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# **CHAPTER I**

## **Introduction and Disquisition**



## CHAPTER I: INTRODUCTION AND DISQUISITION

International – and thereby diplomatic – negotiation processes can only be well understood by approaching them from as many different angles as possible. This introductory chapter first discusses the essence and architecture of international negotiation, and then some approaches from negotiation literature. The student of international negotiation will find remarkable resemblances between them. The majority of negotiation scholars and practitioners are analyzing baskets of different inroads to the negotiation processes and all these inroads look alike. The difference is their emphasis: many authors take the process and its phases as a starting point; others focus first on different factors influencing these processes; while some will take the actors in the process as their point of departure. Whatever their main focal point is, however, the vast majority of the ‘negotiationologists’ will deal with the same elements in the end. For the processes, these will be diagnosing, exploring, selecting, deciding and implementing. The main factors analyzed are the political and diplomatic context of the negotiation, the nature of and the distance between positions and interests, the strategies and tactics employed, the impact of power and influence, as well as the shadow of the past and the future. For actors, the authors deal with parties such as states and international organizations and their structure, the people representing them and the delegations they are managing, their character, experience and skill, their societal and professional background, and the question of what extent they are included in or excluded from the negotiation process.

This triangle of ‘Actors–Factors–Processes’ is of course incomplete and much more complicated in reality. It is but one way to look at all the issues at hand. Another approach would structure by asking questions like why, who, how, when and where? This approach cuts through the construction of actors, factors and processes. The question here is: what are the independent and dependent variables? There is no answer to this, as all elements are dependent on each other and it is up to the authors to choose the starting points, as independent variables. The problem is that different authors take different starting points and there are only subjective ways to separate the independent variables from the dependent. The choice is for pragmatic reasons; there is unfortunately no objective scientific choice. As negotiation is situational, so is the study of it. A one-dimensional approach can be helpful, as long as it is understood as such. We go off-track if we pretend that our approach to negotiation is the one and only truth. This study will therefore not launch a (new) model to analyze and explain the character and conduct of negotiation, but will limit itself to a series of observations and conclusions.

The Preface of this dissertation has already defined diplomatic negotiation. Yet what is diplomacy? According to Satow, it ‘is the application of intelligence and tact to the conduct of official relations between governments of independent states’ (Satow, 1917: ix), while Jönsson and Aggestam try to explain the essence of diplomacy by looking at it from different angles, as will be explained in chapter II of this thesis (Jönsson and Aggestam,

2009: 33–34). Diplomacy is anyway more than negotiation: ‘Diplomacy serves a large variety of functions, and negotiation, albeit important, is only one of them. It is nonetheless true that global society today is generating an increasingly large volume of negotiation, in part the result of complex interdependence’ (Leguey-Feilleux, 2009: 5). Diplomacy is a tool in international governance, while negotiation is an instrument in diplomacy, with governance being defined as the ways to manage common affairs in which conflicting or diverse interests may be accommodated (Karns and Mingst, 2010: 3–4).

The definition of diplomatic/international *negotiation* depends on the question of *which definition is most suitable to describe and analyze the process as an explanation of its outcome*. Maxim Kaplan (Kaplan, 2010: 13) found 161 different definitions of negotiation. In 115 of these, *agreement* is the issue that these definitions want to clarify, 71 definitions stress *communication* as the main factor to be analyzed, 64 focus on *conflicting interests*, and another 64 perceive negotiation from the point of view of elements such as *process* and *behaviour* (Kaplan, 2010: 14–15). He sums them up in an annexe (Kaplan, 2010: 351–375). It is neither possible nor useful, however, to refer to a long list of definitions in this dissertation. Christer Jönsson and Martin Hall, for example, do not attempt to define diplomatic negotiation at all. They just try to approach its meaning, by saying that ‘While negotiating to further the interests of their particular polities, diplomats typically identify the peaceful resolution of conflicts and the avoidance of war as common interests’ (Jönsson and Hall, 2005: 82). They stress the fact that diplomats are negotiating as ‘agents of a principal with ultimate authority’ (Jönsson and Hall, 2005: 84). The same is true for Machiavelli, who limits himself to the observation that the diplomat must, ‘if his instructions require it, engage in formal negotiations, and be especially industrious in obtaining information and reporting it home’ (Berridge, 1999: 13).

Henry Kissinger views negotiation thus: ‘In simple terms, negotiation is a process of combining conflicting positions into a common position, under a decision rule of unanimity, a phenomenon in which the outcome is determined by the process’ (Kissinger, 1969: 212). This study comments on his definition by saying that it is not so much a combination of conflicting positions, but of conflicting needs reflected in conflicting positions. Furthermore, the decision rule does not need to be unanimity. Indeed, in most cases the decision-making mechanism is through consensus, meaning that not all parties fully agree. Some abstain as they do not want to veto the (re)solution. It remains an open question whether it is possible to define a process as a negotiation if it does not aim at an outcome, but has been used to delude the opponent, or to postpone or even avoid any outcomes. This thesis is of the opinion that striving for an outcome is indeed an essential element in most negotiation processes, but it regards a ‘smoke-screen’ process to be negotiation as well. Although it is undeniably true that fake negotiation processes – as navigated by one or more of the parties involved – are not aiming at an agreement, they still show nearly all the characteristics that adhere to negotiation and are therefore regarded as a negotiation process by this study.

This study, as already stated in the Preface, does not try to determine what negotiation is by capturing it in one or more definitions. It tries to enhance our understanding of the phenomenon by describing and analyzing as many essential elements as possible, thereby limiting itself to negotiations in the diplomatic and political spheres. In that sense, the thesis hopes to highlight negotiation’s role in international relations, and in conflicts or

ongoing international decision-making in particular. In serious conflictual situations, it might be seen as *war by peaceful means*; in continuous decision-making as *the policy of give and take*. Between these two extremes there is a grey area of mixture, where either the one or the other is the predominant mode of processing.

## THE ARCHITECTURE OF INTERNATIONAL NEGOTIATION

'Negotiation and conflict management research is thriving, as shown by the success of international conferences, the vast number of research and teaching programs held in an expanding list of countries, and the quantity and quality of articles, books, dissertations, and working papers' (Colson *et al.*, 2013: xi). New scholarly interest in international negotiation processes started after the Second World War (Lewicki *et al.*, 1994: 15–19). Before then, one can point to the work of diplomats like Francesco Guicciardini (1483–1540) (Berridge, 1998), the Archbishop Fénelon (1651–1715) (Koskenniemi, 2011), the Abbé de Saint-Pierre (1658–1743) (Koskenniemi, 2011), the diplomatic negotiator Francois de Callières (Callières, 1983), and at a much later stage Harold Nicolson (Nicolson, 1963), who have said many things worthy of consideration about the phenomenon of negotiations between states. Scientific interest was raised more seriously in the 1960s. Academics like Fred Iklé (Iklé, 1964) and Howard Raiffa (Raiffa, 1982) tried to find patterns in something as intangible as a process. For this purpose various methods were used, from the description of real negotiations to mathematical models in which the factors of the negotiation process were objectified. In that way there was common ground between the authors for whom negotiation did not take a central role, but who had carried out research into facts and factors that played a major role in the negotiation process. It relates, for instance, to the power factor (Zartman and Rubin, 2000), the psychological factor (Rubin, 1991), and the game theoretical aspects (Axelrod, 1984).

Negotiation is 'just' one way – although if it can be applied, it is very cost-effective – to create and enhance peace, security and justice. This is especially true if the circumstances help to foster sustainability. 'Negotiators who respect Procedural Justice principles are more likely to produce agreements based on equality, and such agreements are more durable' (Albin *et al.*, 2012: 23). Other tools can be facilitation, mediation, arbitration, adjudication and warfare, etc. This study limits itself to inter-state negotiation, asking questions about negotiation's nature and utility, and relating it on its fringes to warfare and adjudication. Negotiation can be used to avoid wars, and it is nearly always used after wars are over. Negotiation can be used to avoid adjudication, but it is always used to give rise to adjudication. This means that so-called 'black letter laws' are products of negotiation processes, especially on the international level. Negotiation is a cost-effective mechanism aspiring to create peace, creating a secure environment for that peace to flourish, and establishing sustainability through the implementation of justice. It is, of course, a question of interrelationships. Peace creates favourable conditions for

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**This section on 'Architecture' is based on Meerts (2008).**

negotiation processes, because security is needed to protect the negotiators – there have been times when killing the enemy’s ambassador was seen as a way to show strength – and justice secures the implementation of the fruits of the negotiation process.

