



From the PIN Steering Committee

It is always gratifying to receive feedback about one's work. The members of the Processes of International Negotiation (PIN) Steering Committee were therefore pleased to receive so many useful comments from IIASA's National Member Organizations (NMOs) on the PIN Network. We welcome such comments wholeheartedly as they help us reappraise the object and the purpose of our research endeavors.

On the whole the observations made by four important NMOs (Japan, the Netherlands, Poland, and the United States) confirm our conviction that the PIN Network promotes useful and valuable activities. It is also encouraging to note that, in general, the NMOs that offered comments gave a positive assessment of our work. A recurring point in most comments was the need for an improved and intensified interface between the PIN Group's own research projects and IIASA's agenda and activities. The Japan NMO stressed the special interest of our project on global-climate-change negotiations and found our new project on the lessons to be learned from failed negotiations promising. The Netherlands NMO recommended that PIN should develop into a "facilitating crosscutting network" with linkages to such areas as air pollution, forestry, and energy.

The review by the United States NMO pointed to the contribution PIN can make to the practice of negotiation. The Law of the Sea negotiations were mentioned in this regard as progress there was helped by the introduction of formal models. A second review by the United States NMO found some friendly words for PIN's "notable achievements" but it

(continued on page 2)

Call for Papers:

Lessons from Negotiations That Do Not End in Agreement

At its last meeting in June 2004 the PIN Steering Committee agreed to engage in a new book project on the theme of "failed negotiations." By this term are understood those negotiations that did not arrive at a satisfactory conclusion within the time frame envisaged.

In recent times an astonishing number of negotiation processes have failed to produce a successful outcome within the relevant terms of reference. The following examples immediately come to mind:

- The unsuccessful Rambouillet negotiations during the Yugoslav crisis (1999);
- The abortive attempts to arrive at a final settlement of the Israeli–Palestinian conflict (Camp David II, 2000);
- The negotiations in the United Nations Security Council before the outbreak of hostilities in Iraq (March 2003);
- The trade negotiations in Cancun in the framework of the World Trade Organization (September 2003);
- Failure to reach agreement on an EU constitution at the European Council meeting in December 2003; and
- Unsuccessful attempts to negotiate the reunification of Cyprus in the context of EU enlargement (April 2004).

The reasons why each of these negotiations went wrong are usually complex. It would be a crass simplification to portray the lack of an agreement as monocausal. It is usually a combination of factors—structural, institutional, procedural, or personal in nature—that lead negotiations to stall or fail, and that, taken together, may provide clues as to why a particular negotiation process did not lead to an agreement.

In general, negotiation theory and practice have concentrated thus far on the examination of successful negotiation experiences or on case studies that did not focus in any systematic way on a possible negative outcome to a negotiation process.

With this in mind the PIN Steering Committee concluded that the issue of negotiations that did not end in agreements was worthy of a scientific study in its own right and requested two of its members, Franz Cede and Guy Olivier Faure, to develop a concept

Contents

From the PIN Steering Committee	1
Lessons from Negotiations That Do Not End in Agreement	1
Cairo Roadshow	2
Verification of Arms Control and Disarmament Treaties	3
International Intervention Regimes	5
Long-Term Facilitation of the Climate Talks	6
Patterns of Engagement: How States Negotiate International Water Agreements	7
European Council Negotiations	8
<i>Escalation and Negotiation</i>	8
The Study of Negotiation	10
<i>Peace versus Justice</i>	11
Talleyrand: Prince of Negotiators	12
<i>Negotiating European Union</i>	13
Negotiations on Chechnya	14
Negotiating Peace and Justice	15
The Universality of Negotiation	16



criticized the lack of interaction between PIN and the rest of IIASA's activities and raised some doubts about PIN's influence on the world outside a well-traveled network of academic institutions. The Poland NMO comments took the same direction.

Against this backdrop the Steering Committee was particularly happy that the Director of IIASA, Leen Hordijk, took the time to attend its last meeting in Cairo (9–10 October 2004). This meeting provided ample opportunities to discuss and to develop a closer integration between PIN and the overall agenda of the Institute.

*Rudolf Avenhaus
Franz Cede
Guy Olivier Faure
Victor Kremenjuk
Paul Meerts
Gunnar Sjöstedt
I. William Zartman*

paper with the aim of providing clear guidelines on the further pursuit of this research project, the object of which should be a new publication.

Preparatory work has led us to formulate a certain number of causes of unsuccessful negotiations, each of which would constitute a specific theme. Among these causes the following were identified:

- Structural causes;
- Psychological causes;
- Strategic causes;
- Cultural causes;
- Institutional causes;
- Bilateral versus multilateral setting;
- Type of issue (including economic, political, social, environmental, and terrorism);
- Negotiation stages (process);
- Information (availability and management); and
- Complexity.

Anyone interested in making a contribution to this research project is invited to submit a proposal to the

coordinators of the project (Franz Cede—e-mail: franz.cede@bmaa.gv.at; Guy Olivier Faure—e-mail: go.faure@free.fr. Please cc to Tanja Huber—e-mail: huber@iiasa.ac.at). The proposal submitted should indicate:

- An outline of the contribution; and
- The scientific credentials of the author, especially in the area concerned.

Each contribution will be of a conceptual nature and, by way of illustration, will draw on specific cases of international relations. The final format of the publication would indicate individual contributions of around twenty pages (double-spaced) plus references. Studies on the specific cases mentioned above will also be welcome.

The contributions must reach us no later than 30 April 2005. A conference will be held in Vienna on 8 and 9 July 2005 to finalize the publication. All authors will be invited to participate in this conference.

*Franz Cede
Guy Olivier Faure*

Roadshow at University of Cairo

The PIN Steering Committee gathered in Cairo from 8–12 October 2004 for another successful PIN Roadshow, organized by the Egyptian Academy of Scientific Research and Technology (ASRT) and the Ministry of Scientific Research. The PIN Committee also held its triannual meeting in Cairo, attended by the Director of IIASA, Leen Hordijk, to discuss and promote ideas for greater interaction between PIN and other IIASA programs.

The PIN Roadshow was held at the Faculty of Economic and Political Science of the University of Cairo on 11 October and was attended by about fifty students and academic staff. The event began with an introduction by Mohsen Shoukry, Vice President of the ASRT, and Kamal El-Menoufi, Dean of the Faculty.

Members of the PIN Committee who delivered lectures were: Rudolf Avenhaus on formal models in negotiation using examples from the work of PIN; Guy Olivier Faure on the challenge of overcoming deadlocks in negotiation; Franz Cede on the connection between negotiation and international law;

Victor Kremenjuk on negotiation for conflict resolution; and Paul Meerts on the training of negotiators (with emphasis on the Middle East)—training that involves students in doing visual puzzles that help them to look at a problem or task from different angles. Gunnar Sjöstedt highlighted the situation of small states in large talks and the problems of empowerment. Finally, I. William Zartman sparked an intense discussion with his talk on negotiations in the Middle East. Of special interest to participants was the role of the United

States in Iraq, deadlocks in internal disputes, and the potential to influence of strong versus weak states.

Discussions continued on the role of the United States in the Middle East, with I. William Zartman and Guy Olivier Faure trying to link this to other topics such as cultural issues in negotiation, antiterrorist collaboration, and state security.

Members of the PIN Committee and of the Faculty all commented on the success of the Roadshow.

Tanja Huber

Upcoming Roadshow in Oslo, Norway

The next PIN Roadshow is being planned for October 2005 in collaboration with the International Peace Research Institute (PRIO) of Oslo and the Centre for the Study of Civil War (CSCW).

PRIO works closely with The Research Council of Norway (the Norwegian IIASA National Member Organization), and PIN is looking forward to presenting topics of negotiation research relevant to Norway as well as to sparking fruitful discussions in specific PRIO fields of interest.

Another goal of the Roadshow is certainly to identify chances for rapprochement with Norwegian colleagues. As usual, the Roadshow will be composed of lectures given by each member of the PIN Steering Committee, followed by individual small-group workshops and a final round-table discussion.

Tanja Huber

Verification of Arms Control and Disarmament Treaties: A Quantitative View

Verification has become a crucial issue in international negotiations on arms control and disarmament treaties. Whereas, in the past, it was believed by some states that agreement should be reached on principles first and details of verification worked out afterwards, today, verification is taken into account from the very beginning, as demonstrated by the Chemical Weapons Convention (CWC) negotiations, for example.

The problem of verification may be formally described as follows: the inspected party, in this case a sovereign state, may have some incentive to deliberately and clandestinely violate its commitments, a possibility that necessitates verification measures. An inspectorate, acting on behalf of a community of participating states, for example, the United Nations, will wish to deter such illegal activity and, should that illegal activity nevertheless take place, detect it with the highest possible probability and speed. The potential violator knows, by virtue of the inspection regime, that a violation risks being detected and may incur punishment in the form of sanctions or even military intervention. Therefore, if a state chooses illegal behavior, it will wish to avoid detection with the highest possible probability or at least delay it for as long as possible.

