

BY I. WILLIAM ZARTMAN

## CLOSURE: HOW NEGOTIATIONS END

The current PIN project focuses on the final phase of the negotiations or endgame. It seeks to understand how and why negotiators act when they see themselves in a more-or-break phase of the negotiations in order to bring about a conclusion (successfully or not). Five typical patterns of behavior are used to provide a structure for the analyses. This inquiry is particularly relevant to the exciting instances of major negotiations currently taking place, and indeed coming to a head at this very moment. Of major significance in international politics are the negotiations between the P5+1 and Iran over nuclear disarmament that drove to an agreement, the Joint Comprehensive Plan of Action (JCPOA), where the replacement of absolute demands by terms of trade marked the 2012-2015 endgame, analyzed in this study by Ariane Tabatabai of Georgetown University. Of major significance in international economic relations were the negotiations between the EU and Greece, a clear case of dueling over two conflicting economic philosophies before our eyes in the current headlines, analyzed by Diana Panke of Freiburg University. On the level of intrastate conflict, equally significant is the peace process between Colombia and the FARC, and also ELN, where the endgame is more prolonged than in the previous cases and therefore vulnerable to spoilers' interruptions, issues analyzed by Angelika Rettberg and Carlo Nasi of the Universidad de Los Andes.

While these are the headline cases that make the inquiry so timely,

other cases stand out as well to attract out attention. In negotiating friendship treaties, the French and Algerian were never able to come to satisfaction on the deep scars that they had to overcome (much like the Americans and Iranians) in a case of dueling in the endgame, whereas the French and Germans were able to come to closure on a similar history of wounds, as analyzed in the chapter by Valerie Rosoux of Louvain University. Closure is a major issue in Chinese-Western business negotiations, where relationships are the key and the agreement itself is incidental and epiphenomenal, but marked changes in personal behaviors signal an endgame, as Guy Olivier Faure of the Sorbonne shows in his chapter. Larry Crump of Griffith University in Australia shows that endgame in trade bilaterals is sharpened by deadlines and taken over by political decision-makers. Finally in this list of examples, Mark Anstey of the Mandela Metropolitan University lays out the remarkable array of strategies that fall into regular patterns in labor-management negotiations as practiced in South Africa.

**Parties cannot switch too often, or they will confuse the other and destroy the process**

We posit that there are specific dynamics and behaviors in the endgame, different from behaviors

before this turning point during the previous course of negotiations (Douglas 1962; Pillar 1983, Gulliver 1979; Zartman & Berman 1982). What behaviors are typical and required to get the parties to Yes (to refer to the title of a book that does not focus on this point in the process)? What variables are helpful in analyzing the situation? *In a word, how do negotiators behave when they feel that they are close to the end of negotiations, and why? Are there common dynamics and identifiable patterns of behavior in the endgame.* Our challenge here is not to predict which course negotiators will pick but rather analyze and explain how they behave once embarked on a particular pattern.

### PATTERNS FOR ANALYSIS

Five different patterns of behavior stand out very clearly in model form (and probably muddily but nonetheless distinguishably in reality): *dueling, driving, dragging, mixed and mismatched*. The first two patterns are reciprocal; the parties react to each other in the same terms and expect that reciprocation: toughness leads to toughness, as in dueling, and softness leads to softness, as in driving. (Pillar 1983, 101; Zartman 2005). The other patterns are not reciprocal or matched. The first two are related to Rubin & Brown (1975) High Interpersonal Orientation (competitive) and High Interpersonal Orientation (cooperative), taken as behaviors rather than as personality types, with similar results identified for mismatching (see also Shell

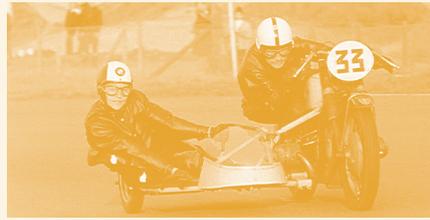
Three of the patterns can be appreciated by their behavioral characteristics, sometimes a bit caricaturedly:

### Dueling



Confrontation  
Cliff hanging  
Hanging tough  
End in doubt  
Steely nerves  
Hold out, face it off  
Classical chicken  
Uncertain information  
Harden support for position  
Threaten  
Ball is in your court  
Deal is far  
Bad cop  
Late compromise, if at all  
Demand more  
Emphasize bad collapse  
Reexamine BATNA/sec.pt  
Entrapped in commitment  
Deadline  
Prepare home for failure  
Concession

### Driving



cooperation/ convergence  
regular progress  
hanging positive  
end in sight  
creative mind  
move ahead, wrap it up  
creative chicken  
exploring information  
prepare support for outcome  
warn: If not, I'll have to...  
ball is in our court jointly  
deal is attainable  
good cop  
early compromise  
reciprocate  
emphasize good agreement  
explore ZOPA  
caught up in dynamics  
extend deadline if progress  
evaluate success so far, Crest  
compensation, construction

### Dragging



disengagement  
don't like the way this is heading  
how can we end this gracefully?  
approach-avoidance  
soft landing  
prepare LCD outcome  
chicken stalemate  
uncertainty  
prepare for failure or LCD  
disengage  
ball is in the net  
deal is avoidable  
backing out  
LCD compromises  
second thoughts  
emphasize gentle collapse  
strengthen BATNAs  
slow down dynamics  
time running out  
cut losses, make best of it  
set issues aside

1999, although there is relevance but less of a direct equivalent with his five styles or Thomas-Killmann categories); dragging may be related to Low IO behavior if it covers the whole endgame and not just a single issue.

The choice of the pattern is path determined by the previous bargaining behavior of the parties. Thus the patterns capture both the individual parties' behavior and also the behavioral pattern of the encounter if shared. The patterns of behavior are not sealed trains in a

tunnel; the parties can shift, probably inducing a shift or at least a strain in the other's behavior, but they cannot shift very often without destroying the engagement of the other. A shift can occur at the very end: dueling in the crunch after almost complete agreement by driving, or driving at the edge of the cliff after the dueling has run its course, but such shifts probably require a shift in negotiating or deciding personal as well.

One pattern is *dueling* (Kisantonis & Alderman 2015; deGaulle 1962), also known as cliff-hanging and

brinkmanship, in which the parties face each other down to the wire until one of them blinks. This is a pattern of reciprocal behavior, in which toughness has led to toughness and a low critical risk on the part of both parties leads the process either to confirmed deadlock or to a prolonged shoot-out before one side gives in (Bishop 1964). In critical risk terms, each side bets on the chances of the other side's capitulation and of the acceptability of a deadlock if it does not.<sup>1</sup> This is a hardened version of a Chicken Dilemma Game (CDG) (only portrayable in a cardinal, not ordinal, depiction), which incorporates the capitulation calculation but not the relative cost of deadlock. Thus dueling parties attempt to persuade the opponent that they will not move

<sup>1</sup> here a number of calculations for critical risk; the most complete one is the ratio between the difference between victory and losing (SW and NE corner in a Prisoners' Dilemma Game matrix) and between Victory and Deadlock (SE corner). (Zeuthen 1930, 147; Pillar 1983, 93; Snyder & Diesing 1977, 49-52). Critical risk is a useful heuristic but more difficult to calculate than its definition would suggest.

and that a deadlock would be quite acceptable to them, that is, to each the “expected cost [of breakdown] equals the expected benefit [of victory]” and it is indifferent between the two, and they also try to convince the other that its calculation is wrong and that deadlock is indeed costly to the other (Pillar 1983, 92-93). Expressed as security points, the alternative to a negotiated agreement (BATNA) for each is—or at least is portrayed as—equivalent in value to an agreement, the parties are equal in power and work to reinforce their indifference rather than seeking an accommodation with the other party’s position, thus setting up a situation of deadlock or surrender. As a result, an interesting aspect of the dueling pattern is that it drives the parties to bargain on their security points rather than on the terms of a possible agreement, pointing out quite publicly how acceptable for them deadlock is as an alternative and how unbearable the concessions needed to come to an agreement, especially on the other party’s hardline terms, and how awful deadlock would be for the other, without doing much to improve the terms of an agreement. In other words, both parties proclaim that they really don’t need an agreement, at least on the other’s terms.