This part of the introductory chapter looks at a few central issues in negotiating peace, namely security and justice. First, the chapter will ask who is dealing with inter-state negotiation, who practises the processes, who analyzes processes/positions/people, who trains the negotiators, and how? Second, the section will deal with people and their positions, asking questions about behaviour and the balance between common and diverging interests. Third, the question of processes and the factors influencing those processes (power) will be commented upon, but also the use of negotiation as a tool in international relations: when does it work, and when not? Fourth, the interrelationships of negotiation, adjudication and warfare are brought to the fore. Finally, some concluding remarks will be made.

### Academics and Practitioners

From an academic point of view, the thinking about – and research in – international negotiation processes cannot be described as a separate discipline (Faure, 2003: 11, 203). However, multidisciplinary research programmes can be found within the social sciences in which an increasing number of political scientists, sociologists, psychologists and also mathematicians are already involved. This upward trend is shown in the increasing number of books and articles in journals, and the founding of periodicals such as *Negotiation Journal* (Plenum Press) and *International Negotiation* (Martinus Nijhoff Publishers).

We might expect these academics to use their findings to train practitioners, and we could expect practitioners to help academics with their research, but strangely this is not the case. Practitioners, researchers and trainers do not communicate at the same level. Leaving aside the fact that many of the researchers are also lecturers on international negotiation at universities, and that they use their discoveries of the ‘secrets’ of negotiation to enhance their students’ insight, they are not by definition skilled trainers. Teaching is mostly about literature, and although simulation games are used to illustrate theory, teaching is still a far cry from real training. Trainers are – if everything is up to standard – capable of providing participants with experience in negotiation processes. However, contrary to teachers and researchers, trainers are often not aware of the bulk of modern literature. They often copy what others copied from someone who once upon a time developed a practicum on the basis of academic insights. Yet these trainers can be charismatic people, who may not know as much about negotiation as they do about private-sector management, but who have the empathy to influence the thinking and frame of mind of their course participants. They may radiate strength. Participants will often remember their personality many years thereafter, but they will forget what they learned about negotiation.

One would expect a ‘natural life cycle’ – that is, practitioners help researchers to understand the soul of the negotiation process, while trainers would use the insights from research to train effective (future) practitioners. One could expect common understanding to grow as the sub-discipline of negotiation processes developed over the past twenty years, bringing the three groups together in joint forums. There is indeed

some more communality, but on average the cleavages between practitioners, academics and trainers have not been bridged.

We must first look at the reasons behind the persons. Many practitioners, especially those in the Inter-state Negotiations Arena – first and foremost diplomats – do not really believe that negotiation is a science; they perceive it as art. They are not alone on this. To many diplomats and other practitioners, it is an art that is inborn and cannot be learned, a feeling that is especially true for the old-fashioned diplomats. One might hope for change as time goes by, but for the moment these senior diplomats dominate the scene, as they hold the most important diplomatic posts. Apart from their perception – and perception determines reality – they are often handicapped by not fully understanding their own behaviour. They may be effective diplomatic negotiators, but they tend not to be fully aware of the ‘why’ questions. What does one do in order to be effective? How do we negotiate? They are so deep in their routine that they do not have the insight of efficacy traits in their own dealings with other states. It is a little like an excellent car driver, who is so good because he does not need to bother about the technicalities of driving; he has his routine, and can therefore develop a helicopter view. The mind and eyes concentrate on the environment and not so much on the mechanics. In itself this is good, and the most effective negotiators have a grip on both process and context, but this does not mean that they really understand what they are doing in order to be effective. They often negotiate on automatic pilot.

Practitioners – in particular ambassadors of the older generation – often have a certain disdain for academic negotiation research and education. They do not really believe in training as a tool to become a better negotiator. Many practitioners do not want to lose time by conferring with academics on the issue of international negotiation processes. Moreover, they do not want negotiation ‘experts’ to have a look in their kitchen, first because this might harm their country’s national interests (the secrecy of the negotiation in order to keep some room for manoeuvre), and second, because they might lose face if consultants observe that mistakes are made and opportunities are lost. Negotiators often show their emotions, they have non-verbal leaks (such as unconscious body language), and they do not want this to be revealed to the outside world.

More serious is the second ‘reality dilemma’ (Klabbers, 1988), in that practitioners do not allow researchers (and trainers) to observe real-time negotiations. Negotiation ‘experts’ are sometimes invited to witness bilateral negotiations, but closed sessions are the rule, especially in multilateral inter-state bargaining. The consequence of this is twofold. First, practitioners do not profit from the insights of negotiation research, and indeed serious mistakes are made on matters like timing and trust, strategy and tactics, skills and styles. Indeed, obvious mistakes have been made at many conferences, and process experts would probably have noticed these and might have helped the process to avoid going off-track. Second, this attitude of the practitioners hampers academics and trainers in a serious way: unable to observe real negotiation processes has the consequence that alternative means, such as the observation of mock communication, and the study of ‘memoirs’ and other written accounts, have to be used in order to come as close as possible to the real processes. Interviews and surveys might help somewhat, but interviewees have a tendency to omit the things they did wrong and to stress their glorious moments.



As has been stated, there is also an abyss between academics and trainers. There are several reasons for this. Academics sometimes feel that trainers – especially those from private-sector companies – do not really deliver something worthwhile. Their knowledge of literature is often scarce, second-hand, and confined to pieces of ‘academic’ work long overhauled, or it is literature given to them by others, who will have often transferred it into applicable exercises. Trainers also have a problem in understanding the more complicated academic findings and, even if they do, transformation into practical tools is often precluded by the complexity of the scientific findings. Therefore trainers such as Willem Mastenbroek (Mastenbroek, 1989) and Raymond Saner (Saner, 2005), were forced to create their own tools. Just as practitioners often do not believe in the value and relevance of the academic findings, so academics mistrust the added value and correctness of the training devices. Academic programmes on negotiation analysis are on the whole very different from training modules and they are seen by many trainers – and practitioners – as being too theoretical and therefore not applicable to the education of new practitioners.

Academics go for substance; trainers for format. There are many exceptions to this ‘rule’, but it is true that trainers are often in the service of a company – or themselves – and they train for a living. It is just too costly to invest time in academic conferences and in writing chapters and articles, although there are consultants who try to balance the two. Trainers work in haste and because time is money, training programmes will often be ‘routines’, formats that are applied to any situation. Tailor-made seminars are quite rare; and seminars balancing good content and good exercises are even more of an enigma.

Chapter XI of this thesis will focus on simulations as instruments in creating artificial and observable negotiation processes. The fact that they are ‘not for real’ makes a difference of course, but people are people. Their behaviour in simulated processes is not much different from their dealings in the real process. The emotional triggers, the need to plan and to use tactics, the importance of fostering relationships, the problems in managing complexity, formality and informality: these are variables that are – to a large extent – independent from the reality question. Provided that the simulation is as realistic and credible as possible, it will provide researchers with an opportunity to gain a better understanding of negotiation processes.

## Parties and Interests

Who conducts the negotiations? This section will limit analysis of the phenomenon of international negotiation to negotiations between representatives of governments. These state representatives can be divided into two categories: politicians; and diplomats/civil servants. Consequently, negotiations between states can be held either on a political or on a diplomatic/official level. The political level is the highest level and mostly preceded and followed by diplomatic/official consultations. The category of diplomats and civil servants can also be subdivided, depending on the question of whether an ambassador/director-general, a young diplomat/policy adviser, or someone in between these ranks, is conducting the negotiations.

The actors appear at the negotiation table from different positions. Apart from the interests that they have to consider, one can assume that one negotiator will be more

skilled than the other, will have a better knowledge of his dossier, is more motivated, better trained and could have more credit within his delegation, ministry or government than the other. Human differences will influence the course of the negotiations, not in the sense that they would be the most influencing factor on their own, but at decisive moments they can tip the balance. In other words, the more the other factors (that influence the negotiation process) are balanced against each other, the greater the margins in which the negotiator's personal characteristics will play a role. Personal influence might be relatively marginal in most inter- and intra-state negotiations, but as we will see in Chapter IX, margins can determine outcomes in the same way as profit margins determine a company's success.