It is because the preferences and strategic alternatives of the protagonists may be stereotyped in this way that routine inspection activities can, in principle at least, be treated quantitatively. It is possible to calculate and optimize the effectiveness of inspections and to quantify the idea of deterrence. The underlying concept is that of *noncooperative game theory* together with its “solution,” the so-called Nash Equilibrium, a concept formulated by the American Nobel laureate John Nash in the early 1950s. This proposes that protagonists in a conflict situation will choose their strategies so that neither has an incentive to deviate from his or her choice unilaterally. This deceptively simple definition is the foundation of the

theory and is recognized as a necessary condition for rational behavior.

One might, of course, object that verification regimes are largely cooperative in nature, serving to bolster mutual international trust through voluntary submission to external scrutiny. But noncooperative game theory, despite its name, by no means excludes cooperative behavior. For example, in the famous *prisoner’s dilemma* there exists a mutually preferable and cooperative alternative that, because it violates Nash’s rationality condition, is unfortunately unacceptable. On the other hand, in a “verification game,” it is common to find situations where the inspectorate carries out an inspection plan and the state, acting in its own best interests, behaves legally. Such cooperative behavior may be achieved even if the state has a real incentive not to cooperate, and if it is, we have a suitable definition of deterrence: a Nash Equilibrium in an inspection regime in which the state’s equilibrium strategy is to behave legally.

In the framework of verifying the peaceful use of nuclear energy (i.e., under the Nuclear Non-Proliferation Treaty), this sort of quantitative analysis has been used, if at all, only at a rather technical level. It has been applied, for instance, to derive optimal inspection sampling plans at specific facilities, given hypothetical violation scenarios. One reason for this hesitance may be that game theory has a reputation for mathematical abstruseness and limited practical applicability. This reputation is ill-deserved, as we would now like to demonstrate.

The Additional Protocol, the model for which was agreed upon by the board of governors of the International Atomic Energy Agency (IAEA) in May 1997, seeks to introduce new subjective elements into the nuclear safeguards regime, a regime hitherto founded on the quantitative principle of material accountancy. Some elements have been the subject of considerable controversy ever since. The objective was to strengthen safeguards following the

failure to detect Iraq’s illicit nuclear weapons program. On several occasions the claim was made that any attempt to quantify the effect of the new measures within the overall IAEA safeguards-verification regime would be pointless and should thus be avoided. At the same time, however, there seemed to be a very general consensus that the additional measures would serve to improve the effectiveness and efficiency of safeguards. To a systems analyst this was an absurd state of affairs: claiming improvement or optimization while at the same time denying the need for a measurable objective is surely self-contradictory. This confusion actually contributed to the long, difficult, and at times cross-purposeful discussions that characterized the debate between IAEA Member States and the Agency over the Additional Protocol.

The reluctance to define terms is not new; in fact, it lurked within the old nuclear verification system and can be illustrated by the paradigmatic example of a storage facility consisting of sealed items of nuclear material where a subset of the sealed items on the inventory is to be checked by the inspectorate. The probability of detecting at least one falsified seal is approximately quantifiable by the ratio of the number of items in the subset divided by the total number of items present. But just how large should the subset be for safeguards to be effective and efficient? Technically, one solves the problem by allowing the inspector to work for a given amount of time. If the time needed to check one seal is known, then the number of items he or she can check is also known. The *effectiveness* of the inspector, expressed as the probability of detecting illegal activity, is then a function of purely technical quantities—the size of the inventory, the inspection time per item, and the total time available. But is this *efficient*? Is the inspector wasting some of his/her time, or should he/she be investing more of it? “How much is enough?” as American verification theorist Allan Krass asked many years ago.

The answer is that the inspectorate should invest the amount of verification effort that will deter the state, through the risk of timely detection, from illegally breaking a seal—no more and no less. But herein lies a difficulty: in order to treat the question of deterrence, we are forced to introduce the subjective aspects associated with perceived risk, namely, the preferences of the inspected party for legal versus illegal behavior. If we do so, formal methods will help us come to a common understanding. It is argued by many, however, that an international verification organization like the IAEA has no business doing this sort of political analysis. Instead, the view is taken that the detection capability is an external variable that must be determined bureaucratically. Typically, some ad hoc measure, such as X percent detection probability for violation strategy Y, is specified which determines the overall inspection effort required for its achievement. This, of course, begs all questions regarding efficiency, and any further treatment of the matter is sterile.

An alternative is to try to arrive at a genuine quantification of the problem, and we will now attempt to do so. Let the utilities—which in the jargon of game theory reflect the preferences of the state—be ordered as follows: a negative value for detected illegal behavior (the perceived likely sanctions), zero for legal behavior, and a positive value for undetected illegal behavior (the incentive, whatever that might be, to violate the agreement). The latter value may be arbitrarily small but should never be exactly zero. That would be tantamount to saying that the inspection regime is superfluous, in contradiction of the international consensus that there is a genuine risk of clandestine violations. The normalization to zero for legal behavior is convenient and thoroughly consistent with the meaning of utility. The state's overall utility, if it decides to behave illegally, can then be expressed as a simple function of these basic utilities and of the detection probability. The potential violator will clearly be inclined to behave legally if it perceives this function to be less than zero. This leads immediately to a condition for the probability of detection required for deterrence and, in

turn, to a condition for the time that an inspector has to spend in the facility. It turns out that the larger the ratio of perceived sanctions to perceived benefits of illegal behavior, the smaller the amount of effort that should be invested by the inspectorate to achieve its goal, which is perfectly understandable in common sense terms.

As already mentioned, this way of looking at things has been criticized on the grounds that it is impossible, or worse, impolitic, to estimate the utilities of parties to a treaty. But all that we have really done is to relate, via the condition for legal behavior, a technical result (that connects the probability of detection with the time the inspector has to spend in the facility) to the reality of the situation to which it is being applied. If, for example, a state's incentive to break a seal is known to be much smaller than its perceived consequences of detection, a good inspection plan would be to make the inspection time very small. Just a single token seal check would then be both efficient and effective. If, on the other hand, the utilities are indeed inaccessible, or even taboo, then at least we know why we cannot define effective and efficient verification and that the subject should best be dropped. In either case, quantification has helped us.

Returning to the new Protocol: in the additional verification measures, it is even explicitly stated that qualitative elements like the motivation of states are to be taken into account. What can this be if not a recognition of the fact that different states may have different motivations? The sort of analysis just undertaken should therefore be all the more relevant. Thus, if we extend the previous paradigm to two states each possessing one storage facility, these motivations are expressed by different utilities for each state. A formal analysis then provides, under reasonable assumptions, a condition for legal behavior on the part of both states that generalizes the previous considerations. But now the required detection probabilities (and hence inspection efforts) for each state are inextricably bound up with both states' utilities! The bureaucratic solution is all the more arbitrary, and the inclusion of subjective preferences thus seems unavoidable.

There are, roughly speaking, two types of applications of formal methods that are relevant in the context of verification of international arms control and disarmament and of environmental treaties. These may be called operational and conceptual. The first involves solving the technical problem of implementing inspections given time and/or manpower constraints. If, for example, an inspector has allotted time in the calendar year for inspecting a facility, then optimal inspection procedures during one visit or optimal distributions of inspection visits over time can be determined. Moreover, the best statistical evaluation techniques can be derived when actual measurements are performed and statistical errors (for example, false alarms) cannot be avoided. Here, the subjective preferences of inspected parties need not be explicitly taken into account.

The conceptual type of application deals with the analysis of the constraints themselves, as pointed out above. The questions now to be addressed are: How much time can an inspector spend on a major verification task? How should the overall manpower and budget of a verification authority be distributed between states with different motivations? And finally, to repeat the all-important question, how much verification is enough? Here, necessarily, one must resort to utility functions that express the preferences of the parties involved. Even if these cannot be estimated numerically, an analysis of their interrelationships and their influence on the efficiency and effectiveness of verification measures is indispensable for understanding what verification really means.

Of course, it is difficult to get diplomats and politicians interested in the type of thinking just outlined. Howard Raiffa has described the general problem many times and very convincingly. We can only repeat his plea for our case, namely, that both parties, practitioners and analysts, approach each other in the interests of finding a real solution to the vital problems of verification.

*Rudolf Avenhaus
Morton Canty*

Research at PIN on International Intervention Regimes

The PIN group aims to provide a new analytical framework for research on the evolution of international interventions

International interventions have been a recurring theme in world politics since the end of the Cold War. There have been many attempts to build on “lessons learned” from these interventions and to determine what are the “right” intervention strategies. The difficulty of basing an intervention on a coherent strategy is often overlooked, however, because any intervention is the result of a negotiated process and an agreed compromise, at least among the coalition of states that intervenes.

