Chapter 11).

To be able to understand and respond to another’s negotiation style is also vital. As seen in the preceding chapter, sometimes another negotiator is not at the table to reach an agreement, but to nurture a relationship. In other cases, the pace of the talks or the negotiators themselves may appear to serve as a hindrance to an unprepared negotiator. Understanding the reasons for such behaviors, as well as the proper responses, not only helps to reduce animosity between parties but also helps ensure that both parties reach satisfactory conclusions to the negotiations.

Another important reason to reciprocate, especially when representing the United States, is because it may symbolize a gesture of politeness and a willingness to cooperate. Greeting someone in the native language or manner can immediately place a counterpart at ease. This is more important when considering that the majority of counterparts will be at a disadvantage based on the United States’ current global dominance. In these cases, it is always better for the party with greater bargaining power to show an ability to learn and accept the needs and practices of the counterpart. (See Chapter 8).

Finally, even if a negotiator does not use any of the techniques suggested in the second half of this chapter, simply understanding the reasoning behind some behaviors may help to alleviate the primary danger a Western negotiator faces in a cross-cultural negotiation—an expectation the Western negotiator will become easily aggravated.¹³ Some counterparts rely on or inadvertently cause the “emotional” Western negotiator aggravation to gain a strategic advantage. There are many stories of negotiators going to a country, becoming frustrated with either the communications they were receiving or the progress they were making before leaving in a hurry. The negotiator would then receive a last minute offer at the airport, an offer not to be refused if the Western negotiator hoped to reach an agreement at all.¹⁴

B. Times Not to Reciprocate

Although reciprocation is often considered an integral part of any cross-cultural negotiation, there are times when an act of reciprocation may not be appropriate. In this era of modern telecommunications and rapid globalization, sometimes the best method of reciprocation is simply to stick with what one knows best.¹⁵ Even when not acting reciprocally, a negotiator will be best served to respond to substantive demands with an understanding of why a demand is made and what significance such a demand may have outside the normal context of what a typical negotiator from the United States would consider during the negotiation.

Whether or not the negotiator should reciprocate will depend on the context of the discussions. Is the factory owner sitting opposite to a Harvard educated businessman or a local leader heavily influenced by the needs of the local community? Is gifting a clock to the daughter of the counterpart or potentially disrupting the neighborhood children a source of concern? Northwestern Professor Jeanne Brett has proscribed a posture of constantly acting in the way that the opposite party is expected to act culturally;¹⁶ however, Law Professor Daniel C.K. Chow from The Ohio State University Moritz College of Law has countered this point by noting the differences that are present between individual parties even within the same culture.¹⁷ Because of this, approaching each situation without any preconceived notions will help the negotiator best assess the progress and course of the negotiations. Some techniques that will be sug-

gested may insult a businessman who shares the same values as the Western negotiator, but a tribal leader may have concerns far outside the scope for which the U.S. negotiator is prepared.

How does the negotiator determine the proper time to act? The answer often lies in preparation. As will be stressed throughout this chapter and this book, thorough preparation is one of the best tools a person can have when entering a negotiation. Proper research will allow a negotiator to discover the counterpart's cultural history, concerns present within the counterpart's community, and other important background information. Unfortunately, the reality is that thorough preparation is often not possible.

A detailed cultural examination is certainly not a requirement for a successful negotiation. However, gaining an understanding in the basics of the counterpart's cultural history and possible motivations does alleviate many difficulties arising in the initial stages of a cross-cultural negotiation. Such understanding can also lead to building a relationship between the involved parties and provide for a smoother negotiation.

The next part of this chapter will discuss various individual styles that are practiced throughout the myriad of cultures in the world, yet the list is by no means exhaustive. When negotiating, it is best to keep an open mind for the unexpected; a new style of negotiating might need to be dissected or the counterpart may display a list of priorities with items far out of the realm of the negotiation. The key to dealing with the unexpected is to honestly and openly explore the needs of the other party, no matter how unexpected those needs may be.