The readiness of actors to be involved in the process depends on their interests. Negotiations will only take place when the parties, in one way or another, actually need each other. A relationship should exist between (parts of) the parties' interests. It is very important for the negotiator to know to what extent the interests of both parties run parallel, or whether they largely exclude each other. For parallel interests, a strategy of cooperation will be chosen (integrative negotiating); the second case will see a more competing approach (competitive negotiation). The negotiations take place in a situation where interests practically converge with reasons to cooperate (the lower limit), or when the interests do not converge but enough reasons exist for consultation (the upper limit). Outside these limits, there is no question of negotiating but instead of conflict or staying aloof.

In most cases, the mutual (overlapping) and competing (conflicting) interests will play a mixed role. In addition, there is often a third category of interest, in which matters are important for one's own party, but do not touch the other (neutral interests). However, one always needs to keep an eye on the latter category. To be neutral concerning interests can be of importance for those parties who are not participating in the consultations, but who will (or can) speed up the ongoing negotiations. Thus, for example, in a case when the Dutch and the Belgians will not reach an agreement, but the Dutch can offer the Germans something, in exchange for which the Germans will give something to the Dutch that is useful for the Belgians, this can lead towards a positive rounding-up of the Dutch-Belgian negotiations ('expanding the cake').

In other situations, interests can be arranged in such a way that even with the lack of parallel interests, reasons may occur for negotiating. No agreement will be reached regarding the subject in those cases, but that is not in fact what the parties involved have in mind. For example, two countries have the intention to enlarge their armaments but public opinion opposes their plans and demands negotiations on arms control before upgrading any defence. Through negotiating, both states meet the conditions that will make enforcement of their defence possible. Not only are the stated conditions met, but there is also the opportunity to point out that the other party is unwilling, and obviously has aggressive intentions in mind. Moreover, it is advantageous that both states are in consultation with each other and can exchange information. In some cases the desire to negotiate has only been prompted by the necessity to open up a flow of information. In that way, the mutual desire to negotiate has only been prompted by each party's wish to prevent an agreement from being reached. In such a situation there is an agreement of intentions *not to* come to an agreement. Much more difficult is the situation where one

of the parties does want an agreement, and the other does not (as with Chamberlain versus Hitler before the Second World War). The latter party abuses the former for totally different goals. As previously mentioned, the negotiation disguises the idea to use means other than negotiations. The question is whether, in this case, one can speak of genuine negotiations, when not all parties were striving for a negotiated agreement that had to be successfully implemented in the future.

This issue leads to the question of Forward and Backward-Looking Outcomes (Zartman and Kremenyuk, 2005). On the question of Forward and Backward-Looking Outcomes, it should be noted that a lasting peace is in need of justice to be done, plus the instalment of institutions guiding future cooperation between the contending parties – in other words, the institutionalization of the process of cooperation. The European Union is a typical example of such an institutionalized process, and the Peace of Westphalia as analyzed in Chapter VI can be seen as a very Forward-Looking Outcome, because it created the very system of sovereign states in which we are living today. The Dayton Agreement of 1995, however, which settled the Bosnian question, might be viewed as a Backward-Looking Outcome. It put an end to the war, but it did not create a truly stable framework for the future. International governance and troops therefore had to be called in to stabilize the situation until Forward-Looking rules and regulations could create a platform for successful home rule.

Parties might also have reasons for concluding peace, in other words their interests might converge, while they have opposing positions concerning justice being done. Ruling elites might very well be ready to implement a cease-fire, and to quit their posts, but they would not be happy to be prosecuted before the International Criminal Court, or any other tribunal. They will therefore refuse to conclude a peace, because they want to be protected against prosecution. We are confronted here with the dilemma of 'peace versus justice'. In some cases peace can therefore not be attained, or, when it can be attained, doing justice will be difficult, if not impossible. Institutions might not be created as the parties cannot agree on them. And if they did agree, the institutions might be so weak that peace and justice would be under a constant threat of collapse.

We need to analyze the countries' positions in order to know whether an outcome can be expected. If positions and underlying needs are completely in opposition, then we cannot expect a successful negotiation process. As soon as there is an overlap of interest, however, an outcome can be expected. Even without the contending parties having overlapping minimum and maximum reservation points, an outcome could still be constructed, provided that the parties have included more than one issue in their negotiation process, and that by combining these issues, zones of overlap come into reach ('package deals'). Depending on the interrelationship between the interests of the participating parties, we can expect more or less peace and/or justice, and thereby more or less security and/or stability.

There is one more element at stake here: the question of context. What situation are we in? Negotiation is highly situational; what is effective in one context can be disastrous in another. The question of whether negotiation and bargaining will be effective as a tool in conflict resolution is also very much connected to its context. William Zartman (Zartman, 2005) postulates that we need a push and a pull in order to start any negotiation process and to create an outcome. The push is the 'mutual hurting stalemate' (MHS): a status

quo that is painful for all the involved parties, to the extent that they prefer a change (through negotiation) over the situation into which they are locked. At the same time there should be a perceived way out of the deadlock: the pull in the form of a 'mutual enticing opportunity' (MEO). We should note here that not everything is negotiable, but in cases where there are structural problems instead of situational problems to be solved, we might at least hope for mutual respect, such as the (in)famous 'Peaceful Coexistence' at the time of the Cold War, which might be called a 'mutual beneficial stalemate' (MBS) – beneficial and satisfactory as it ensures a peaceful situation in such a way that the major powers can use the stand-off to control their own 'allies'. The MBS is stable compared to the MHS, but it thereby paradoxically precludes negotiation from being used as a tool in dealing with the underlying conflicts, because the dominant powers have no interest in solving them. Their allies may have such an interest, however, and they will do everything to undermine the MBS in order to open the situation to change. They will only be successful, however, if there is a regime change in the capitals of the hegemonic powers. In other words, negotiation can only be a successful tool if the context can be changed first. Additionally, while context determines perception, perception determines reality (Goodfield, 1999).

### Process and Power

The way in which parties reach a settlement can also be divided into three categories. In the first place, there is the procedure whereby parties would like to see what are, for them, the all-important points included in the settlement: the synthesis of interests. A synthesis is often difficult to reach and even more difficult to implement. Second, there is the synergy of interests, when one tries to work not from a partial interest, but from a mutual interest. These kinds of results can be very satisfying, and can be well implemented. However, requirements include a very good atmosphere during the negotiations, and lots of time. Third, there are compromise and compensation. Compromise comes in the form of mutual concessions, in which each party loses some points and wins some, or in which parties compensate each other for their losses by trading concessions ('package deals'). Especially in unequal power situations where one party has to deal with fewer concessions than the other, this formula can lead to 'operation accomplished, patient deceased'. Agreement may be reached, but the loser might end up wanting to sabotage its implementation.

In connection with the aforementioned problems with implementation, experienced negotiators will arrange the agreement in such a way that it can be implemented step by step in order to reduce uncertainty (Jönsson, 2001).

If the implementation does not proceed according to plan, the damage will be limited. The implementation is, as it were, ingrained in the agreement and still leaves room for negotiations during the implementation process. One disadvantage of such a course of action is that trust between the parties – especially at the beginning – will remain slight, and trust is the basis of every negotiation when an agreement is required.

A negotiation process means going through various phases: preparation and diagnosis, information, searching for formulations, bargaining, and the drafting of all the details (Dupont and Faure, 1991). The factors influencing this process are so numerous that a thorough understanding of the actual proceedings is almost impossible. Previously

it was pointed out that the negotiators, with their own characteristics and circumstances, have a certain influence, but that the real determining factor does not rest with them but is ingrained in the power of the countries that they represent, or, in other words, in the power structure, the measure of asymmetry. How 'distorted' is that power structure and which factors determine this 'distortion'?

The question of the direction in which the negotiation process is moving is therefore predominantly a question of power, at least in inter-state negotiation processes. It is interesting to note here that negotiation processes between equal powers are as a rule not very effective. Some power difference is needed in order to get the negotiation process to flow. Power can be distinguished in three components: power that is marginal and originates from the negotiator (power of conduct); power of the state being represented (structural power); and power that belongs to the state regarding the issues being negotiated (comparative power). In that context, Habeeb speaks of 'behavioural power', 'structural power' and 'issue-specific power' (Habeeb, 1988).