Another characteristic of dueling is that there is no agreement on a formula going into the endgame. The parties still hold different notions of the nature of the problem, the terms of trade and the notion of justice underwriting the negotiation and hence the agreement. The parties never got out of the competitive stage into a cooperative frame of mind (Pruitt 134; Zartman 1997). Hence the duelers have an overcharged agenda with little to have built up in preparation for cooperation. If there is finally an agreement among duelers, it is most likely to favor one of the parties.

Decisions in each pattern will have their characteristics. Decisions in *dueling* will be strategic, i.e. determined by examining (intrapersonal) or comparing (interpersonal) BATNAs, or personal/political, i.e. determined by the strength of commitment to oneself or to the home audience, portraying the offers, deadlines and BATNAs as fixed reference points. Strategic decisions depend on uncertain information about what one’s and the other’s security point really is; political decisions depend on a judgment of what one can get away with without breaking commitment. Dueling may take place over a single issue but is more likely to occur over an entire agenda or general concern

or relationship that is not subject to decomposition or fractioning, making compensation more difficult. Even when a single issue is, literally, the stumbling block, it tends to take its importance from its representation of the entire relationship. Parties will run down to the wire (and push the wire if possible) to show their unshakability, strengthening their position by public commitments, throwing away the steering wheel in their chicken course while underscoring the catastrophe in the other party’s security point (Schelling 1960; Coddington 1968). Thus, the cost of capitulation increases as the parties move toward a decision.

*Dueling* is done before a public audience and is used to enforce commitment; negotiators are always looking over their shoulder to create a public opinion that then holds them prisoner. There is no question of handling the major issues or any others early to create a positive bargaining atmosphere; the Big One stands to the end as the symbol of the confrontation. Various devices of presentation and misrepresentation as highlighted by prospect theory will be employed (McDermott 2009, Kydd and Stein in this volume). Parties are unlikely to have similar purposes in the negotiation; concessions are the only alternative to one side’s



giving in completely but the posture of the parties makes concessions difficult; compensation is difficult and construction is uninteresting. Furthermore, there is no room for mediators in a dueling encounter. They are not welcome, and if they do perchance appear in hopes of being helpful, they are ignored, or worse, by one or both parties.

Not surprisingly, the best examples of dueling come from failed encounters, although the Cuban Missile Crisis negotiations were a concise case with a positive outcome. The 2015 Greek debt negotiations, including some interesting manipulation of the public to back the dueling, are a sharp case of examined by Diana Panke in this book. Negotiations over Kosovo at Rambouillet in February 1999, over Syria in Geneva I and II in February 2012 and February 2014, negotiations in Sri Lanka in 2006 through 2008 were all cases of dueling. In the first two cases talks were later revived when the situation on the ground (including disposition if external players) changed. For this reason, the choice of the EU-Greece case is particularly instructive; one side finally capitulated. Negotiators can of course stop dueling any time they want, but they have to make sure that the decision to change is reciprocated, i.e. that both sides agree to change, or else one party's move will simply be seized as capitulation. So duelers can come to an agreement, since their mode is reciprocation if they snap, after appropriate and delicate soundings, to an outcome that takes the best of both positions into account. Thus may involve selected concessions or, better yet, compensation through an exchange of items to which they assign different values (Nash 1950; Homans 1961) The breakout of the deadlock in the first (2005) Iranian negotiations was accomplished