III. Reciprocating When Negotiating With Non-Western Negotiators

A. Autonomous Authority/Delegated Authority

The U.S. negotiator may believe the parties at the table have the power to reach an agreement. Both participants, though they may be only the delegates of the true interested parties, appear to have the power to come to an agreement at that sitting. What happens then, when one party appears to never make a decision, or always puts an agreement off for another time?

The concept of the negotiator as a delegate, while prevalent in many cultures, is commonly thought to be a Chinese-style negotiation.¹⁸ In this situation, a delegate often comes to the negotiation table and makes the initial inquiries and demands while refusing to make any decisions pertaining to the actual agreement. In doing so, the delegate still asks the opposite party to make concessions and demands. Oftentimes, the delegates will respond to questions with questions and refuse to give a firm answer as to their position within the negotiation. Only later, typically at a dinner or other social event, does the party or parties with decision-making authority appear, usually making a very quick offer.¹⁹

Patience is paramount when negotiating with such delegates. A major conceptual advantage often gained by delegates because of the frustration exhibited by a counterpart ready and able to make binding decisions facing someone refusing to do so or, even worse, unable to do so.²⁰ Due to this frustration, the U.S. negotiator is likely to resort to such actions as giving final offers or making significant concessions in hopes of reaching an agreement.²¹

Autonomous Authority vs. Delegate

Toolbox Identifiers:

- Use of the word “we”
- The counterpart's unwillingness to make commitments or decisions, even small ones
- Look for cues regarding the counterpart's position

Reciprocation Techniques:

- Patience
- Don't make firm offers
- Don't reveal too much information

Limiting the amount of information given out during the early stages of a negotiation is also important when dealing with suspected delegates. The purposes for which delegates are used are often as information gatherers. They are asked to find the boundaries of a negotiation so that the person with actual authority need not spend much time at the negotiation table and can make a quick offer.²² By limiting the information that is offered before the true authority arrives allows both parties to be positioned at a more level playing field when dealing with each other.

B. The Elements of Time

In the Vietnam War Era and during the Paris Peace Accords negotiations, there was a common theme that helped to hamper the success of negotiations between the Vietnamese and Western parties. The Western negotiators would come to a city and make hotel reservations for a few weeks at most. The Vietnamese negotiators would come to a city, bring their children and families, and sometimes even buy houses in preparation for the negotiations.²³ As seen by these arrangements, the parties did not share a similar sense of time, and the resulting negotiations ended at impasse.²⁴

Preparation is paramount when the negotiator is potentially facing a counterpart that is less focused on deadlines than the U.S. negotiator. The primary danger is running out of time due to either self imposed deadlines or, in the case of the example above, running out of places to live.²⁵ Such a situation can lead to poorly reasoned offers in an attempt to come to a quick agreement. In the negotiation itself, it is important that the U.S. negotiator try not to propose deadlines or make any such deadlines known. These types of deadlines may be either unimportant to the counterpart or make the typical U.S. negotiator vulnerable to the “11th hour” proposal.²⁶

Other key tactics that might be used are to ensure that indirect questions being asked by the counterpart are reciprocated; oftentimes, non-urgent negotiators are also relationship-based negotiators. A negotiator may be best served to avoid focusing on the counterpart’s issue avoidance; rather, the negotiator could try to develop a relationship that would allow for a frank and clear discussion about the issues that are on the table.

Elements of time can also affect negotiations in another way. For example, South American negotiators have been known to arrive at a meeting several hours late.²⁷ Although there is usually no intent to insult or annoy the negotiator, the party arriving on time is often angered and enters the negotiations with a negative mindset. If this occurs, the chances of reaching a mutually-acceptable agreement are lessened. Preparation leading to an expectation of lateness can help soothe any adverse reactions a culturally diverse negotiator may have.