Structural power involves the total of power factors that are available to a country in relation to that of other nations. This power is determined by issues such as the size and location (for example, a strategic position) of the territory or state, the nature of its borders, its inhabitants, the presence of natural resources, its economic structure, the level of technological development, its financial power, ethnic diversity of its population, social homogeneity, the stability of its political system (that is, how legitimate is the government?) and the nature of its people (whatever that may be, and whether it exists at all). The question that then follows is: in which way does a country handle its power? What is its 'national strategy'? Is the country reticent about using its power (as was Germany before reunification), or does it use its power in a more self-conscious manner (Germany after 1990)?

Structural power is of importance when answering the question of which countries involved in negotiations will reach the best negotiation results in the end. It is a necessary, but not a sufficient, condition for explaining negotiation results (Habeeb, 1988). In other words, it is not correct to more or less assume that in negotiations between a large and a small state the 'stronger' state will acquire the best negotiation results. History provides too many examples to the contrary, about the power of the weak and the impotence of the strong (such as the United States and Vietnam, the Soviet Union and Afghanistan, the United Kingdom and Iceland) to be able to come to a simple comparison by predicting the total weight of power of one country or the other. To obtain a better understanding, their comparative power should be drawn into the analysis. By comparative power, we mean the power structures around the issues being negotiated, or the power that is relevant in a particular situation. In practice it is impossible for a country to put forward every power potential in every field. For example, does the Russian Federation, or the Republic of Turkey for that matter, because of its enormous army, have increased power over, for example, Italy when negotiations are taking place in the field of economic cooperation? That is very doubtful. The existence of such an army certainly plays a role, but the danger is neutralized by the politico-military coalitions in which Italy finds itself. From an economic point of view, one could argue that the gigantic potential of the Russian Federation – because of its energy resources – could result in it having a strong position in the negotiations, but the time when this potential will be converted into a strong economic position is still a

long way off. Italy's comparative power is bigger than the Russian Federation when, for example, the modernization of Russia's car industry is the issue.

Comparative power is built of three components: the internal sources of power; (im) balance with the sources of power of the other states involved; and the relevance for the issues being negotiated (Habeeb, 1988). There are, however, famous examples of countries with minimal internal sources of power that, through special circumstances (such as playing powerful states, or factions within those powerful states, against each other), can build up a great relevant 'blackmail power'. Take, for example, the case of the Netherlands and Surinam during the negotiations about development aid since Surinam became independent in 1975. Comparative power is decisive, and structural power plus the power of conduct will enforce or weaken the relevant factors of power. Surinam has been capable of building up process power, or relational power, because it has been dependent on Dutch resources. Add to this the historical dimension (the Netherlands as the colonial power felt guilty about what it had done to its colonies in the past) and we can expect quite a favourable negotiation process as far as Surinam is concerned, notwithstanding – or better, because of – its weaker position.

Comparative power is influenced by three factors. The first factor is the alternatives that might be available for the relevant issue: the fewer alternatives a country has, the weaker its cause. Second, to what extent has the country committed itself: how far will willingness go to make use of its power factors? Is there, for example, a willingness to weaken a country's economic power in favour of its military power? Third, to what extent does the country have control over the issues under negotiation? A small nation can have a lead position over a bigger country when it controls the dispute in question, as was the case for Iran in connection with the American diplomats who were taken hostage during the so-called 'Iranian Hostage Crisis'. The hostages were at first in the hands of fanatics who were outside the control of the Iranian government, but once the hostages were being held by the Iranian government, it was possible to negotiate their freedom.

### **Bashing or Bargaining**

A distinction should be made about negotiating in relation to other interactions between states, such as armed conflict, the use of international courts of law or arbitration, the use of services from third states as honest brokers, and diplomatic consultations in which certain issues are being clarified and points of view exchanged, as opposed to the phenomenon of imposed settlements or '*diktat*' such as 'Versailles', in which interaction was hardly the case. The following question presents itself here: in which cases will states prefer the instrument of negotiation, and when will they choose alternatives in international relations? If war is the continuation of politics with the admixture of other means (Clausewitz, 1984), could we then postulate – as done in Chapter V – that negotiation is war by other means? In other words, while the use of force is one way to manage a conflict, negotiation is another, and adjudication is a third road to be followed.

The choice has everything to do with the question of whether negotiation in a given situation is preferable to the use of other international interactions. Negotiating will be 'more advantageous' in cases where the state would be able to acquire what it has in mind in a 'cheaper' way through negotiations than in any other way. In short, the question about

the limitations of the negotiation process is a matter of cost-benefit analysis. Depending on the situation at that moment, the balance will be different each time. When the expected benefit is considerably higher than the cost, the desire for a stable negotiation process is obviously justified.

The problem remains that cost-benefit analysis can, relatively speaking, rarely be determined, keeping in mind the influence of other states with their own cost-benefit situations, and given the impossibility, up to the present day, to verify costs. That is the first and biggest obstacle to providing at any one time an instrument for totally getting to the bottom of 'the science of negotiation'. The second obstacle, as mentioned before, is that the researcher is not allowed to attend really important negotiations, or to carry out research in a systematic manner. Reports by the negotiators themselves are usually too biased, and not systematic enough, to enable a real scientific analysis. Third, in cases where good analysis should be possible, the results will nonetheless be so abstract because of the many factors playing a role that a more or less practical application, such as through training courses, will be difficult.

Nevertheless, the number of useful explanations about the role and direction of international negotiation processes is increasing. Slowly, but surely, there is a growing convergence of views. However, one has to be wary of those who think that they have found the stone of wisdom. They may have carried the building stones, perhaps even a keystone, but certainly not a cornerstone. Perhaps that cornerstone will present itself in the form of sound research, analysing in which cases negotiating can, and in which circumstances negotiating cannot, be an instrument of international relations.

It is interesting to observe that the notions of international negotiation processes as a method of bridging opposing interests, views and perceptions have evolved over time. In the seventeenth and eighteenth centuries, negotiations were often used as a tool in warfare. Notably King Louis XIV of France used this constellation in order to break up coalitions formed against him, resulting in a series of short-lived peace treaties and ongoing warfare on the European continent. Moving into the nineteenth century, the role of negotiation in inter-state relations became more and more substantial, as the costs of war soared with the development of modern weapons technology, which resulted in an enormous toll of human lives. In the twentieth century, states tried to strengthen the value, and enhance the stability, of international negotiation processes through institutionalization – that is, the building of institutions in order to channel and stabilize negotiation processes and thereby to secure assured outcomes. Thus we witnessed the creation of the League of Nations, the United Nations, the Organization for Security and Cooperation in Europe, the North Atlantic Treaty Organization, and the European Union, etc. With the Second World War as a turning point, we might postulate that warfare nowadays can be a tool in negotiation, whereby negotiation is seen as the main tool in managing inter-state and other conflicts. We have come a long way since the seventeenth century. The institutionalization of the processes and the relative ineffectiveness of war (by using military means we can win the war, but not the peace) greatly enhanced the effectiveness, and therefore the role, of negotiation as a tool in conflict resolution.

Focusing for a moment on the developments in peace and justice at the end of the nineteenth and the beginning of the twentieth century, international adjudication was very much seen as a tool with major potential for the resolution of international conflicts.

The two Hague Peace Conferences were convened with high hopes for the future. The Peace Palace was opened in The Hague in 1913 to host the first court on international judicial conflict management and resolution: the Permanent Court of Arbitration. After the misery of the First World War, we saw the creation of the Permanent Court of International Justice, followed after the Second World War by the International Court of Justice – all three in The Hague, and in the Peace Palace. However, notwithstanding the growing role of adjudication as an instrument in inter-state conflicts, a certain disappointment with adjudication's effectiveness ensued. War and negotiation, or negotiation and war for recent history, remained the major factors in international conflict management. In view of its relative efficiency and effectiveness, and the growing strength of the building blocks around it, we might hope for negotiation to become the dominant methodology in bargaining for international rules and regulations, and in regulating international conflict situations in order to secure peace and justice. It therefore remains important to study negotiation, in order to explain outcomes by analyzing the process (Crump and Zartman 2003, 10) and to train practitioners to become successful negotiators.