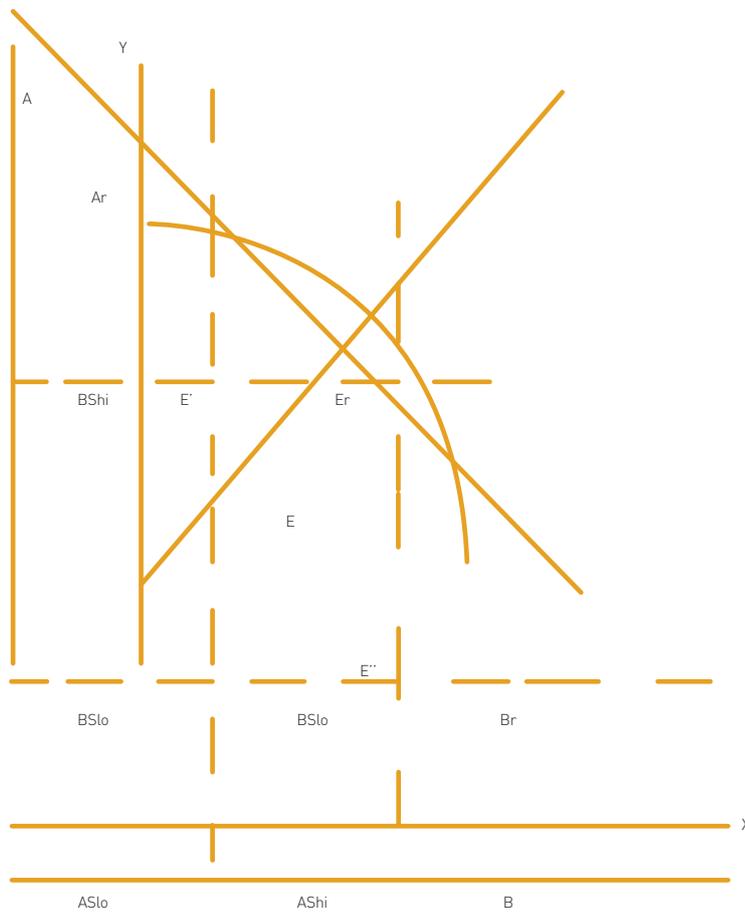
this way and permitted a pattern of driving in the second (2013-2015) round. An unusual, well-executed reciprocated change from dueling to driving occurred after the opening of the Israeli-Palestine talks at Oslo in 1993 (Zartman 1996). Like all the others above and below, illustrations are illustration, not perfect fits.

The second is *driving*, in which the parties push and pull each other gradually toward a convergence point, matching concessions and compensations, as the parties work on each other down toward an agreement. This too is a pattern of reciprocal behavior, in which softness has led to softness and a high critical risk on the part of both parties leads the process toward agreement, although only a comparison of the critical risk can tell how long the concession game will go on or which side the outcome will favor (if at all). In critical risk terms (Zeuthen 1930; Pillar 1983), each side bets on the chances of the other side's concessions and of the acceptability of a deadlock if it does not. This is an enlightened version of a Chicken Dilemma Game (CDG) where the parties want to avoid a deadlock and so see the situation as an incitement to create a mutually enticing outcome (MEO) (Goldstein 2005) (again only a cardinal depiction of the CGD can show which side the MEO will favor, if any). Thus driving parties attempt to establish an ethos of requitement, persuading the opponent that they will reciprocate any positive move and expect the other to do the same, and also that a deadlock would be quite unacceptable to them, that is, the expected cost of breakdown is much higher than the expected benefit of agreement. (Pillar 1983, 92-93). In terms of security points or alternatives, the alternative to a negotiated agreement (BATNA) is— or at least is portrayed as—lower in

value toward an agreement, and both parties are motivated by this shared difference, playing their bargaining against it to gain concessions, both sides caught between "it cannot fail" and "we cannot give in." This element of undergirding agreement is possible because in driving the parties have come to an understanding on the formula for their negotiations (Zartman 1997). They are now in the stage of details and, although they can backtrack if the formula is not adequate, they have a basis on which to bargain as they seek to correctly implement the formula.

However, where the agreement will land depends on the position of one party's security point relative to the others, and on the parties' ability to reframe their issues to produce a more positive sum than before, as often happens within an endgame, as Druckman develops on a later chapter and illustrated in figure 1.1 below. If one party can get much the same result without negotiating and so its security point is high (BShi) and the other's is low (ASlo), a likely agreement (E') would be more favorable to the first (B) than to the second (A). If the reverse obtains (BSlo/AShi) the reverse outcome (E'') is likely to eventuate. However, if the parties are able to reframe the issues in a way that produces benefits for both of them (the Ar/Br curve instead of A/B), an outcome more attractive to both can be produced, with fewer unaddressed issues left on the table, even if the security points of both parties are high (Er), as discussed further in the last chapter by P. Terrence Hopmann. (Figure 1.1 also shows that if both parties BATNAs are high, as portrayed in the dueling pattern (BShi, AShi), they will need to reframe the issues if they are to reach an agreement at all).