The end to the conflictual structure of the Cold War has meant that interventions have increasingly turned into attempts at joint problem solving. Furthermore, in view of the limited resources available, the complex nature of internal conflicts and the uncertainties of the new international order, interventions have had to grow into truly multidimensional undertakings. A growing number of actors have also become involved, which, in turn, has required greater coordination. Finally, an intervention is never a linear event whose effectiveness can be measured based on compliance with the agreement (peace agreement, resolution, or declaration) that provided for it. Constant postagreement negotiations are required to secure continued international engagement until all problems have been overcome.

It is thus useful to treat interventions as international regimes. This implies an extension of the traditional scope of regime theory in international relations, which is usually research, focused on economic and environmental regimes. As the types of security regimes analyzed covered only issues of disarmament, weapons control, and the nonproliferation of weapons of mass destruction, one can even identify a “gap in the market.” As, to date, there has been no effort to analyze international intervention regimes, it is now time to introduce this new type of security regime and thus open the way for a new approach to analyzing international interventions in general.

However, the traditional, rather static approach of regime analysis in international relations, in which research has focused predominantly on regime formation and compliance, cannot cope appropriately with the dynamic nature of regimes. PIN Group scholars have already convincingly put forward this argument elsewhere (Spector and Zartman 2003) and have proposed a dynamic model of international regimes. This PIN model promises to provide scholars with a useful analytical tool for conducting research on the evolution of post-Cold War international interventions.

My research at PIN has aimed to create a coherent and comprehensive framework for conducting research on the kind of intervention that has become one of the key challenges in world politics since the end of the Cold War. The meaning of intervention depends on the context in which it is used, and I would argue that we should focus on the kind of intervention that is not considered part of the conventional code of conduct but creates considerable stress in world politics. It can be reasonably argued that these days political-economic intervention is considered to be rather conventional behavior, one among many accepted diplomatic means of exercising influence. In some cases international regimes have been developed to deal with such intervention modes (e.g., the free-trade regime governed by the World Trade Organization). Nevertheless, intervention that interferes with the political-constitutional independence of the state and its public-security functions (the hard core of sovereignty) has remained very problematic. The most important intervention in this respect is not simply one-dimensional military intervention but state-building intervention. The state is still considered the most important concept in terms of providing global order, even though its terms of reference have changed within the last decade and the principle of absolute sovereignty has

been replaced by the concept of sovereign responsibility.

I would thus argue that the most challenging intervention is state-building intervention, through which states or international organizations establish and maintain a partial or full transitional authority within a state or state-like entity with the aim of allowing that entity to eventually exercise full state sovereignty as defined by the international community. This definition covers most cases of significant international intervention since the end of the Cold War and excludes only those cases where international actors only took up monitoring, mediation, or purely humanitarian functions. Using the dynamic regime model, the structures and process all of these interventions can be systematically analyzed, which should allow for some generalizations on the types of state-building interventions. If the results of this analysis are crossed with an analysis of what I would term “intervention capacity,” we can make some generalizations as to the evolution of interventions since the end of the Cold War. As I understand it, intervention capacity is a combination of various factors. First, the legal framework: What does universal and regional international law say? Second, the conceptual framework: What do various related policy documents and tools say? Third, the physical framework: the availability of trained personnel, material, and financial resources. The question is how the general configuration of these factors has influenced decision makers in building each intervention regime and how negotiations on intervention regimes have, in turn, led to changes in the intervention capacity.

Christian Dorsch

References

- Spector, B., and Zartman, I.W., eds., 2003, *Getting It Done: Post-Agreement Negotiation and International Regimes*, United States Institute of Peace Press, Washington, DC, USA.

The Current PIN Project on Long-Term Facilitation of the Climate Talks

Book projects organized by PIN usually have a dual objective in that they make *theoretical* observations that have a potentially useful *practical* application. Knowledge building and theory construction are not only aims in their own right but also a significant way of helping negotiating parties cope with complex international talks concerning, for example, economic affairs or environmental problems. This helps explain why PIN is currently undertaking a book project on the *long-term facilitation* of the climate talks.

The climate talks are extremely complex negotiations, partly because the climate question is difficult for the layman to understand. The outcome of abatement strategies is uncertain because the whole climate issue has the basic character of a risk. Moreover, the parties to the negotiation tend to have a negative perception of its immediate outcome. In the climate talks, as in any typical environmental negotiation, parties are expected to commit themselves to accepting immediate (or very short-term) costs (e.g., emission reductions) for the purpose of attaining long-term, uncertain, and somewhat diffuse gains (decelerated climate warming). Furthermore, the climate talks are becoming increasingly cumbersome from a political point of view; the Bush administration in Washington has refused to ratify the 1997 Kyoto Protocol to the United Nations Framework Convention on Climate Change with its U.S. commitment to reducing greenhouse-gas emissions by 7 percent. These difficulties will increase in the forthcoming post-Kyoto negotiations where negotiated emission reductions can be expected to become more hurting. The conflict between developed and developing countries can also be expected to increase if the latter group is forced to participate more actively in reduction negotiations than was the case pre-Kyoto.

Facilitation has been the business of many negotiation analyses, but the concrete aim has usually been to produce *quick fixes*. For example, there is a host of books that discuss how the

parties in a bilateral negotiation can be helped out of an impasse or to reach a more useful agreement. *Quick fixes* may also be required in the climate talks, which also contain bilateral confrontations between significant parties such as the United States and the European Union or between the North and the South. Traditional facilitation handbooks [e.g., *The Practical Negotiator* (Zartman 1982) or *Getting to Yes* (Fisher and Ury 1981)] may also be helpful for individual parties when developing negotiation tactics in the climate talks or other multilateral negotiations. However, the current PIN project on *long-term facilitation* in the climate talks takes note of the fact that more studies are needed on how to ease the whole multilateral negotiation process from the strategic perspective. A long-term perspective is warranted in many environmental negotiations but is particularly relevant and important in the case of the negotiation on climate change. The problem—concentrations of greenhouse gases heating the atmosphere—has a long time frame. Reducing emissions affects the atmospheric temperature only in the longer term. Reducing the use of carbon dioxide and other greenhouse gases significantly requires complex changes in technology and lifestyles that will require years or decades to complete.

There is now an urgent need to develop new methods of facilitation or to introduce them into the climate talks. Such measures may target all the principal negotiation elements, actors, their strategies and the process as such, the structure of the negotiation, and the design of the outcome. Examples of facilitation problems addressed in the PIN climate project are:

- How should capacity-building projects best be designed so as to take full consideration of the process conditions of the climate talks?
- How can coalition among developing countries become a more effective negotiation strategy?
- How should knowledge building and knowledge communication be developed in the post-Kyoto talks?

Can the unique institution of the Intergovernmental Panel on Climate Change be expected to function as effectively in the future as it did in the negotiation of the Kyoto Protocol?

- How could risk assessments and risk communication be developed in the climate negotiation?
- How can NGOs and other representatives of civil society best be accommodated in the climate talks? Will institutional reform become necessary?

The general thrust of the PIN climate project is to analyze and assess how the scientific interpretation and evaluation of the problem of climate warming should be integrated into the negotiation process as effectively as possible. The *process* can be looked at as a vehicle to attain satisfactory problem solving. However, the *process* also represents considerable constraints in terms of attaining a satisfactory solution. The function of strategic facilitation measures is essentially to remove or scale down such obstacles. A premise for the project is that long-term facilitation requires a combination of the experiences of practitioner and the results of systematic, academic process analysis. Thus, the PIN project has been designed as a joint enterprise on the part of both senior negotiation practitioners and academics to identify and analyze the specific critical stumbling blocks in the climate talks. It is in such a spirit that PIN will organize a “side event” at the December Conference of Parties (COP) meeting in Buenos Aires.

Gunnar Sjöstedt

References

- Fisher, R., and Ury, W., 1981, *Getting to Yes*, Houghton Mifflin, Boston, MA, USA.
- Zartman, I.W., 1982, *The Practical Negotiator*, Yale University Press, New Haven, CT, USA.

Patterns of Engagement: How States Negotiate International Water Agreements

Synopsis of a PIN research project carried out as part of the IIASA Young Scientists Summer Program, 2004

When rivers and other bodies of water cross or divide countries, transboundary externalities often arise, creating conflict. The source of the conflict is not just that one country harms another but, more importantly, that international water law defines property rights and responsibilities only vaguely and does not provide states with specific guidelines for negotiation. At the same time, conflict creates the need for cooperation, and cooperation is almost always codified in an international treaty. My work, *Patterns of Engagement*, is an inquiry into the nature of the conflict that can arise and the treaty remedies that may be used for resolving conflict where rivers are shared by two countries.