## APPROACHES TO INTERNATIONAL NEGOTIATION

The seminal work of the PIN program, *International Negotiation* (Kremenyuk, 2002), which resulted from its first conference on international negotiation in 1989 in Laxenburg close to Vienna, addresses a wide range of people. It takes stock of the progress made in studying international negotiation processes and is useful for those engaged in the study and practice of international negotiation. The book approaches the subject of negotiation from many different angles, an indication of the impossibility of understanding the phenomenon through one or a limited number of approaches. The first eight chapters of *International Negotiation* are written under the heading 'Levels of Analysis', and the next nine chapters as 'Approaches and Perspectives', but all these chapters in fact try to enhance the understanding of negotiation by looking at factors involved in the process, thereby trying to get more grip on that process and attempting to explain its outcomes. The third part of the book discusses different issue-areas. Different issues have a different impact on the processes, but essentially speaking it does not matter too much what the issue-area is, with the exception of an extreme negotiation such as negotiating with terrorists. Although *International Negotiation* helps us to understand which analyses and approaches are relevant, it does not prioritize them and it does not solve the problem of lacking one paradigm that the majority of authors can agree upon. As the editor writes in his afterword, 'The contributors to this volume agree that a new and more promising approach has to be found' (Kremenyuk, 2002: 425). This approach has not been detected in the subsequent 22 years and it is doubtful whether it will ever be, as it is in the nature of negotiation to be multifaceted. This dissertation will attempt to provide a better insight into these different facets.

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**This section was specifically written for this dissertation in 2013.**



### Approaches from 'International Negotiation'

To Howard Raiffa (Raiffa, 2002: 5–21) in Kremenjuk's edited volume, negotiation is both an art and a science: an art in the sense that some people are better negotiators than others as a gift from nature and culture; and a science because negotiation can be learned and thereby taught. Raiffa points to descriptive, normative and prescriptive orientations on decision-making and thereby on negotiation processes. Descriptive analysis is empirical and clinical. It strives to reflect reality as much as possible. Normative analysis, however, wants to point out how people should act, ideally. It is of a much more abstract nature. Prescriptive analysis is of an advisory nature. Raiffa points out that these three approaches can be distinguished by the criteria by which they are evaluated: empirical validity; theoretical adequacy; and pragmatic value, respectively. His study looks upon negotiation as a phenomenon that, if possible, explains why the actors reach certain outcomes. Again, it must be emphasized that this is an extremely difficult academic undertaking, because of the multitude of factors influencing the process and thereby its closure. Advice for being more effective and norms to be adhered to can be given, but cannot substitute for monitoring reality and thereby attempts to get to grips with it and to draw lessons from it. The art and science issue is equally difficult to unravel, but a focus on the scientific side would be preferable, as it is even more difficult to fathom the art dimension – because of its underlying in-born and acquired characteristics – than to gain insight into the scientific one.

*International Negotiation's* editor-in-chief, Victor Kremenjuk, sees negotiation as a system of growing importance in international relations (Kremenjuk, 2002: 22–38). He focuses on international organizations as a systemic factor connecting different negotiation processes and enhancing their stability. Such a focus makes sense, even or perhaps especially today, but in this case it is very much influenced by the time in which the chapter was written: the frozen systemic crisis that we call the Cold War.

In their chapter, Christophe Dupont and Guy-Olivier Faure (Dupont and Faure, 2002: 39–63) point to the problems in defining the negotiation process, which they first of all identify as a sequence of proposals and counter-proposals, to converge as a result of an exchange of concessions. The problem here is to explain the rules regulating this sequencing. They follow up by sketching an alternative approach, identified as 'structural analysis', which puts power at the heart of the negotiation process, influencing the resulting currents in the flow of the process. As a third 'avenue', they spotlight 'persuasive debate' as an approach for understanding the negotiation process – the exchange of signals, information, arguments and the like. Their fourth inroad has to do with game theory, with the question here being to what extent can game theory help us to understand the ensuing processes? As process is so difficult to penetrate, students of negotiation tend to switch to the actor in the process as the focal point of their analysis. Dupont and Faure order the process into successive stages: first, preliminary contacts and pre-negotiations; second, multi-stage negotiations (that is, multiple actor, issue and stage rounds); and third, face-to-face exchanges. They then sum up the different theoretical approaches that they identify: the strategic approach; and the learning, decision-making, psychological, adjustment and reactive processes. They then turn to communication and referential variables (for example, face-saving is a referential variable). Finally, they look at

factors influencing the process of international negotiation, such as personal conditions, information, and structural issues like time.

Different cultures have different perceptions of negotiation processes. Americans and Europeans tend to see the process in a linear way, going from the awareness of having a problem and the need to solve it, to exploration, pre-negotiation, agenda-setting, further exploration, selection of issues, give-and-take, decision-making, closure, implementation, evaluation, and perhaps renegotiation, etc. This view holds that there is a specific starting and concluding point. In Africa, and foremost in Asia, negotiators tend to see the process as a circular, and thereby never-ending, stream. Connected to this is the importance attached to the relationship in that process, while Westerners often give priority to the issues at hand. Such differences in approaches have grave consequences for the flow of the process and thereby for its outcome.

In his chapter, Victor M. Sergeev clarifies international negotiation in a series of metaphors: the metaphor of bargaining, the bidding as we know it in the marketplace; then the metaphor of joint choice, the love child of the Harvard Project on Negotiation (PON); and the metaphors of joint research and joint construction of the future (Sergeev, 2002: 64–70). Metaphors can be useful and misleading at the same time. They are useful in enhancing understanding because of linkage to a well-understood concept, but counter-productive because they simplify, while negotiation is a complex process with many factors and actors. As far as the joint choice metaphor is concerned, this seems to be a cultural perspective applicable first of all to North America, but already less valuable for parts of Europe like the Balkans and the Caucasus, and much more problematic for regions in Asia and Africa such as the Middle East or the Great Lakes Region. Win-win solutions tend to be win-lose or even lose-lose, and practitioners and academics have to struggle with that. The metaphor of the marketplace is nevertheless valuable, as it highlights many elements of the negotiation process. A customer who can choose from different shops has the power of choice, of alternatives, a strong BATNA ('best alternative to a negotiated agreement', or 'best alternative to no agreement'). The merchant will have to lure the customer into the shop. If the merchant manages to do this, the context changes in his or her favour. The merchant can now use his or her power: knowledge about the merchandise, or the dossier in diplomatic terms. The merchant, or negotiator, needs time to do this, as the weaker party normally needs more time than the more powerful one in an asymmetric negotiation process. Exploration, selection and bargaining will unfold and the customer might leave the shop with more – and more expensive – merchandise than he had wished for at the start of this negotiation. The process and the time that it takes are ingredients of the power of the seller, helping him to undercut the BATNA of the buyer by creating his own alternatives.

The structure of negotiation is the approach used by William Zartman in his chapter in *International Negotiation* (Zartman, 2002: 71–84). To him,

Negotiation is a process by which contending parties come to an agreement, but that process neither occurs nor can be analyzed merely by its own terms. It begins with a certain distribution of actor characteristics, which then become independent variables through which the process and its analysis are conducted (Zartman, 2002: 71).

The structure of the negotiation process consists of different components. Structure is the most determining factor for answering the main question in negotiation analysis: how to explain outcomes? 'Process follows form'. He sees the structural approach as the most adequate – he says 'simple' – and comprehensive technique. The basic structure of bargaining is to be found in bilateral negotiation, more than in multilateral. A host of game-theoretical approaches are based on this dichotomy, if possible under conditions of symmetry. He notes that power equality is a static condition that can be translated into the dynamism of reciprocity coming to fair closure. He notes, however, that such situations are quite exceptional in real-life processes. More realistic analysis is needed and this confronts us with, for example, the 'toughness dilemma' and the role of structural and situational power and their sources. Besides power, values are involved, and values might overtake power as well as material interests. For analyzing multilateral negotiation, Zartman highlights the importance of approaches through coalition-building, leadership and the role of structuring devices such as procedures.

He also points to the virtual impossibility of gaining a good understanding of multilateral negotiation processes, because of their complexity. Most negotiation research focuses on bilateral processes – being constituent parts, if not the nucleus, of conference diplomacy – as these are more apt for measurement. This inherent problem of negotiation gives rise to biased research. Researchers study those cases that are explainable and to a large extent ignore the complicated parts of the negotiation process. This is even more valid for the international dimension, which is more complex than multilateral negotiations within countries, for example between different ministries or political parties in parliament. More is therefore known about simple linear bargaining at a (sub-)national level – for example, in the commercial sector – than about international processes, which might explain the undervalued role of negotiation international relations theory. The sovereignty of states adds to the problem of catching the intricacies of international negotiation processes, as states are to be influenced, but being more independent than actors at the national level, they evade structural analysis. To use structural analysis where structures are lacking is not an easy task.