The Element of Time – Shorter vs. Longer Negotiation

Toolbox Identifiers:

- Multiple scheduled meetings
- Cues from accommodations scheduled
- Avoidance or assertion of issues in initial meetings

Reciprocation Techniques:

- Don’t propose deadlines or timelines
- Reciprocate unrelated or personal questions
- Try to avoid external time constraints

C. Results vs. Method Based Negotiations

Individuals in some cultures place greater emphasis on the process of bargaining rather than the end result of the negotiations. For example, in an Arab country, a U.S. negotiator offers to buy bread for ten dollars, and the counterpart makes an outlandish counteroffer of thirty dollars. Eventually, the parties agree on a price of twenty dollars, but only after incremental concessions made by each side. If the U.S. negotiator had originally proposed to his counterpart an offer of twenty dollars and stuck with this price, the deal would have never taken place. This is the haggle, a process relatively uncommon in the United States, but a part of life in many places throughout the world.

When faced with a counterpart wanting and needing to haggle, having a clear picture of where the end-point of the negotiation should be is key. Once the U.S. negotiator understands where the negotiation should end, the negotiator can offer a point to begin the negotiation and incrementally change with the goal in mind. In simple purchase transactions, the seller almost always has the advantage. Theoretically, there is no upper limit at which to start the sell price, but there is a lower limit, i.e. \$0.00, at which to set the purchase price. Regardless, the key is to “go with the flow,” paying attention to how the negotiation is proceeding and responding to larger or small concessions appropriately in order to reach the goal already in mind.

A modern and global example of the method-based negotiation style was exhibited when the United States attempted to negotiate for staging areas when preparing for the invasion of Afghanistan. During negotiations for these areas with Pakistan and Turkey, the United States not only gave too much information on the importance of these places but also disclosed the maximum concessions they were willing to make in order to obtain these areas.²⁸ Unfortunately, although such disclosures may be typical of a straight forward “get it all on the table” style of negotiation, the other groups simply did not accept the offers as maximums. Instead, the negotiations became pained and the Secretary of State at the time, Colin Powell, was placed in a difficult situation when trying to secure these staging areas.²⁹

Results vs. Method-Based Negotiation

Toolbox Identifiers:

- Extreme opening offer and use of incremental bargaining
- Evaluate if the counterpart shows more concern for procedure or the issues

Reciprocation Techniques:

- Know your endpoint
- Start high or low and monitor progression
- Go with the flow

D. Individualist vs. Collectivist

As noted in the previous chapter, people in some cultures place greater weight on the needs of the community than people in other cultures. In Bengal, for example, a poor woman becomes impregnated by a rich man belonging to a different faith. The community outcry is quick, and the woman’s community demanded reparation when the man refused to marry the woman.³⁰ In the ensuing negotiations, the man’s family offers the woman’s family more than adequate financial compensation; however, the woman’s family refuses. The woman’s family preferred to seek a criminal “trial,” but ultimately the parties employed the help of a mediator, who fined the young man and ordered reparations.³¹

Often, the U.S. negotiator will be faced with a counterpart that, appearing and acting autonomously, must bow to the needs of the community. In these situations it is important to let the opposing negotiator express all the concerns that may be facing him, instead of only the concerns discussed at the negotiating table. In fact, the U.S. negotiator may wish to ask about the counterpart’s community’s needs and concerns. In many cases, helping to satisfy the needs of the community with a small gesture may lead to a better agreement.

Presenting a willingness to discuss a person’s own community’s needs may also be beneficial for the negotiation. By showing the counterpart how the negotiator’s community will be affected by the negotiations at hand, the U.S. negotiator is able to relate by showing a similar degree of respect for the community. For example, there are cultures in the world, such as the African Bushmen, where the acknowledgement of individual concerns is often absent. This concept applies even when framing issues to a tribesman who may be negotiating for something that would only affect himself. Even in this situation, the tribesman will speak in a manner signifying the needs for the entire community.³² In these situations, expressions of self may be alien to the counterpart, and this lack of understanding does not promote the type of result for which the negotiator hoped.