As international water law provides only broad guidelines as to how states should resolve their water disputes and their differing utilization plans for a given river, the analysis focuses on investigating actual negotiations between states over shared water resources and exploring the intricacies of the water treaties that they negotiate. This research is thus not only important in its own right, in that it shows how international agreements have resolved water conflicts in the past, but it will also suggest precedents for the resolution of pending and future conflicts.

While the work discusses and analyzes the broader aspects of conflict and cooperation over international fresh water, its principal aim is to explore whether the observed variation in treaty outcomes negotiated between states in conflict over a shared river can be explained by differences in geography and economics. In particular, I test hypotheses regarding cost-sharing patterns and the transfer of side-payments between parties that aim to ameliorate pollution problems and to resolve disputes over flood control, hydropower, and water allocation. Side-payments provide perhaps the clearest means of evaluating agreements as they are quite often visibly specified in an agreement and speak

directly to cooperation and property right issues. In fact, while I have investigated over two hundred fifty agreements corresponding to different rivers, I am interested only in specific agreements that address a particular conflict. By looking at specific agreements, I show that side-payments do not conform to the extreme legal principles so often advocated—rather that compromises are often negotiated. And yet the allocation is not random; regularities emerge in the data. The location of riparians is especially important, though it is not the only important determinant of side-payments.

The geographic hypotheses in this work are tested by considering how opposing geographical configurations relate to side-payment and cost-sharing patterns. While thirteen different configurations are identified, two extreme configurations, the *through-border* and *border-creator*, constitute the main building blocks of this independent variable. The former configuration constitutes a river that begins in one country, crosses the border at a given point, and enters the other country. The latter configuration constitutes a river that flows along the parties' common border without entering either country. Likewise, the economic hypotheses are tested by considering how side-payment and cost-sharing arrangements specified in an agreement relate to economically symmetric and asymmetric countries negotiating the agreement.

The treaty analysis that I have conducted lends support to the hypotheses in question. In treaties negotiated for rivers with an asymmetrical geography, a side-payment from the geographically disadvantaged downstream state to the geographically advantaged upstream state is provided either to promote cooperation or to coordinate uses along a river. Similarly, in pollution cases, the compromise between the "polluter pays" principle and the "victim pays" principle is also demonstrated in side-payments—the victim country usually has to pay to promote abatement.

Where the opposite side-payment scenario was evinced, the upstream state was always the richer party. Similarly, when actions taken upstream were conducted for the sole benefit of the downstream state without compensation, the upstream state was also richer. As the theory developed by this work suggests, not only does a richer state have a higher willingness to pay but this willingness to pay also allows the richer state to internalize the costs of projects that mostly benefit the downstream state. The disincentives to cooperate are therefore mitigated.

Agreements corresponding to the *border-creator* configuration did not evince side-payments. Naturally, projects were always to be pursued on the parties' common border and equal participation was demonstrated in all cases—even when the benefits were not divided equally among the parties. As the theory developed by this work argued, property right conflicts in the *border-creator* configuration are usually solved by equal participation by the parties and there is less need of side-payments to induce cooperation.

The geographical and economic hypotheses were also tested on the eleven remaining configurations. Most fascinating was that outcomes for an agreed task or project were guided by the corresponding stretch of the river where the project was to be undertaken and its relationship to the two extreme typologies.

The most interesting policy-related lessons to be learned pertain to the *through-border* configuration—where conflict is facilitated by the asymmetric geography. As past precedent has shown, in upstream–downstream situations side-payments are more likely to be factored into negotiated agreements for the coordination of the river's uses. In North Africa and Central Asia, where water disputes are most salient and where rivers embody asymmetric geographical characteristics, the lessons learned in this work can be most instructive for resolving ongoing disputes.

Shlomi Dinar

European Council Negotiations

The European Council, the meeting place of the heads of state and government of the member states of the European Union (EU), has evolved into the EU's most influential and powerful decision-making institution. The processes of deepening (expansion of policy areas) and widening (enlargement) of European integration have, however, forced the European Council to tackle the threat of a potential crisis in European top-level negotiations, especially in view of the accession of ten new members last May. For if the current generation of political leaders is not able to reach agreement on and implement necessary reforms, negotiations in the European Council could eventually turn out to be a "mission impossible."

Despite a successful record, the European Council seems, since the end of the 1990s, to have lost its grip on the integration process. If it wishes to continue its important and guiding role in European integration, then its decision-making process, still based on an unchanged negotiation structure since its creation in the 1970s, needs to be adapted. Two parallel processes of European Council reform have been initiated or intensified and are currently

under way. The first deals with the operational settings of the European Council negotiations, the second with the institutional structure and the balance of power between the EU institutions.

The operational process has already been put into practice. The Danish Presidency implemented most of the reform proposals during the first half of 2003, and this has led to shorter meetings, more concentrated Presidency conclusions, and the renewed functioning of the General Affairs and External Affairs Council (GAERC). Although one could argue that the operational reforms have been quite successful, it is still questionable whether they are sufficient for the proper functioning of a European Council of twenty-five member states. Imposing a limitation of twenty delegates per member state would still lead to *five hundred* persons being involved in European Council negotiations. Furthermore, EU history shows that difficult issues cannot be solved within a single setting. So, what will happen if the European Council has to decide on politically sensitive issues?

The Convention on the Future of Europe appears to have found the solution to this question by supplementing

the operational reforms that made it into the draft constitutional treaty that will hopefully be ratified before long. Negotiations will be held quarterly and will all take place in Brussels. The General Affairs and External Relations Council will be split up and given clearer guidelines and will, in fact, be presided over by a newly created function—a European minister of foreign affairs.

In judging the reform proposals,¹ it is argued that the European Council has been able to tackle most dilemmas defined earlier: working methods have been modernized, the procedures and tasks of GAERC will be changed, and the European Council will be more strongly embedded in the institutional EU structures. What remains are the interdependency of the functioning (and especially implementation) of the other EU institutions and the question of high politics—two dilemmas that are inherent to the current system of EU top-level negotiations. The "new" European Council will have to deal with these dilemmas and continue to guide European integration.

It seems, therefore, that the European Council reforms, especially those from the Convention on the Future of Europe

Available Soon:

Escalation and Negotiation

I. William Zartman and Guy Olivier Faure

Part I: Introduction

1. The Dynamics of Escalation and Negotiation
I. William Zartman and Guy Olivier Faure

Part II: Escalation Forms and Outcomes

2. Deadlocks in Negotiation Dynamics
Guy Olivier Faure
3. Deterrence, Escalation, and Negotiation
Patrick Morgan
4. Quantitative Models for Armament Escalation and Negotiations
Rudolf Avenhaus, Jürgen Beetz, and D. Marc Kilgour
5. Entrapment in International Negotiation
Paul W. Meerts
6. The Role of Vengeance in Conflict Escalation
Sung Hee Kim

Part III: Negotiating out of Escalation

7. Structures of Escalation and Negotiation
I. William Zartman

8. Conflict Escalation and Negotiation:

- A Turning Point Analysis
Daniel Druckman

9. Escalation, Negotiation, and Crisis Type

Lisa Carlson

10. Escalation in Negotiation: Analysis of Some Simple Game Models

D. Marc Kilgour

11. Escalation, Readiness, and Third Party Functions

Dean G. Pruitt

12. Enhancing Ripeness: Transition from Conflict to Negotiation

Karin Aggestam

Part IV: Conclusion

13. Lessons for Research
I. William Zartman and Guy Olivier Faure
14. Strategies for Action
Guy Olivier Faure and I. William Zartman

and the constitutional treaty, fit perfectly into some of the current global developments in top-level negotiations. These changing international relations, especially in the post-Cold War era, have had a clear impact on the system of international negotiations. The process of globalization, leading to a growing interdependence between nation states and the rise of international organizations and regional cooperation, has made it “grow in number, become more complex technically and politically, and acquire new dimensions, such as being an alternative to coercive solutions of disputed problems” (Kremenyuk 2002, 22–23).

The scope of issues on the agenda has also increased immensely. Some international organizations, including the European Union, tend to deal with almost all policy areas. An increasing number of dossiers and negotiations in the respective international organizations are becoming interlinked, leading directly to a growing complexity in decision making. On the other hand, this expanding scope lowers the threshold of (total) package deals and intensifies the contacts between the parties involved, which in itself facilitates the possibility of the necessary creation of consensual negotiations.

Finally, one could argue that international *top-level* negotiation is becoming more and more institutionalized. Decisions are no longer just a way to reach the ultimate goal of getting to an agreement but have become an autonomous part of the decision-making process. Many international summits have permanent meeting places and are prepared by an in-house secretariat.

The European Council is an excellent example underlining these latest developments in international negotiations. First, there has been a significant increase in the *number* of European Council meetings over the last few years. The average number of meetings per year has doubled from two in the first half of the 1990s to four at the beginning of the new century.² Furthermore, over the years several kinds of European Council negotiations have come into existence. The Presidency conclusions speak of *normal* and *extraordinary* meetings, as happened in case of the September 11 attacks

(2001) and the war in Iraq (2003). De Schoutheete rightly mentions a third kind of meeting: *informal* negotiations of which no official notes, conclusions, or decisions are published, such as the first informal European Council summit in September 1995 on the ongoing proceedings of the Intergovernmental Conference (de Schoutheete 2002).