**Figure 1.1: Effects of high or low Security Points (BATNAs) and of reframing**



B=0-sum frontier; ArBr=reframed pos-sum frontier;  
BShi or lo=B's security levels/BATNAs; AShi or lo=A's security levels/BATNAs

possibilities of enlarging an outcome and crafting an agreement that maximizes the reach toward the minimum requirements of the parties. They will depend on an evaluation of accumulated benefits, against "must-have red lines" and low BATNAs. Although operating under the shadow of their security points, parties tend to be convinced of the value of an agreement within their ZOPA and decide individual issues on the basis of their requirements and the issues' contribution to maintaining the landing pad in prospect. As agreement is given a value of its own, the cost of failure increases as the parties move toward closure. Negotiators try to maintain confidentiality during the final

handled early, to create momentum and atmosphere. But at the same time, controlled communication is important to keep public confidence but managed expectations, assured support but controlled information. Parties try to build mutual trust to facilitate the process, although they may turn tactically to dueling as a threat or goad to remind of the push of a painful stalemate, but not too much or too often or they will create a mismatched pattern and destroy trust, as De Klerk did in 1992.

Driving parties may have shared or different purposes, but will look for concessions and compensations to build an agreement; where different purposes make these difficult, parties

will seek construction to reframe the issues. In a driving encounter, parties tend to take apart issues and handle them either seriatim or grouped for trade-offs. Focal points such as split-the-difference will be useful where other, substantive criteria fall short of agreement (Schüssler 2016). Working groups on individual issues inhibit compensation among issues but facilitate mosaic agreement. Deadlines can have a catalytic effect in producing agreement but can be postponed to make eventual agreement possible as well, as Angelika Rettberg and Carlos Nasi, and Larry Crump discuss in their chapters (Chasek 1997). Although these actions appear positive, they require effort and creativity to construct an agreement over stringent "red lines" playing against low security points for both sides, where the deep unattractiveness of no-agreement (southeast corner) in the chicken game create a strong incentive to fill the northwest box with an mutually enticing opportunity (MEO), as Andrew Kydd discusses. Deadlock on a stumbling block to the whole package often requires a senior political figure to take over the bargain and make for closure, as shown a number of times in the later chapter by Larry Crump and in the Sudan negotiations (Johnson 2011). The 2015 Iran non-proliferation negotiations for a Joint Comprehensive Plan of Action (JCPOA) are a rich case of driving.

Again not surprisingly, driving is likely to produce a MEO somewhere between the parties' positions going into the endgame, although it must not be thought that the parties will lock arms and dance to an agreement or that the endpoint will be exactly in the middle. The preceding sentence gives the key to the hard bargaining as each side, knowing/believing that

the other wants an agreement and therefore is willing to accept less than its maximum, moderate or even bottom demands, and tries to publically wave the danger of collapse at their opponents—again the matter of critical risk. It is at this point that the danger of approach-avoidance analyzed in a later chapter by Dean G Pruitt comes into view, threatening to turn the driving process into a sudden duel. At some point, a “crest” or final turning point may occur, after which the rest of the items are rapidly resolved and the general feeling is one of being in the “home stretch” (Zartman 1982, 188; Druckman 1986; Johnson 2011, 141). A crest is a point in the negotiations where enough is agreed upon to constitute an acceptable accord, whatever else may be raised (and is therefore a temptation to raise whatever else). A rich illustration is found in the JCPoA negotiations of 2014-2014 with Iran. French negotiations with Algeria vs Germany vividly illustrate how negotiations at the crest can be upset or untouched by external events, depending on the strength of the commitment built up to that point, as laid out in the chapter by Valerie Rosoux. The 1990-1994 negotiations between the National Party and the African National Congress in South Africa, with all their ups and down, are another example, as was the Northern Ireland negotiations of 1998. The examples amply show that driving often produces an agreement but does not guarantee that outcome, and does not obviate hard bargain along the way.