Individualist vs. Collectivist

Toolbox Identifiers for Collectivism:

- Speaking in the collective
- Questions about your constituency
- Concern for where something is going/ coming from
- Saving face

Reciprocation Techniques:

- Ask about the needs of the community
- Consider the effects of a negotiated agreement
- Consider the full agreement

Finally, it is also important to keep in mind how the resulting agreement could affect the community. Depending on the particular negotiation, the U.S. negotiator may be well served to discuss such an effect based either on the agreement as a whole or as particular issues. Maximizing or minimizing these cumulative and tertiary effects can be vital.

E. Unilateral vs. Compartmentalized

If the U.S. negotiator believes his counterparts are compartmentalized negotiators responsible for only small slivers of the negotiation, the negotiator may be best served by limiting the information revealed to the different negotiators. Often, the compartmentalized negotiators have an advantage when facing a unilateral negotiator because the unilateral negotiator may inadvertently disclose too much information, not recognizing the counterpart is only focused on a small part of the agreement.³³ Such compartmentalized negotiators often do not focus on time deadlines, and they may insist on dealing over the course of multiple scheduled meetings.

When faced with such a style, defining the exact boundaries of the specific negotiation with the counterpart is vital. Such boundaries help to limit the amount of information that he should reveal at that instant. Typically such behavior is better suited for “zero sum” negotiators because collaborative negotiators may find it difficult to reach an optimal agreement when not being able to consider all the points as a whole in the agreement.³⁴ If this is the case, it may be proper to ask for a counterpart with more authority to negotiate a total agreement. This is especially true when the negotiation style presented also combines with the delegated authority style covered previously.

Unilateral vs. Compartmentalized

Toolbox Identifiers:

- Inquire about your counterpart’s position or authority
- Listen for focused conversation
- Counterpart asks broad questions but gives answers or details on one or few subjects

Reciprocation Techniques:

- Don’t volunteer information
- Set boundaries for that specific negotiation
- Ask for a person with more authority

F. Goal vs. Relationship-Based Negotiation

As noted in the previous chapter, negotiators in different cultures place different amounts of emphasis on building a relationship with the parties to a negotiation. Up until the late 1990’s China did not have a universal contract law similar to the Uniform Commercial Code of the United States.³⁵ Why did Chinese law contain such a glaring omission of what is a vital piece of law in the United States? The simple answer is that some Chinese have a different concept of what constitutes a contract than an American does. For some Chinese, it is understood that once an agreement is reached, it is generally an understanding by the

parties to start a relationship.³⁶ To this day, a large part of the accusations that the Chinese are simply in business to con Americans out of investment money is a result of the lack of mutual understanding that occurs when two parties sign a contract.³⁷

In these types of negotiations, the personal relationship between the parties is more important than any agreement that may be reached. The U.S. negotiator's first priority in this type of negotiation is to understand the goal of the relationship. To meet such ends, it is important to build a rapport with the counterpart and try to join in social outings or other activities that may be proposed.

It is also important that the U.S. negotiator not be afraid to ask questions of the counterpart. The counterpart may have unspoken issues with either the negotiator or the party the negotiator represents.³⁸ Indeed, the counterpart may not directly state his disagreement with a particular issue, but he may not agree with the U.S. negotiator's proposal. Instead, the counterpart might make remarks or offer points that are not related to the issue at hand and may be seen as a crumb trail to the larger issues.³⁹ Following these breadcrumbs and resolving any issues that lay at the end of the path can certainly help to form a better relationship between the parties. The key is building a trusting relationship, and this does not happen when there are unspoken issues remaining in the background.