Strategy in negotiation is the angle of descent in Dean Pruitt's section (Pruitt, 2002: 85–96). Pruitt sees three strategic choices for negotiators: contending; problem-solving; and yielding. He then turns to the dimension of relationships, stresses the importance of them and sums up six conditions for building 'working relationships'. First, he stresses rationality. One should be rational, even if the other party acts emotionally. Second, try to understand the other party, even if they do not understand us. Third, try to communicate with them and consult them, even if they are not listening. Fourth, be honest and trustworthy, even if the other party tries to deceive you. Fifth, try to persuade them and do not go along with them if they want to coerce. Finally, be open to learning from the other party and care about them, even if they reject your concerns. He illustrates that with US–Soviet relations.

As a comment on Pruitt's approach, we should first of all acknowledge that the contending, problem-solving and yielding approach is just one of many ways to fill in the notion of strategy. Sun Tzu's dictum that strategy is nothing less than changing a situation in order to create a favourable climate for a successful negotiation (Chung, 1991), seems to be a more encompassing approach of strategy. The same seems true for the

Thomas–Kilman strategic model of competing, collaborating, compromising, avoiding, or accommodating (Thomas and Kilman, 1974), an approach that can be found in other formats with other authors, although it all boils down to the same perspective: combine the main option for strategies and look at their interactions. The Thomas–Kilman model contains sixteen different interactions between the five poles of strategy. It is thereby a very flexible device, illustrating the ever-present tensions in negotiation, and indicating which strategy will be the most effective in a given situation. The conditions for working relationships, as sketched by Dean Pruitt, do not meet the conditions of ‘tit-for-tat’ strategies and tactics, and it is therefore no wonder that the American diplomats had problems in dealing with the Soviets in a satisfactory way (Meerts, 2009c), or with other ‘difficult’ negotiators who perceive openness as weakness.

Jeffrey Rubin’s chapter analyzes the actors in the negotiation process as an approach to gain a better insight into its mechanisms (Rubin, 2002: 97–109). To Rubin, it is vital to ask the question ‘who is the actor?’, as negotiation is very much about the choice of partners. He then discusses the difference between actors who only represent themselves and those acting as an agent for a group of people, an organization, or a state – thus actors who need to be instructed, who need a mandate written by their superiors. Such agents have to stick to this mandate, but different countries have different degrees of freedom concerning the instructions they will hand out. These differences in flexibility will have an impact on the flow of the negotiation process. After the agents, Rubin focuses on the leaders and leadership, as well as the behaviour of individuals. He sees five attributes of effective negotiators. The first attribute is flexibility: negotiators will have to be flexible on means and firm on goals. Second, they have to be sensitive to various social cues about the other negotiator, although this does not necessarily mean that they have to react to that. Third, inventiveness is important: an effective negotiator has to be creative. Fourth, a negotiator has to be patient and should not react right away. Finally, the negotiator should be tenacious; persistence is important. All of these traits are influenced not only by character and experience, but also very much by culture.

It is interesting to see that Rubin’s level of analysis and especially his profile of the effective negotiator are shared by many. In chapter 26 of *International Negotiation*, Willem Mastebroek (Mastebroek, 2002: 433–454) concludes that the effective negotiator has to: (1) realize his own interests; (2) influence the power balance; (3) promote a constructive climate; and (4) obtain flexibility. Indeed, *suaviter in modo, fortiter in re* – gentle in manner, strong on principle – seems to be a common opinion among practitioners and academics. By observing diplomats during simulation exercises, Mastebroek noted that the most successful actors were those who worked on the relationship with the other side – empathy but not sympathy – using the process for generating new options and thereby ‘enlarging the cake’, while at the same time being determined to get what they wanted by using their power and influence in a civilized way. Simulations might be reflections of reality and not reality itself, but those who participate in these exercises negotiate in exactly the same manner as those who negotiate for real. The process is the same, simulated or not.

In his chapter in *International Negotiation*, Arild Underdal analyzes negotiation by looking at its outcomes (Underdal, 2002: 110–125). He therefore deals with output and impact. Underdal states that the impact of an agreement is difficult to foresee, the first reason being the uncertainty of the future, the second the options for adaptation as times

change, and the third the consequences of fuzziness and vagueness of the final text. Underdal focuses on five dimensions of negotiation outcomes: the agreement; efficiency; stability; distribution; and distance from opening positions. The question of why there is an agreement, in other words why negotiations succeed or fail, is still unanswered today, although many books have been written on the subject. In itself, a negotiation process can be successful and could come to closure, but at the very end there might not be an agreement if one of the parties' leadership torpedoed the outcome. This can be done before a formal agreement has been reached, or afterwards through non-ratification: in a strict sense there is an agreement, but *de facto* it will not fly. Underdal then sums up three obstacles to efficiently reaching a negotiated outcome: objective choice is difficult if not impossible, and even if the parties choose the best path, they might be hindered in following it; second, there is normally more than one criterion for choice; and third, there are process-generated stakes, meaning that negotiators are not robots, but have an interest in keeping up appearances, and that interest might override the material interests for which they are striving. As far as stability is concerned, it is questionable what we mean by it. Under certain circumstances, stability of the agreement will indeed be a prerequisite for an effective agreement, while in a changing environment it will become problematic, inciting defection. Distribution of the pay-offs is an important factor, because of the negative effect of partial exclusion, which might lead to blaming and shaming and long-lasting traumas. The outcome, being backward-looking, will be a mortgage on the future. Distance from opening positions is Underdal's last point. Even if there is a favourable position for both parties, one party might be unhappy if it feels that it had to give up too much, especially compared to its counterpart.

Another issue mentioned by Underdal is the question of ambiguity, which can of course also be used in a positive way in order to secure an outcome – that is, as 'constructive ambiguity'. In many cases, diplomats have no other option than to leave space for different interpretations of the same text. In United Nations Security Council Resolution 242 regarding the Israeli–Palestinian conflict, the differences between the English and the other texts form a classic example. While the English version proclaims that *Israeli forces* will have to withdraw from *occupied territories*, the French, Spanish, Russian, Chinese and Arabic texts state that *the Israeli forces* have to withdraw from *the occupied territories*. This gives rise to different interpretations. The English text suggests that some Israeli forces might remain in some of the occupied land, while the remaining five official UN texts suggest that exceptions to withdrawal are not acceptable. There are many more cases, such as the wording of the mandate of the Disaster Relief Coordinator of the United Nations Disaster Relief Organization in draft resolution 15129(LI) of the Economic and Social Council of the UN (Kent, 1988, 138-139; Meerts, 2009d: 663-665). In reality and therefore in the exercise, the ambassadors struggle with the word 'direct' that is being pushed for by the United States, but is too strong for the French, the Soviets and the relief organizations. The problem is 'solved' by not being solved: in the English text the word 'direct' stays in; all the other official texts use the word 'orient'.

It would take too much space here to reflect on the other chapters of the 'Kremenyuk book'. It must suffice to mention, respectively, the historical, psychological and analytical approaches by Jean Freymond, Jeffrey Rubin and James Sebenius; the legal, economic and content perspectives by Dayle Powell, John Cross and Daniel Druckman; and the

reflections on organizational, game- and cognitive theory by Robert Kahn, Wilfried Siebe and Christer Jönsson. It is also useful to highlight an interesting approach to negotiation by Daniel Druckman in a recent book, in which he sums up the six factors by which a negotiation process could be analyzed: issues; parties; process; conditions; outcome; and aftermath (Druckman, 2013: 203).