These different kinds of negotiations coincide with the ever-expanding agenda of the European Council. As mentioned in the historical overview, the European Council has been involved in an *ever-expanding number of policy areas*. In fact, the European Council is currently considered as the guiding EU body in almost all EU policies, especially in foreign policy, institutional developments, justice and home affairs, and external representation. In this sense the European Council's *expanding agenda* reflects the ongoing process of European integration, characterized by a high level of interdependency and complexity.

Finally, some remarks on the institutionalization of the European Council. Ever since its creation in 1974 the European Council has become more and more embedded in EU structures. It is very likely that with the new constitutional treaty the European Council will take the final step toward being a formal, powerful EU institution with a permanent president and its own staff and secretariat. In fact, at its Nice negotiations in December 2000 it already decided on some preliminary steps, as laid down in “Declarations adopted by the Conference” in Article 22:

Declaration on the venue for European Councils: As from 2002, one European Council meeting per Presidency will be held in Brussels. When the Union comprises 18 members, all European Council meetings will be held in Brussels.³

This means that the European Council will be given a *permanent seat* with every opportunity of building up its own secretariat and diplomatic staff.

In other words, the European Council has been able to bend a potential threat to its negotiation into a strengthened position within the European Union. As soon as the new treaty is ratified, the European Council will have an indirectly elected president, be able to start building a secretariat, and enjoy a stronger institutional position than ever

before. One could argue that Giscard d'Estaing, as leader, has been able to fulfill almost personally the final phase of his political intentions of the seventies: creating a strong, powerful, formal intergovernmental top-level institution that can counterbalance the overly supranational influence of the European Commission and Parliament.

One particular international relations reflex should not be forgotten, however. Changes in procedures and methods always lead to unexpected new problems and dilemmas. No one can foretell how the European Council will actually operate with twenty-five member states. Undoubtedly, new reforms will be needed in future to keep the European Council in the EU driving seat. Much will depend on the *person* who will become the first president of the European Council. Will he or she show real leadership or just fall into line behind the European political leaders?

It is argued that the European Council has accurately overcome many of its problems and critics by ensuring a stronger institutional position in the future EU. The European Council will be in the driving seat more than ever before. However, there remains an obstacle: the ratification process of the new treaty. Will all twenty-five members agree on the new treaty? Only time will tell!

Peter van Grinsven
Clingendael Institute
Participant, IIASA Young
Scientists Summer Program, 2003
Peccei Scholar, 2004

Notes

¹ At the time of writing no agreement had been agreed on by the twenty-five member states in the Intergovernmental Conference.

² For a complete overview of all European Council meetings, see: <http://europa.eu.int/european_council/conclusions/index_en.htm>.

³ For the Treaty of Nice, see: <http://europa.eu.int/eur-lex/en/treaties/dat/nice_treaty_en.pdf>.

References

- de Schoutheete, P., 2002, The European Council, in J. Peterson and M. Shackleton, eds., *The Institution of the European Union*, Oxford University Press, Oxford, UK.
- Kremenyuk, V.A., ed., 2002, *International Negotiations—Analysis, Approaches, Issues*, Jossey-Bass Publishers, San Francisco, CA, USA.

The Study of Negotiation

Howard Raiffa, with John Richardson and David Metcalfe, 2002, *Negotiation Analysis: The Science and Art of Collaborative Decision-Making*, Harvard Belknap Press, 548pp.

Willem Mastenbroek, 2002, *Negotiating as Emotion Management*, Hollard Business Publications, 146pp.

Christian Thuderoz, 2003, *Négociations: Essai de sociologie du lien social*, Presses Universitaires de France, 290pp.

Anyone who thinks culture has about the same level of importance as breakfast¹ has got another think coming, if three recent works on negotiation are anything to go by. There is no one more American than Raiffa, more Dutch than Mastenbroek, or more French than Thuderoz, each in his way making important and culturally different contributions to the study of negotiation.² But what do we mean by *contributions to the study of negotiation*? First the contributions, then what makes them culturally different.

“Negotiation analysis” is a term that was introduced but not defined by the Harvard professor, Howard Raiffa, the first director of IIASA and the godfather of PIN. The term refers not so much to the negotiation process as to an alternative to it—prescriptive advice based on superrational analysis of the best outcome used by a Helper (H) to advise people facing a negotiation. The book is an expansion of Raiffa’s previous work³ based largely on his experiences as H, teacher, and colleague in using quantitative and game theory analysis to indicate the optimal outcome (389). Getting the optimal outcome would shortcut all the uneconomical and inefficient mess of negotiations, provided that there is no affect or power and provided that options can be quantitatively ranked. The method is as useful as the Nobel-prize-winning Nash point (the product of the outcomes) in providing optimal reference points to aim toward, giving useful information to help parties in the emotional political process of negotiation.

The other valuable aspect of the book, rather unrelated to its general methodology, is contained in the lists of guidelines and behavioral suggestions and tactical counsels for dealing with two-party and many-party negotiations. The advice has nothing to do with quantified options or their logic; it has to do with the

intricacies and susceptibilities of human nature, which is, after all, the basis of negotiation. Raiffa’s advice is the latest in a historic tradition of insights and proverbs as a guide for negotiators. (It will be particularly useful for PIN as it seeks to prepare a premediation briefing report [PMBR] as the next step in its attention to the Caspian Sea/Lake Problem.)

Emotion management is a rather new way of looking at negotiation, quite the opposite from Raiffa’s quantitative insights. The opening message of Mastenbroek, professor at the Free University of Amsterdam and partner in the Holland Consulting Group, is that “civilized” behavior has taken civilization centuries to master affect and to develop in interstate relations: to arrive at the point where world problems are handled to a large extent—in a word—diplomatically. This way of preventing and managing literally innumerable conflicts that could otherwise have turned violent is often termed “normal diplomacy,” and it involves negotiation as the dominant means of interstate politics today. We are “primitive” people at the beginning of our lives, Mastenbroek contends, given over to emotions and violence, and the job of making a good diplomat is to replicate centuries of civilizational development in her/his training to the point where she/he becomes a diplomat of the age of negotiation.

The other valuable aspect of the book, rather unrelated to this evolutionary message, is contained in the lists of guidelines, behavioral suggestions, and tactical counsels for conducting negotiations. Mastenbroek seeks to go not merely beyond zero-sum, win-lose negotiations but also beyond positive sum, win-win negotiations and to develop the idea of exploring or integrative, firm-flexible negotiations. It is not entirely clear whether this is a matter of reframing to push the envelope

of the outcome to a new, creative formulation or whether it refers to a mixture of flexibility and rigidity at the right times, both as discussed by Pruitt;⁴ but in any case there is lots of wisdom in the advice and proverbs.

Social ties as the outcome of negotiation represent a new and different focus for the study and practice of the subject. In the argument of Thuderoz, professor at the National Institute of Applied Sociology at Lyon, “negotiation therefore appears not as a default mechanism but as a possibility of reviving social ties” (19). Building on an argument of Durkheim,⁵ negotiation is presented not merely as the means of producing an agreement as an end, as it is usually analyzed, but rather as the means of opening a relationship of continuing interaction and interdependence. It is not a play that ends, but only a prelude; and it should be judged as such. This is a message that ties in the work of those interested in relationships and transformation, such as Saunders,⁶ and casts negotiations in an entirely new analytical forward-looking light.⁷

The other valuable aspect of this work is not, as distinct from the other two, its codes of counsels and advice and its books of proverbs. Rather it is its reach into social philosophy, addressing, as it does, the confrontation of interests and the construction of social order through negotiation. Rather than focusing on the process of negotiation, consistent with the study’s opening thesis, the book places the process within the context of a general development of rules, regimes, and relations, building social tissue rather than simply resolving punctual problems and conflicts.

All of these messages are original and insightful, and at the same time remarkably different. Read separately, each conveys an arresting way of looking at negotiations for analyst and practitioner alike. But read together (as for this review), they raise the idea

that each could be written only by an author of the given nationality, or at least that the author's work is typical of the discourse in his cultural terrain. Raiffa's book is technical and chatty at the same time, striving for precision, applicability, scientism, efficiency, and for pushing away time wasted in idle unproductive negotiations if only people would realize that optimal points (in fact several of them in any situation, reintroducing the need to negotiate) exist on which to focus. Mastenbroek's is both historically based and part of the long European tradition of works of advice on the Way to Negotiate among Princes⁸ as launched four centuries ago by the Dutch ambassador, de Wicquefort.⁹ Thuderoz' is an epistemological excursion into French sociology, a rich and erudite foray into ideas and their intellectual thickets in which the interstices of the argument are as appropriately complex as the social links that they seek to elucidate.