Resolving personal issues is even more important when, as covered in other portions of this book, animosity exists toward Americans in general. When there are deep-seated emotions involving the parties, emotional outbursts may occur. Instead of trying to avoid these outbursts, a negotiator might try to understand them and resolve them. It must be remembered that in the end, the counterpart is a person who wants to benefit from the relationship offered or hopes that the community will benefit from it. Sometimes, the only thing standing in the way of starting a lasting relationship is letting the counterpart get preexisting issues off his proverbial chest.

Goal vs. Relationship-Based Negotiation

Toolbox Identifiers for Relationship-Based:

- Counterpart wants to do social activities
- Counterpart asks personal questions
- Counterpart wants to meet multiple times
- Counterpart talks about the future
- Focus on relationship goals

Reciprocation Techniques:

- Build a rapport
- Don't be afraid to ask questions
- Anger is not necessarily bad

G. Verbal vs. Non-Verbal, Straight Forward vs. Issue Avoidance, Singular vs. Collective

As promised, this discussion returns to the movie *Gung Ho*. In *Gung Ho*, there is a scene in which Michael Keaton's character enters into an employment negotiation with several Japanese executives. Throughout the scene there are a number of less-than-subtle behaviors that are exhibited and categorically ignored by Keaton.

The first behavior is the body language exhibited by the parties. The executives sit and stay in positions that can be described as very closed, while Keaton is extremely open and makes extremely large gestures throughout the scene. Secondly, the Japanese executives mask their true desires for Keaton's employment by stating a variety of conditions meant to imply the true aim of the contract. Keaton, instead, directly states what he understands the contract to mean. Finally, during the negotiation, he asks the executives, "Is a frog's ass water tight?" The response is formulated only after discussion by all the executives and is stated in a way that gives no absolute answer.

Though the previous example is meant to be comedic, it can be understood that examples such as this are also frequently found in practice and frequently hurt negotiations because of misunderstanding. Improper gestures may be considered offensive, issues may not be discussed in a way that lets both parties understand what is truly being negotiated, and collectivist behavior may serve to frustrate individualist Western negotiators.

The obvious solution as to the above problem concerning body language is simple, i.e., avoid excess movements.⁴⁰ It is usually recommended for a negotiator to try to find a comfortable position from which to sit or otherwise participate and to stay in that position. Traditional methods of communication such as pointing, giving a “thumbs up,” or even nodding all have vastly different meanings depending on the listener.⁴¹ Although the counterpart may excuse an inadvertent, insulting gesture, it is still in the typical U.S. negotiator’s best interest to keep non-verbal communication to a minimum.

To reciprocate indirect communication is much more difficult. When dealing with such an indirect negotiation style, simple communication may not be enough to establish a true meeting of the minds. Paying attention to statements or suggestions that may not be relevant to the issue at hand might help to ensure a closer understanding of what the counterpart desires. However, demanding an explicit statement may be inappropriate. Such behavior can lead to the counterpart feeling uncomfortable or even threatened. Instead, as in a relationship-based negotiation, it may be better to respond with questions in order to help develop what is being suggested.

Collectivism is also a style that can be extremely unfamiliar to a typical U.S. negotiator. The collective nature of the group, and the fact that the negotiator must deal with the group as a whole, is something that must be recognized. Patience is also needed in these negotiations. Instead of instant personal decisions, the typical U.S. negotiator may encounter a counterpart who answers the negotiator’s questions with additional questions or statements that are not firm. In any event, if progress is made during the negotiations, the U.S. negotiator should accept this progress without worrying about not meeting self-imposed goals.