### Approaches from Other Sources

Also important in the literature, Christer Jönsson analyzed eight approaches by 54 negotiation analysts (Jönsson, 2000). Jönsson states that game-theoretical approaches of negotiation as bilateral encounters between equally powerful and rational actors have been replaced by a host of new literature that takes into account factors such as complexity, continuity and culture. First, he first deals with the establishment of contract zones as a focus for research. The contract zone, bargaining, or settlement zone, also labelled as the Zone of Possible Agreement (ZOPA) – an acronym to be avoided in Russian-speaking areas (where it can mean either buttocks, or something disastrous) – is a useful approach in bilateral negotiation research. Second, some analysts focus on tactics such as credibility and manipulation to get to grips with negotiation. Third, reducing uncertainty is yet another attempt to manage negotiation processes, and this can be done in different ways, such as by agreeing on formulas before descending to details. Balancing contradictory imperatives, seeing negotiations as a series of dilemmas, and paradoxes such as honesty versus secrecy and explicitness versus ambiguity are other ways of getting our thoughts together on a subject that is as resistant to generalizations as negotiation processes. Considering timing is the fifth approach: when is a situation ripe for negotiation, and when is a negotiation ripe for resolution? A sixth way to manage negotiation processes is two- or multi-level games: the coordination between internal and external negotiation, the ‘win-sets’ in negotiation. This turns out to be a very popular notion among university students engaged in writing papers on negotiation. Communication processes – verbal and non-verbal, conscious and sub-conscious, explicit and through signalling – are the seventh approach. Finally, Jönsson deals with social relations, the need to develop them and their value for a successful process as the focus of negotiation research. In conclusion, he criticizes the actor-orientation of many scholars, which neglect structural parameters like international systems and institutions. He pleads for more attention to the interaction between actor and structure.

One approach on its own is Howard Raiffa’s *The Art and Science of Negotiation* (Raiffa, 1982), which has already been mentioned. Its subtitle, ‘How to Resolve Conflicts and Get the Best out of Bargaining’, suggests a book for the general public, but it is in fact of value to students and scholars more than practitioners. Raiffa poses some organizing questions, including: is an agreement required, is ratification required, are threats possible, are there constraints or time related costs, are the contracts binding, are the negotiations private or public, what are the group norms, and is third-party intervention possible? He then turns to research perspectives. In the three ensuing chapters, he deals with two parties negotiating one issue, two parties bargaining on many issues, and many parties negotiating many issues.

Nevertheless, Raiffa's book leans in the direction of another category of negotiation literature, and by far the most extensive one: books presenting negotiation as a kind of fractured, but still homogeneous phenomenon. These works are meant to help the reader to come to grips with negotiation in order to understand and/or manage it. The genre is less doubtful about our potential to understand negotiators and negotiation processes, but thereby it cannot be accurate, because negotiation, it has been said, is a colourful and multi-dimensional species. Leaving aside the host of 'airport books', which are meant to give readers straightforward advice in understandable steps and models that help them to become effective negotiators during the flight time they have, apart from the often non-academic value of these books, the topic is much more about negotiation as such, foremost in the commercial sense. Of the substantial academic and semi-academic literature on international negotiation, a few interesting books are selected here in an attempt to streamline our understanding of negotiation.

*How Nations Negotiate* by Fred Charles Iklé (Iklé, 1964) is, even today, one of the first and most seminal works on international negotiation processes. Iklé rightly notes (Iklé, 1964: ix) that 'although negotiation has happily been more prevalent in the relations between states than war, it has never been studied with the same incisiveness'. He first discusses the question of agreement and disagreement, and then identifies five objectives of negotiation: extension; normalization; redistribution; innovation; and side-effects. Iklé focuses on different factors in the negotiation process between states: the rules of the game; domestic affairs; personalities; interpretations; the ways to reach outcomes; and effective negotiators' negotiation skills. Like other books at the time, his work breathes the atmosphere of the Cold War, although he is not at all a Cold War warrior. The RAND Corporation supported his research, which is understandable, as the Americans were not too happy with their negotiation efficiency in dealing with the Soviets.

William Zartman and Maureen Berman's *The Practical Negotiator* helps practitioners as well as scholars to deepen their understanding of negotiation (Zartman *et al.*, 1982). Their thread is the sequence of the negotiation process, already touched upon when discussing formula and detail: after a diagnostic phase, establish a formula without touching upon the issues at hand, and then turn to the detail phase, being aware of the fact that the devil is going to be found there. How to operate with that devil is one of the issues in the book and, as we distrust the devil, valuable advice is given about enhancing trust. Of the book's many useful insights, one should be cited here: 'by now the world has established an international diplomatic culture that soon socializes its members into similar behavior' (Zartman *et al.*, 1982: 226). This, of course, will enhance the effectiveness of negotiation as an alternative to warfare. The book is based on interviews with experienced – most of them international – negotiators, who had been asked: 'What do you know now about negotiation that you wish you had known when you first started?' Twenty-three American, eleven non-Americans and 51 UN ambassadors and staff were interviewed, the vast majority being diplomats (Zartman *et al.*, 1982: 231–236).

Roy Lewicki, David Saunders and Bruce Barry wrote the very lucid book *Negotiation* to explain the topic to – first of all – university students (Lewicki *et al.*, 2006). They deal with the fundamentals of negotiation, including its nature, the difference between distributive and integrative processes, and the question of strategy and planning. To them, negotiations have the following characteristics: (1) there are two or more parties;

who (2) have a conflict of needs and desires; they (3) choose to negotiate because they think it is in their interest to do so; (4) 'give and take' is to be expected; (5) they prefer negotiation over open fighting; while (6) successful negotiation involves the management of tangibles and the resolution of intangibles (Lewicki *et al.*, 2006: 6–8). In part two of their book, they discuss perception, cognition, emotion, power, influence, ethics and the importance of communication. Part three deals with relationships, agents, constituencies, audiences, coalitions, multiple parties and teams, which they define as contextual factors. They then move to individual differences in part four, such as personality, abilities and gender. Part five deals with culture, and part six with the resolution of differences, as there are impasses to be overcome, mismatches to be managed, difficult negotiations to be handled, and negotiators to be tamed, for example through intervention by third parties. They conclude with a list of ten best practices: be prepared; diagnose; have alternatives; be willing to walk out; master paradoxes; remember intangibles; manage coalitions; protect your reputation; do not forget that rationality and fairness are relative; and learn from the experience (Lewicki *et al.*, 2006: 517).

*Getting to Yes: Negotiating Agreement Without Giving In*, by Roger Fisher, William Ury and Bruce Patton (Fisher *et al.*, 1991), is by far the most successful 'how-to-do book' that is based on academic insights. Of all the books on negotiation, it is by far the most cited. Its approach is that of common problem-solving. The authors advise the reader to separate the people from the problem, to focus on interests and not on positions, to invent options for mutual gain, and to insist on using objective criteria. Although the book is a practical guide to effective negotiation in the Western world and in the United States in particular, it is doubtful whether the formula will work in regions of the world where the people are the problem, negotiators prefer positional bargaining, options for mutual gain are unthinkable as the parties do not want their adversaries to get any profit from the process, or where subjective criteria dominate the proceedings and no authority or organization can set objective measurements.

In the French-language, it is first of all the late Christophe Dupont who wrote the crucial treatise *La négociation: conduit, théorie, applications* (Dupont, 1986). With this book, Dupont put France on the map again, after a long absence since the famous French diplomatists wrote about the process of negotiation and the most effective way of handling it in the fifteenth to eighteenth centuries. Proof of his decisive role are the '*mélanges en l'honneur de Christophe Dupont*' (Colson, 2011). In addition, focused on practice is *La négociation: Situation et problématiques* (Faure *et al.*, 1998), which analyzes not only international conflict situations, but also national and commercial cases.

Scholar Frank Pfetsch (Pfetsch, 2006) and practitioner Alexander Mühlen (Mühlen, 2005) have written interesting books for the German-language world. Pfetsch's approach is very much from the perspective of the phases in the negotiation process. He then focuses on conflict as the central issue in negotiation, discussing actors and factors, such as culture and power, and bringing the question to closure. His hypotheses on conflict and negotiation are interesting, with the first being that the nature of the conflict will determine the way to negotiate (Pfetsch, 2006: 207). Mühlen's book is comparable to that of Pfetsch, be it more directed to the field of diplomacy, with less on ad-hoc conflicts and more on ongoing processes of decision-making.