Unfortunately, these works may not find their way into the teaching and training reading lists of each others' countries. Regrettably, culture that comes as a conduit comes also as a barrier. And so, for those who are interested in understanding the Processes of *International Negotiation*, it becomes all the more important to recognize the idioms of each work's message as a key to the conduct of each culture's practitioners and to absorb the important and distinctive angles of analysis provided by each these important works.

I. William Zartman

Notes

¹ See Zartman, I.W., 1993, A Skeptic's View, in G.O. Faure and J. Rubin, eds., *Culture and Negotiation*, Sage, Newbury Park, CA, USA, p. 17.

² Even to the point of the cover: on the French jacket, two men are fuzzily shaking hands; on the Dutch jacket, three women and a man are working their dossiers against an eighteenth century wine sellers' scene; and on the American

jacket, empty virtual chairs sit around a virtual table. Read that as you will.

³ Raiffa, H., 1982, *The Art and Science of Negotiation*, Harvard Belknap Press, Cambridge, MA, USA.

⁴ Pruitt, D.G., 1982, *Negotiation Behavior*, Academic Press, New York, NY, USA, 182ff. Pruitt, D.G., and Kim, S.-H., 2002, *Social Conflict*, 3rd edition, McGraw Hill, New York, NY, USA.

⁵ Durkheim, E., 1983, *De la division du travail social*, Presses Universitaires de France, Paris, France, p. 403.

⁶ Saunders, H., 1999, *A Public Peace Process*, St Martin's Press, New York, NY, USA.

⁷ Zartman, I.W., and Kremenyuk, V., eds., *Peace versus Justice: Negotiating Forward- and Backward-Looking Outcomes*, Rowman & Littlefield, Lanham, MD, USA. In press.

⁸ de Callières, F., 1716, *De la manière de négocier avec les souverains*. (Edition critique d'Alain Pekar Lempereur, 2002, Droz, Geneva, Switzerland.)

⁹ de Wicquefort, A., 1681, *L'ambassadeur et ses fonctions*, Steucher, The Hague, Netherlands.

In Press:

Peace versus Justice: Negotiating Forward- and Backward-Looking Outcomes

I. William Zartman and Victor Kremenyuk, Editors

1. Negotiating Forward- and Backward-Looking Outcomes
I. William Zartman

Part I: Historic Settlements

2. Turning Point Westphalia: Negotiation Processes
Establishing a New Political and Legal Order in Europe
Paul W. Meerts
3. The Congress of Vienna Negotiations
Christophe Dupont and Patrick Audebert-Lasrochas

Part II: Major Contemporary Settlements

4. The Austrian State Treaty: Concluding a Successful
Negotiation Process
Franz Cede
5. The Dayton Agreement in Bosnia: Durable Cease-Fire,
Permanent Negotiation
James C. O'Brien
6. The Israeli-Palestine Peace Process
Vitaly V. Naumkin and Irina Zvyagelskaya
7. Loss and Learning: From Backward-Looking to
Forward-Looking Outcomes in the Egypt-Israel Rivalry
Janice Gross Stein
8. Memory and International Negotiation: The
Franco-German Case
Valérie Rosoux

9. The Building of Mercosur: A Continuous Negotiation
Process
Juan Carlos M. Beltramino

Part III: Bilateral and Internal Conflict Settlements

10. Cyprus
Marie-Pierre Richarte
11. Expecting Satisfaction: Negotiating a Durable Peace
in South Africa
Robert B. Lloyd
12. Forward-Looking Dispute Resolution: Ecuador, Peru,
and the Border Issue
Beth A. Simmons
13. Negotiation Processes and Postsettlement
Relationships: Comparing Nagorno-Karabakh
with Mozambique
Daniel Druckman and Terrence Lyons

Part IV: Conclusions

14. Looking Forward and Looking Backward on
Negotiation Theory
I. William Zartman
15. Lessons for Practice
Victor Kremenyuk

Talleyrand: Prince of Negotiators

The year 2004 marks the 250th anniversary of the birth of Charles-Maurice de Talleyrand-Perigord, a major figure in international negotiation. In his memory—and to take stock of what negotiation theory and practice can learn from him—a conference was held from 1 to 4 February 2004 at the Senate in Paris. Organized on the initiative of IRENE (Institute for Research and Education on Negotiation in Europe) under its director, Alain Pekar Lempereur, the conference brought together former ministers of foreign affairs as well as diplomats, historians, and researchers wishing to gain a better appreciation of the art of negotiation with reference to the achievements of Talleyrand.

Talleyrand conveys the image of a mysterious, even mythical, negotiator. He lived and served through a number of political regimes at a very chaotic period of European history: the turn of the nineteenth century. He always believed that the most effective way of overthrowing a government was to be part of it. Though born lame, he was very deft at maneuvering his way out of trouble. A two-faced “Janus” character, he was, as a bishop of the church, a man of principle as well as an artful politician and diplomat who served France and his own personal interests, even supporting Napoleon before betraying him and delivering him up to the collective vengeance of Europe.

There were two men in Talleyrand: the one, cynical, brutal, saturnine, greedy, both corrupter and corrupted, putting his own interests first, cold-blooded, and passionless; the other, distinguishing himself by exceptional intelligence, perspicacity, and shrewdness—an outstanding negotiator, more devoted to his country than to its leaders, and with a rare ability to frame and analyze international relations. Talleyrand has been defined as the incarnation of diplomacy at the negotiation table.

The Practice of Diplomacy

For Talleyrand, the stability of Europe depended on peace, which entailed the restoration of a balanced situation in line with the Richelieu principle. The Europe emerging from the Treaty of Westphalia was no longer cohesive. A shift toward another concept of “the right balance” was needed—a new paradigm that would be elaborated at the Congress of Vienna.

The right balance would be based on values formulated and promoted by Talleyrand: individual rights and proscription of the right of conquest; Talleyrand went as far as inventing a new operational concept to add weight to his views, the “*droit public*” or the right of the collectivity. The era of Talleyrand was formidable for diplomats because of its extreme violence. Europe had been set ablaze by the Napoleonic wars. And no context is less propitious for the establishment of

a negotiation process than when all parties believe they can still win on the battlefield.

In the midst of revolutionary upheaval, Talleyrand affirmed: “The canon has a range the length of which is well known.” Here one can see in thinly veiled terms a harsh criticism of Napoleon who was originally an artillery man; but, more than that, an observation like this provides negotiation with its actual *raison d’être*. Diplomacy is a complex and simultaneous accrual of forward and backward steps, and sometimes a diplomat will put the role of negotiator, with all the vanity and venality that implies, above the negotiation process itself.

In every situation, the whole point at the negotiation table is to turn weakness into strength. This is exactly what Talleyrand did at the Congress of Vienna when he stated that France was the only country there with no further ambitions. This gradually brought France the entitlement of playing the role of arbitrator when coalitions broke down.

Some Lessons Learned From the Congress of Vienna

Among the lessons that can be learned from these negotiations that may still be highly relevant today are:

- The effectiveness of a negotiation correlates strongly with the amount of advance preparation.
- The information gathered prior to the negotiation or during discussions is a major condition for effective negotiation.
- A well-organized team will have an adequate division of labor. Talleyrand’s team included his cook (for the festivities) and his attractive niece (to gather confidences).
- Be soft on form and tough on what goals to achieve.
- Prepare concessions carefully and make them at the opportune moment.
- When involved in multilateral negotiations with coalitions, it is easiest to start by stating what one refuses to do.
- Ambiguity is an essential resource, enabling a negotiator to manage complexity and circumvent contradiction.



Culture and Negotiation Translated into Greek

A Greek translation of *Culture and Negotiation: The Resolution of Water Disputes* has recently been published by Kastaniotis Editions S.A., Athens and is available from the publisher at 11, Zalagou St., Athens, Greece.

Edited by Guy Olivier Faure and the late Jeffrey Z. Rubin, the book was originally published in 1993 by Sage Publications.

Full details of the book, including ordering information for the English version, are available at <www.iiasa.ac.at/Admin/INF/recent-pubs/pin/culture-neg-greek.html>.

The Personality of the Negotiator

Talleyrand has been frequently described as an “immobile sphinx.” Openness and inscrutability must coexist in the same person. Inner silence must be accompanied by a profound capacity to listen.

Any move has to be thought out most carefully. As Talleyrand himself used to say: “Yes and no are the easiest words to say, but they are also those that need the most attention given to them.”

At the negotiation table one must be able to distinguish what is essential from what is subordinate.

A sense of restraint and moderation must be behind every action. One must be able to resist the pressure of events rather than be driven by them. This also applies to actions outside the negotiation itself. As Talleyrand said, “Revenge is a dish that should be eaten cold.”