Verbal vs. Nonverbal and Straight Forward vs. Issue Avoidance

Toolbox Identifiers:

- Look as well as listen
- Politeness may be covering for something the counterpart is not willing to say outright
- Evaluate intra-party communications for cues

Reciprocation Techniques:

- Be careful of physicality
- Speak in general overtones
- Leave points open

IV. Conclusion

The varied goals and techniques of negotiation can be vastly different across cultures. The previous examination of a few major negotiation styles is by no means complete nor will the suggested techniques offered to deal with the styles be a “cure all” that will work in all situations. Instead, the running theme of this chapter is one of understanding, preparation, and willingness to explore. Each negotiation starts at a point at which both parties wish to achieve something positive, and the main question is: “What is considered positive?” In order to best function and achieve a party’s goals for a negotiation, the international negotiator must be willing to accept that the traditional, U.S. style may not be the best for the situation. Furthermore, adapting to another style may not only lead to better communication but also to insight as to exactly what issues are more or less valuable to other parties.

Endnotes

- ¹ RUSSELL KOROBKIN, NEGOTIATION THEORY AND STRATEGY 184-95 (2002).
- ² For a look at different views on reciprocity as well as when to use them, see Robert S. Adler & Elliot M. Silverstein, *When David Meets Goliath: Dealing with Power Differentials in Negotiations*, 5 Harv. Negot. L. Rev. 1, 5 (2000); Mary-Lynne Fisher & Arnold I. Siegel, *Evaluating Negotiation Behavior and Results: Can We Identify What We Say We Know?*, 36 CATH. U. L. REV. 395, 396 (1987); Valerie A. Sanchez, *Back to the Future of ADR: Negotiating Justice and Human Needs*, 18 OHIO ST. J. ON DISP. RESOL. 669 (2003).
- ³ See generally ROBERT AXELROD, THE COMPLEXITY OF COOPERATION: AGENT-BASED MODELS OF COMPETITION AND COLLABORATION (1997) (examining computer programs comparing the results of “tit for tat” simulated negotiations and other types of negotiation styles).
- ⁴ See Daniel C.K. Chow, *Culture Matters: Book Review of Negotiating Globally: How to Negotiate Deals, Resolve Disputes, and Make Decisions Across Cultural Borders*, 18 OHIO ST. J. ON DISP. RESOL. 1003 (2004).
- ⁵ KOROBKIN, *supra* note 1; DEAN G. PRUITT, NEGOTIATION BEHAVIOR 7 (1981).
- ⁶ Jeanne Brett & Shirli Kopelman, *Cross-Cultural Perspectives on Cooperation in Social Dilemmas*, in THE HANDBOOK OF NEGOTIATION AND CULTURE 395, 400 (Michelle J. Gelfand & Jeanne M. Brett eds., 2004).
- ⁷ GUNG HO! (Paramount Pictures 1986).
- ⁸ ROGER FISHER & WILLIAM URY, GETTING TO YES: NEGOTIATING AGREEMENT WITHOUT GIVING IN 40-43 (Bruce Patton ed., Houghton Mifflin 2d ed. 1991) (1981).
- ⁹ RAYMOND COHEN, NEGOTIATION ACROSS CULTURES: COMMUNICATION OBSTACLES IN INTERNATIONAL DIPLOMACY 64-67, 145-47 (1991).
- ¹⁰ JEANNE M. BRETT, NEGOTIATING GLOBALLY : HOW TO NEGOTIATE DEALS, RESOLVE DISPUTES, AND MAKE DECISIONS ACROSS CULTURAL BOUNDARIES 148-49 (2001).
- ¹¹ For an in depth discussion on the role of various types of communication see DONALD W. HENDON ET AL., CROSS-CULTURAL BUSINESS NEGOTIATIONS 43-60, 61-76 (1997).
- ¹² *Id.*
- ¹³ See Michael W. Morris & Michele J. Gelfand, *Cultural Differences and Cognitive Dynamics: Expanding the Cognitive Perspective on Negotiation*, in THE HANDBOOK OF NEGOTIATION AND CULTURE, *supra* note 6, at 45, 51-53.
- ¹⁴ EDWARD BRUNET & CHARLES B. CRAVER, ALTERNATIVE DISPUTE RESOLUTION: THE ADVOCATE’S PERSPECTIVE 139-40 (2d ed. 2001).
- ¹⁵ Chow, *supra* note 4, at 1009-10.
- ¹⁶ BRETT, *supra* note 10, at 205-09.
- ¹⁷ Chow, *supra* note 4, at 1009-10.
- ¹⁸ Franklin L. Lavin, *Negotiating with the Chinese: Or How Not to Kowtow*, FOREIGN AFFAIRS, July/Aug. 1994, available at <http://www.foreignaffairs.org/19940701facomment5122/franklin-l-lavin/negotiating-with-the-chinese-or-how-not-to-kowtow.html> (last visited July 10, 2006).
- ¹⁹ Bee Chen Goh, *Sino-Western Negotiating Styles*, 7 CANTERBURY L. REV. 82, 83-84 (1998).
- ²⁰ Morris & Gelfand, *supra* note 13, at 246.
- ²¹ See generally *id.*