For that, it may require third party attention, so that the mediator becomes the driver, bringing the conflicting parties along in its efforts. Although mediation was seen to be unwelcome in dueling, there is frequently an important place for it in creating a driving pattern, as Chester

Crocker emphasizes in his concluding chapter. The most important phase of the mediator’s work, at the beginning of the mediation and before the endgame, is to ripen the parties’ perception that they are in a stalemate and it hurts, and that a way out is available. Only then can the mediator turn to helping fashion a MEO in the endgame. Thus, the mediator needs to awaken the parties’ awareness to all the elements—reciprocity, requirement, ZOPA, realistic security points—that they would have developed by themselves in preparation for a directly negotiated endgame but could not, and to keep them on track to the end. In a word, the mediator begins by wanting an agreement more than the parties, contrary to the popular assumption, and then has to transfer that desire and need to the parties—or they would not need a mediator. This was the case in the Namibian-Angolan negotiations, beginning in 1980 with the endgame in 1986-87 (Crocker 1993), in the Sudanese negotiations beginning in May 2002 with the endgame from October 2003 to May 2004 (Johnson 2011), in the Mozambican negotiations beginning in the last version in July 1990 with the endgame between August and October 1992 (Hume), and in Mindanao negotiations in the latest round in 2010 with the endgame in 2014-2015, among others. In these and other cases, closure was completed through the action of the mediator as the driver.

The third pattern involves the same two types, but unilaterally and non-reciprocally mismatched, that is, one party may behave as a dueler and the other as a driver. Each party expects the other party to operate on the same model; if this is not the case, the bilateral logic of the behavior is destroyed, or indeed betrayed, and the parties become suspicious and

hostile of the other in mismatching. Each expects to find requirement in his own terms, but when it is not forthcoming, the relationship turns very sour. The dueler sees the driver as a softy and a patsy, the driver sees the dueler as an exploiter, and the pattern is upset since it is not clear which pattern is dominant (Rubin & Brown 1975, 158-159.) Gorbachev and Reagan at the end of Reykjavik and Frederik deKlerk and Nelson Mandela at the end of the CODESA phase are telling human examples. These are interpersonal illustrations but when the two sides met, each may be bearing a different pattern and expectation. Prime Minister Menachem Begin came to Camp David I as a dueler and President Anwar Sadat as a driver; the mediation of President Carter aside, the meeting would have fallen apart of Begin’s staff were not bent on driving and despite the fact that Sadat’s staff was mainly bent on dueling, and were able to come to a partial agreement (Parker 2004). Many negotiations are mismatched, leading either to collapse or to mutual socialization in one direction or another. The socialization-on-the-job has to be dominated by one side/pattern or the other, lest it merely solidify and intensify the mismatching. Parties and Western mediators have often worked on rebel groups with no sense of negotiation except dueling, to try to inculcate some ideas of driving behavior, as in Darfur, Rwanda, El Salvador, Colombia, Bahrain, Casamance, Sri Lanka and elsewhere.

The fourth is *dragging*, in which the parties alone or severally come to see the outcome toward which they are heading and realize that they do not like it, then work instead to provide a soft landing that ends the negotiations without damage. The realization can come in many terms:



Soviet Union president Mikhail Gorbachev and his American counterpart Ronald Reagan (Reykjavik, 11 October 1986) – an example of the dragging negotiation style

that the formula is not really agreed or adequate, that the details do not lend themselves to an agreement that translates the formula, that the negotiations are simply not heading toward an enticing outcome, that insistence on a precise solution or an issue would derail the rest of the agreement, and so on. The result can be an effort to call it all off, or simply to push an issue or several aside, putting off for later attention and solution. Reciprocity, critical risk, formulas and reciprocity do not a systemic role if at all. Camp David II was not either of the first type but simply Arafat's reluctance to negotiate at all, while everyone else was busy coming up with ideas. Reagan dragged on the Strategic Defense Initiative (SDI) at Reykjavik in 1986 and dragged down the entire pending agreement when Gorbachev threw in the issue at the last minute. Dragging can also be partial and

positive, indeed the key to an outcome containing all the other points on which agreement was possible but omitting the bone that got stuck in all parties' throats. The question of what issues to include without breaking the back of an agreeable agenda is crucial; it is unlikely that the Jerusalem question could have been included at Oslo or the Kosovo question at Dayton, but the decision to put off a resolution of Brcko at Dayton (1994) and of the Panguna mine at Arawa (2001) were the keys to the last lock on the Bosnian and Bougainville negotiations. Constructive ambiguity on key issues permitted agreements on German unification in 1990, at Oslo in 1993, on the Ukraine in 20013, and even on Iranian weapons denuclearization in 2015, as detailed on a later chapter by Mikhail Troitskiy. The same type of calculation can go into agenda setting in preparation for the endgame,