The absence of moral values underlying Talleyrand’s actions should be viewed with regard to the value of the goals he achieved. Means and ends should not be confused. As Talleyrand himself stated, on some occasions what was done was “more than a crime, it was a mistake.” In fact, in terms of his strategic and tactical ploys, one could almost base a complete treatise of the traitor figure on Talleyrand, with vice, lies, frivolity, and perpetual betrayal all among the classic attributes with which he is credited.

A fascinating negotiator, Talleyrand never leaves people indifferent, whether he is viewed as an inspired diplomat putting his genius to the exclusive service of his country or as an unscrupulous opportunist who cares only about himself. In every case, he has excited a considerable amount of interest, and no fewer than fifty books (in French) have been published on his character and his works.

Two websites are also dedicated to him (<www.amis-talleyrand.asso.fr> and <perso.club-internet.fr/pcombal/index.html>).

Guy Olivier Faure

New PIN Book:

Negotiating European Union

Paul W. Meerts and Franz Cede, Editors

One way of perceiving the European Union (EU) is as an enormous bilateral and multilateral process of internal and external negotiation. This is indeed one way of looking at the EU, but the EU has never really been looked at in this respect—at least, not in depth. It is for this reason that the Processes of International Negotiation (PIN) Network has taken the initiative of asking twelve authors from different corners of Europe to contribute to the present book, *Negotiating European Union*, edited by Paul W. Meerts and Franz Cede.

In *Negotiating European Union*, the authors have looked at negotiations within member states, among member states, within and among the institutions of the Union, and between the EU and other countries. They have analyzed processes, actors, and interests. They have evaluated power, effectiveness, and trust. They have detected strategies, skills, and styles. And, most importantly, they have discovered that the EU negotiation process, though an enigma, has a great deal to impart to those who are involved in other processes of supranational and intergovernmental negotiation. There are lessons to be learned here for other forums, other regions, other people, and future eras. This book is a first try, a first probe into the relatively unknown arena of negotiation processes in the European Union. More may follow, but this “pilot” is already a very valuable attempt to obtain a better understanding of the character and the characteristics of negotiations processes as an opportunity—or as an obstacle—to European Union.

See page 16, PIN Books, for publishing details.

Contents

1. Introduction
Franz Cede
2. The EU as a Negotiations Arena: Diplomats, Experts, and PAM Professionals
Rinus van Schendelen
3. What Happens at Home—Negotiating EU Policy at the Domestic Level
Mendeltje van Keulen
4. The Role of the Member States in the European Union
Pieter Langenberg
5. EU Institutions and IGC Negotiations—How the EU Negotiation Process Affects Institutions’ Ability to Gain Influence in IGCs
Derek Beach
6. What Kind of Negotiation Does “Consensus Decision Making” Involve?
Dorothee Heisenberg
7. Negotiation and Mediation in the EU Council of Ministers
Ole Elgström
8. Member States Operating in the EU Council of Ministers: Inside Impressions
Leendert Jan Bal
9. The European Council under Construction: EU Top-Level Decision Making at the Beginning of a New Century
Peter van Grinsven
10. Cookbook of the Presidency of the European Union
Alain Guggenbühl
11. Negotiating the Enlargement
Alice Landau
12. European Union Negotiation
Paul W. Meerts

Negotiations on Chechnya

Chechnya is typical of ethnic conflicts that occur in the wake of disintegrating empires. It incorporates centuries-old Russian and Chechen feelings, hopes raised by the collapse of the Communist system and the advent of democracy in Russia, unsettled relations between the federal center and ethnic periphery, and many other features that make the conflict durable, protracted, almost uncontrollable, and hardly amenable to a solution.

For some periods during the first Chechnyan war (1994–1996) and in the second war that began in 1999, the government in Moscow believed that the conflict could be solved militarily, through the use of brute force. That is why the details of the military operations in both cases are full of reports of the indiscriminate use of air strikes, heavy artillery barrages, and tank unit assaults against combatants and non-combatants, villages and towns, and hospitals and schools. The nonmilitary losses of the Chechens in both wars have already exceeded the one-hundred-thousand mark out of a population of about seven hundred thousand.

In both wars, the parties had to come to the negotiating table because of a military impasse. The Chechnyan side is always ready to negotiate, while Moscow resists the idea on the universal, though doubtful, pretext, *We do not negotiate with terrorists*. The 1996 negotiations aimed at ending military hostilities that were heavy for both sides; they produced the Khasavyurt Agreement, named after a town in neighboring Dagestan where the negotiation took place. The talks were much simpler and more efficient than the talks that happened later. The major threat to the negotiation was the problem of Chechen independence which the Russians had no way of avoiding. This question was, however, circumvented by a Russian proposal to come back to this issue after a five-year delay (during which time Moscow promised to rebuild Chechnya and to pay indemnities to those who had lost their health, relatives, and property) and by Chechen agreement to this proposal in exchange for withdrawal of Russian forces from Chechnyan territory.

That agreement, which essentially opened a civilized path to the solution of the problem and is often labeled as “treason” by Russian conservatives and hard-liners, was short-lived. In 1999 Russian forces intervened in Chechnya on the pretext of Chechnyan “aggression” in Dagestan (a highly questionable uprising in a remote part of Dagestan staged by the Wahhabi sect of Islam and attributed to the “strategy” on the part of the Chechens for destabilizing the Islamic areas of the northern Caucasus). The second war started and the Russian military command promised to destroy Chechen resistance within months.

Since then the war has continued for about four years and the chances of ending it are very limited despite numerous promises from Moscow. Thus, there is a theoretical question of new negotiations. The United Nations, the Organization for Security and Co-operation in Europe, and Western nations individually press President Putin in favor of a negotiated settlement. A growing number of Russians (no less than 60 percent of the population judging by the latest polls) is also for negotiations, as are significant numbers of political figures and the media.

In reality, there is a negotiation going on. It is nontraditional, fragmented, and very often carried out on ad hoc basis, but it exists—on the level of the field commanders, local authorities, low-profile figures, sometimes even officials. (Once, the emissary of Chechen President Maskhadov came to Moscow’s international airport from Istanbul and had a four-hour session with President Putin’s special representative.) But the special feature of this particular negotiation is that, officially, it does not exist; there is no formal agenda, there are no formal participants, and so far it has had no identifiable purpose.

The reason for beginning negotiation is clear: the military efforts to bring an end to the conflict did not work. Moreover, the way the conflict has evolved has not been favorable for Moscow. Moscow wanted to find out what the chances were of stopping the conflict after its continuation threatened President

Putin’s 2004 reelection chances. The Chechens, it seems, did not have much faith in negotiation but they needed a pause to rebuild their human and material resources and to work out how long they could continue to resist.

This has been a strange period, though there have been precedents, for example, the end of war in Algeria—the exhaustion of both sides demanded resolute negotiation to stop the war and to solve the conflict, but there was no adequate political will. It was the advent of General de Gaulle in France that completely changed the substance and the process of negotiations in favor of a peaceful solution. In Chechnya the situation is different. President Putin, if he is a negotiating party (although he states continually that there can be no negotiations with the “terrorists”), is bound by two things: the power structures (none of which want negotiations) and his own destiny (which in 1999–2000, the year of his election, was tightly bound to war in Chechnya).

The same may be said for the Chechen side. President Maskhadov, who was elected in 1997 before the second war started, could not bear the idea of negotiations with the “aggressor.” If he did negotiate, his extreme wings would rebel and refuse to recognize his authority. But he also understood that there were limits to his people’s endurance and he must think of stopping—the sooner the better—a war that had lost sense as a military operation and that continued as a vendetta between field commanders on both sides.

There is sense in regarding the Chechnyan situation as essentially ripe for negotiations. There are identifiable actors, although the situation will become much more complicated now that a new pro-Moscow president (Alu Alkhanov) has been elected in place of President Kadyrov who was assassinated in early May 2004 after less than nine months in power, and if a contrived constitution is imposed on the Chechnyan population. The state of affairs with the actors may become analogous to negotiations on Vietnam in 1969–1970 when there was a problem of where to fit the government of South Vietnam

which existed officially but could not play the role of a full-size actor.

There is an agenda: cease-fire and withdrawal of the Russian forces (and the status of the remaining units placed in Chechnya on a permanent basis), relations between the guerrillas and newly elected authorities, type and scope of relations between Chechnya and Moscow, guarantees of Chechnyan sovereignty. The current attempt by the Russian government to create a legitimate regime in Chechnya and to present it as a “political solution” may become counterproductive because it will create a problem of dual authority in the country with both guerrillas and agents

of the new government starting to question each other’s legitimacy. Perhaps this situation will help Moscow to control the situation but evidently it will permanently threaten the process of negotiation.

What is really in question is the outcomes. The end solution of the problem, to judge by the existing experience (Algeria, Southern Rhodesia), is independence of Chechnya, something now unthinkable for the Russian side. An intermediate solution which could have helped the sides to avoid further confrontation is unthinkable for the Chechens because they will feel vulnerable to a threat of any new military

intervention even if the Russian troops are withdrawn from Chechnya.