- ²² The author had personal experience dealing with negotiations involving delegates when he was involved with negotiations between Fuxin Mine Prefecture and Guyan Sinco, Inc.
- ²³ Cf. ANG CHEN GUAN, *ENDING THE VIETNAM WAR: THE VIETNAMESE COMMUNIST'S PERSPECTIVE* 42-43, 48-49 (2004).
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- ²⁵ Bruce Kahn, *Applying the Principles and Strategies of Asian Martial Arts to the Art of Negotiation*, 58 ALB. L. REV. 223, 235-36 (1994).
- ²⁶ See DON R. MCCREARY, *JAPANESE-U.S. BUSINESS NEGOTIATIONS: A CROSS-CULTURAL STUDY* 67-71 (1986); see also *id.* at 25-27.
- ²⁷ Julie Barker, *International Mediation - A Better Alternative for the Resolution of Commercial Disputes: Guidelines for a U.S. Negotiator Involved in an International Commercial Mediation with Mexicans*, 19 LOY. L.A. INT'L & COMP. L. REV. 1, 34 (1996).
- ²⁸ Morris & Gelfand, *supra* note 13.
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- ³¹ *Id.*
- ³² William L. Ury, *Conflict Resolution among the Bushmen: Lessons in Dispute Systems Design*, 11 NEGOT. J. 379, 379-89 (1995).
- ³³ See generally M. Ulric Killion, *China's Foreign Currency Regime: The Kagan Thesis and Legalification of the WTO Agreement*, 14 MINN. J. GLOBAL TRADE 43, 70-73 (2004).
- ³⁴ See generally *id.*
- ³⁵ James C. Hitchingham, *Recent Development: Stepping Up to the Needs of the International Market Place: An Analysis of the 1999 "Uniform" Contract Law of the People's Republic of China*, 1 ASIAN-PAC. L. & POL'Y J. 8 (2000)
- ³⁶ Xiaowen Qiu, *Enforcing Arbitral Awards Involving Foreign Parties: A Comparison of the United States and China*, 11 AM. REV. INT'L ARB. 607, 609 (200).
- ³⁷ Randall Peerenboom, *The Evolving Regulatory Framework for Enforcement of Arbitral Awards in the People's Republic of China*, 1 ASIAN-PAC. L. & POL'Y J. 1, 12 (2000).
- ³⁸ See Raymond Cohen, *Negotiating Across Cultures*, in *TURBULENT PEACE: THE CHALLENGES OF MANAGING INTERNATIONAL CONFLICT* 469, 473 (Chester A. Crocker et al. eds., 2001) (noting that negotiators from some cultures subscribe to the theory of "not to say no, just never to say yes").
- ³⁹ See BRETT, *supra* note 10, at 10 (noting the verbal message is "not always direct").
- ⁴⁰ Jeanne M. Brett, *Culture and Negotiation*, 35 INT'L J. PSYCHOL. 97, 101 (2000).
- ⁴¹ *Id.*