leaving out a major issue or aspect of the conflict and then going on to seek closure on the remaining matter. Michael Butler's chapter divides outcomes into demotion of the means of conflict from violence to politics (Conflict Management [CM]) and settlement of the ends or issues of the conflict (Conflict Resolution [CR]), showing that if, for several reasons, parties decide they cannot take on the latter, they can at least settle for the first.

Decision in *dragging*—Type II negotiations where not Enough is enough—will depend on calculations of BATNAs and also accumulated and foreseeable benefits. When it appears that a satisfactory agreement in whole or in part is unattainable, parties will attempt to draw down negotiations rather than stalk out with a fuss. The outcome may simply be a petering

out of negotiations but is more likely to end in a lowest common denominator (LCD) or ambivalent agreement. *Dragging* can also apply to only a part of the negotiations as in a decision to drop certain issues and move on to a less significant outcome on items where agreement can be achieved. The following chapters by Dean Pruitt, Mikhail Troitskiy, Michael Butler, and Sinisa Vukovic explore this effect at various points in relation to the endgame, with examples.

Every dichotomy or other sharp categorization always need contain a residual category, in this case, *mixed*. None of these patterns is pure and consistent; they are general characterizations of behavior in a given instance and are perceptible not only to the analyst but to the parties involved as well. But the parties can switch or slip from time to time, sometimes without destroying the pattern, at other times confusing the train of events and expectations. Duellers may well slip in a driving moment to bring the opponent's guard down or to take advantage of fatigue on the part of the opponent. More frequently, drivers may turn to dueling on a crucial point, at a crucial moment, at a special time in the process. Again, Gorbachev did, and he failed. Parties cannot switch too often, or they will confuse the other and destroy the process. The other patterns are already not sharp enough in the assumptions and characteristics that mixing is less upsetting. The list may not be complete; possibly other patterns (but not too many more, in the name of parsimony) and certainly other traits could be added, but the direction of development is indicated.

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## PIN book in progress: 'Closure: How Negotiations End'

### Table of Contents

#### Introduction:

#### What is Enough? Why Negotiations End:

I. William Zartman, SAIS-JHU.

#### Cases:

**1. Joint Comprehensive Plan of Action:**  
Ariane Tabatabai, Georgetown University.

**2. Greek-EU debt agreement:**

Diana Panke, University of Freiburg.

**3. Colombian FARC Agreement:**

Carlo Nasi & Angelika Rettberg,  
Universidad de los Andes.

**4. Chinese Business Negotiations:**

**Closing the Deal:**

Guy Olivier Faure, Sorbonne University.

**5. France's Reconciliations with Germany and Algeria:**

Valerie Rosoux, University of Louvain.

**6. Bilateral Free Trade Negotiations:**

Larry Crump, Griffith University.

**7. Closing Labor Negotiations:**

Mark Anstey, Mandela Metropolitan University.

#### Causes:

**8. Defining Components: Turning Points:**

Daniel Druckman, ANU and George Mason University.

**9. Defining Components: Managing or Resolving:**

Michael Butler, Clark University.

**10. Processual Impediments: Driving vs Resisting Mediators:**

Sinisa Vukovic, SAIS-JHU.

**11. Processual Impediments: Timing:**

Isak Svensson, Uppsala University.

**12. Processual Impediments: Information:**

Andrew Kydd, University of Wisconsin-Madison.

**13. Processual Impediments: Prospecting:**

Janice Stein, University of Toronto.

**14. The End of the End: Uncertainty:**

Mikhail Troitskiy, MGIMO University.

**15. The End of the End: Approach Avoidance:**

Dean G. Pruitt, George Mason University.

**16. The End of the End: Unclaimed Gains and the Home Team:**

P. Terrence Hopmann, SAIS-JHU.

#### Lessons:

**17. for Theory:**

I. William Zartman, SAIS-JHU.

**18. for Practice:**

Chester Crocker, Georgetown University.