A situation where a possible solution cannot be predicted from the beginning of a negotiation and the only possibility is to hope the actors will work out something like a viable decision is not something new. But to achieve that, the negotiation has to be started, and the first step has to be initiated either by Moscow or by some third party. Hence, a proposal to introduce United Nations peacekeepers in Chechnya to control the situation while negotiation continues.

Victor Kremenyuk

Negotiating Peace and Justice

The Hague Academic Coalition, a joint effort of five academic institutes resident in The Hague (Asser Institute, Carnegie Foundation, Clingendael Institute, Institute of Social Studies, and Leyden University) organized its first major conference in March 2004. The three-day conference, “From Peace to Justice. The Role of International Law, Negotiations and International Development,” took place from 25 to 27 March, with one afternoon and one morning session at the Peace Palace and the middle day spent at the participating organizations.

One of the major items at the conference related to the use of the processes of international negotiation as a tool in bridging gaps between establishing peace and delivering justice. This topic was the subject of speeches by Victor Kremenyuk (America–Canada Institute, Moscow) and William Zartman (SAIS, Johns Hopkins) in the last plenary session of the conference held in the Academy building of the Peace Palace. Both speakers, who were representing the Processes of International Negotiation (PIN) Network, stressed the importance of negotiation as a tool in conflict management and the need to conduct research on this issue.

There was a long period in history when negotiation processes were neglected. Authors like François de Callières, a diplomat of Louis XIV’s who handled the negotiations leading to

the Peace of Ryswick in the Netherlands at the end of the seventeenth century, drew early attention to the importance of negotiation as a tool in international crisis management, but the real research “hype” started in the United States after World War II. In their speeches, both Professor Kremenyuk and Professor Zartman dwelt on a fundamental problem, namely, that some agreements can be concluded only by ignoring justice (backward-looking agreements) while most agreements can be sustainable only if justice is actually delivered and new regimes are established to oversee the process (forward-looking agreements). Rifts can be overcome, according to the speakers, but only if an extra element is involved; for example, the European Union, a joint project undertaken by former adversaries. A book focusing on forward- and backward-looking outcomes to conflict situations, coedited by William Zartman and Victor Kremenyuk, is to be published shortly. Entitled *Peace versus Justice: Negotiating Forward- and Backward-Looking Outcomes*, the book introduces a joint European/American view on negotiation processes that aim to establish lasting peace (see page 11 for more details).

On the second day of conference, the Netherlands Institute of International Relations ‘Clingendael’ organized a seminar, entitled *Negotiating Peace and Justice*, with William Zartman and Paul Meerts (Clingendael Institute) as chairs.

Speakers during the morning session were Philip Everts (Leyden University), Gerd Junne (Amsterdam University), Niek Biegan (EU representative in Macedonia, former Dutch permanent representative at NATO), Georg Frerks (Utrecht and Wageningen universities and Clingendael Institute), Paul de Waart (Emeritus Professor, Free University of Amsterdam), Leon Wecke (Nijmegen University), and Victor Kremenyuk. All the speakers gave their perception of the relationship between peace and justice and the role of bargaining and negotiation in balancing these two major issues. During the afternoon, workshops were held under the chairmanship of Peter Baehr (Emeritus Professor at Utrecht and other universities), Victor Kremenyuk, and William Zartman.

The conclusion of the conference was that more attention should be paid to the tools of genuine conflict resolution. Too many latent conflicts haunt the world order because of inadequate efforts to solve the root causes of internal and international disputes. In that context the process of negotiation still lacks consistent academic attention. Of course, processes are more difficult to get to grips with than issues, but that should not stop us from doing research and organizing training to create greater awareness of the importance of reconciliation processes in creating durable peace based on fairness and justice.

Paul Meerts

The Universality of Negotiation

Is negotiation a universal phenomenon? Can we get to grips with such different domains as bargaining over a second-hand car and terminating conflict using the same analytical tools?

Negotiation has the very particular characteristic of cutting across domains,

disciplines, approaches, and cultures. Insights drawn from one domain may increase our understanding of another or may be confusing and misleading. The issue of relevance, even legitimacy, in the use of analytical tools can also be raised.

An international conference was organized in Paris from 11 to 12 December 2003 by the French PIN and NEGOCIA, a French business school belonging to the Paris Chamber of Commerce. Drawing from the business, diplomacy, social, inter-cultural, and environmental fields, interrelated themes such as conflict and cooperation, cultures and identities, ethics and finalities, and teaching and apprenticeship were discussed.

Topics dealt with included the Dayton Accords and the Congress of Vienna, the soldier diplomat, crisis negotiation in the Middle East, joint ventures in China, negotiation in postmodern society, applications of creativity, cognitive and emotional intelligence, deterrence, the toughness dilemma, ripeness theory, and negotiation as a multidimensional paradigm.

More than two hundred fifty researchers and practitioners from fourteen different countries attended the conference. A publication in French and another in English comprising the most significant contributions is planned.

A second Paris conference will take place from 17 to 18 November 2005.

Guy Olivier Faure

PIN Books

Negotiating European Union, P.W. Meerts, F. Cede, editors, 2004, Palgrave Macmillan, Basingstoke, UK.
ISBN 1-4039-4161-0

Getting It Done: Post-Agreement Negotiations and International Regimes, B.I. Spector, I.W. Zartman, editors, 2003, United States Institute of Peace Press, Washington, DC, USA.
ISBN 1-929223-42-0

How People Negotiate: Resolving Disputes in Different Cultures, G.O. Faure, editor, 2003, Kluwer Academic Publishers, Dordrecht, Netherlands.
ISBN 1-4020-1831-2

Professional Cultures in International Negotiation: Bridge or Rift? G. Sjöstedt, editor, 2003, Lexington Books, Lanham, MD, USA.
ISBN 0-7391-0638-4

Containing the Atom: International Negotiations on Nuclear Security and Safety, R. Avenhaus, V.A. Kremenyuk, G. Sjöstedt, editors, 2002, Lexington Books, Lanham, MD, USA.
ISBN 0-7391-0387-3

International Negotiation: Analysis, Approaches, Issues, 2nd Edition, V.A. Kremenyuk, editor, 2002, Jossey-Bass Inc. Publishers, San Francisco, CA, USA.
ISBN 0-7879-5886-7

Preventive Negotiation: Avoiding Conflict Escalation, I.W. Zartman, editor, 2001, Rowman and Littlefield Publishers, Inc., Lanham, MD, USA.
ISBN 0-8476-9894-7 (cloth) ISBN 0-8476-9895-5 (paper)

Power and Negotiation, I.W. Zartman, J.Z. Rubin, editors, 2000, The University of Michigan Press, Ann Arbor, MI, USA.
ISBN 0-472-11079-9

International Economic Negotiation. Models versus Reality, V.A. Kremenyuk, G. Sjöstedt, editors, 2000, Edward Elgar Publishing Limited, Cheltenham, UK.
ISBN 1-84064-167-3

Negotiating International Regimes: Lessons Learned from the United Nations Conference on Environment and Development (UNCED), B.I. Spector, G. Sjöstedt, I.W. Zartman, editors, 1994, Graham & Trotman Limited, London, UK. (Now a subsidiary of Kluwer Academic Publishers.)
ISBN 1-85966-077-0

International Multilateral Negotiation: Approaches to the Management of Complexity, I.W. Zartman, editor, 1994, Jossey-Bass Inc. Publishers, San Francisco, CA, USA.
ISBN 1-55542-642-5

International Environmental Negotiation, G. Sjöstedt, editor, 1993, Sage Publications, Newbury Park, CA, USA.
ISBN 0-8039-4760-7

Culture and Negotiation. The Resolution of Water Disputes, G.O. Faure, J.Z. Rubin, editors, 1993, Sage Publications, Inc., Newbury Park, CA, USA.
ISBN 0-8039-5370-4 (cloth) ISBN 0-8039-5371-2 (paper)

Processes of International Negotiations, F. Mautner-Markhof, editor, 1989, Westview Press, Inc., Boulder, CO, USA.
ISBN 0-8133-7721-8

PIN  Points
The Processes of International Negotiation Project

Copyright © 2004

International Institute for
Applied Systems Analysis
A-2361 Laxenburg, Austria
Telephone: +43 2236 807267
Telefax: +43 2236 71313
E-mail: pin@iiasa.ac.at

Managing Editor: Franz Cede

IIASA is a nongovernmental,
international research institution
sponsored by scientific organizations
from 16 countries.

IIASA has member organizations in
Austria, China, Czech Republic,
Egypt, Estonia, Finland,
Germany, Hungary, Japan,
Netherlands, Norway, Poland,
Russian Federation, Sweden, Ukraine,
United States of America.