Ralf Spiller's 'German' contribution is that of process orientation as well, especially as far as multilateral negotiation is concerned. He prefers process over structural and decision-making approaches, as it allows for a better grip on complexity, while it does not rely on simplifications:

*Angesichts der enormen Komplexität multilateraler Verhandlungen und der daraus resultierenden geringen Zugänglichkeit für spieltheoretische Ansätze – es sei denn, man trifft eine Reihe von stark simplifizierenden Annahmen – erscheint ein prozessorientierter Ansatz besonders fruchtbar (Spiller, 2008: 35).*

(A process-oriented approach seems to be more fruitful, because of the enormous complexity of multilateral negotiations, and as a consequence the very limited function of game theory in enhancing the understanding of multilateral negotiations, unless one strongly simplifies the assumptions).

Rudolf Schüssler agrees with Spiller, as far as negotiation in general is concerned, although he does not deny that game theory has some value for understanding negotiation processes: 'I do not see more than simple proto game theory is needed, but on this count game theorists might prove me wrong' (Schüssler, 2013: 31).

Raymond Saner provides insights in the German (Saner, 1997), French (Saner, 2003) and English (Saner, 2005) languages. His standard work takes the negotiator by the hand and guides him through the negotiation wonder world. Saner's approaches are on distributive and integrative bargaining, strategy and tactics, phases and rounds, negotiation behaviour and culture, etc. His books are basically the consequence of his negotiation seminars of the last three decades.

Willem Mastenbroek wrote a very handy guide to effective negotiation behaviour with his aforementioned book *Negotiate* (Mastenbroek, 1989). His work is different from many of the hands-on books mentioned earlier, as he approaches negotiation in a more synergetic way through a series of models, explaining to negotiators which behaviour is the most effective in which situation. In conclusion, he states that the ideal profile is that of a negotiator who is tough on interest and power and lenient on relationship and exploration, as has been mentioned above. His work bears some resemblance to the ideas of Fisher, Ury and Patton, but it was not derived from their book and it strikes a more realistic note.

The last book mentioned here is a bit different from the others, as it is a guide to diplomats who have to negotiate multilaterally. Johan Kaufmann's *Conference Diplomacy* (Kaufmann, 1996) helps practitioners to deal with the procedures of institutionalized conferences, especially in the context of the United Nations. Its companion book, *Effective Negotiation* (Kaufmann, 1989), presents sixteen case studies from different authors, but does not point out how to negotiate in an effective way. Kaufmann follows the *Oxford English Dictionary* by defining diplomacy as 'the management of international relations by negotiation; the method by which these relations are adjusted and managed by ambassadors and envoys; the business or the art of the diplomatist' (Kaufman, 1989: 1). He then deals with decision-making through voting and consensus, the organizational and human setting, the role of presiding officers, secretariats and groups, the characteristics

and requirements of delegations, permanent missions and conference diplomats, as well as tactics, instructions, speeches and coalition-building.

The journal *International Negotiation* is of enormous help in understanding the different approaches to diplomatic negotiation, as well as the many negotiation processes that it intends to clarify and discuss. The most important articles on approaches and negotiation research are to be found in issues 7:1, 8:1, 8:2, 9:3, 10:1 and 14:1. Useful as well is *Negotiation Journal*, especially issues 18:4 and 25:4, which are of interest as far as theory and approaches are concerned. In the introduction to the 25th anniversary issue, Carrie Menkel-Meadow gives us an interesting overview of the history of American – foremost the Harvard Project on Negotiation – negotiation theory, practice and teaching (Menkel-Meadow, 2009). Her article provides us with fourteen clusters of questions for future research. In the same issue of *Negotiation Journal*, some interesting counterintuitive findings of negotiations at, around and off the table put our feet back on the ground (Druckman, 2009). After all of the treatises on negotiation processes where we found some valid generalizations, exceptions pop up again. Finally, the journals *Group Decision and Negotiation* and *Négociations* should be mentioned here, while very interesting articles on negotiation can also be found in journals such as *International Organization*. In addition, the non-peer-reviewed *PINpoints Network Newsletter* ([www.pin-negotiation.org/PINpoints](http://www.pin-negotiation.org/PINpoints)) of the PIN program provides us with new ideas and findings, which might lead to new approaches in international/diplomatic negotiation in the near future. Its Dutch branch is the Netherlands Negotiation Network (NNN).

Approaches to diplomatic negotiation are scattered in such a way that one conclusion on its character and conduct cannot yet be made. Perhaps there will never be consensus on this, as the karma of negotiation will not allow for it. Actually, as scientists try to gain a better understanding of international negotiation processes by chopping international negotiation up into different categories, the picture gets more blurred each year. Daniel Naurin, for example, distinguishes deliberation and rhetorical action as separate categories from integrative and distributive bargaining (Naurin, 2010: 38). In his useful analysis of negotiations in the Council of Ministers and its preparatory committees, Naurin separates arguing from bargaining (Naurin, 2010: 32). In this thesis, however, elements like rhetoric, deliberation, argumentation and bargaining are regarded as part and parcel of the wider process of negotiation, even integral phases of it.

This introductory chapter has dealt with a wide variety of views on international/diplomatic negotiation, which can perhaps be looked at through another perspective by focusing on the question of why certain processes give birth to certain outcomes. In this respect, Zartman indicates five schools of knowledge on negotiation processes (Zartman, 2013: 210). First comes the 'structural school', which uses power as the means to explain outcomes of negotiation processes, 'asserting that the strongest wins'. Second, there is the 'strategic school', which uses game theory to explain the connection between process and result. Third, there is the 'procedural school', which uses the economic approach, whereby a range of concessions is analyzed. At a certain moment the costs become too high and the margins disappear, but just before this happens the optimal outcome will be reached, as determined by the balance of costs and benefits. The fourth school is the 'behavioural school', wherein personality types are the variable and outcomes are explained by the chemistry between the negotiators. Fifth, Zartman identifies an 'integrative

school', which views negotiation as a staged process, with the actions at each stage then explaining the final outcome of the negotiation process. Zartman himself employs a mixed approach (Zartman, 2013: 212). He characterizes 'negotiation as a choice of partners, as an establishment of relations, as a contest of alternatives, as a confrontation of power [...], as a process of elimination, or as problem-solving'. In the context of this dissertation, one could add to his view: 'as an instrument in diplomacy', be it as a governance tool in day-to-day ongoing processes about non-violent issues, or as war by peaceful means in ad-hoc negotiations in situations of violent conflict.

## In Conclusion

This introductory chapter has looked at the architecture of, and the approaches to, international – and thereby diplomatic – negotiation processes. It noted that a cleavage exists between practitioners, researchers and trainers in the field, creating disconnectedness that cannot easily be resolved. The main components of international negotiation were considered: parties and their positions, the process and power involved, and the tension between bashing and bargaining – in other words between competition and cooperation. Negotiation was seen as an instrument to be used in situations where competition and cooperation are both immanent. If competition is dominant, distributive negotiation can be expected; where cooperation is the dominating mode, however, integrative negotiation can be implemented. If the cooperative mode is excluded, negotiation will not be applicable. The parties might use force, or freeze, or flight as instruments in dealing with the conflict at hand. Where the competitive mode is absent, negotiation will not be needed. Parties can discuss how to cooperate or not to cooperate, but a give-and-take process will not – or will hardly – be applied.

Approaches to international/diplomatic negotiation are manifold. The main lines of thought and research are qualitative and/or quantitative. In qualitative approaches, situations are analyzed through case studies on the basis of more-or-less consensus among negotiation academics on dimensions such as ripeness–unripeness, inclusion–exclusion, assured–unassured outcomes, etc. Although the formulation of these dimensions is still in progress, some kind of common understanding can be observed. It took academics half a century to reach this plateau. With a broader view, pondering on the meaning and effectiveness of negotiation can be stretched back to the seventeenth century or even earlier. According to the qualitative approach, negotiation is too complex and too situational to be put in a single model, or to be open for overall mathematical analysis. Richelieu already observed that 'different circumstances require different approaches' (Berridge *et al.*, 2001: 77). This thesis approaches the process of international negotiation and its subset of inter-state – that is, diplomatic – negotiation through the qualitative holistic path. From that perspective, the quantitative approach is a very useful addition to the qualitative method. It provides valuable insights into those elements of the negotiation realm that are calculable. A combination of both approaches helps us best to understand the negotiation phenomenon, in the sense that the quantitative method is an addendum to the qualitative approach. However, this is only part of the problem.

The other problem is about the researchers themselves: not only how they approach negotiation, but also by which means. First, their perspectives are influenced by their culture, but more seriously they rarely have an opportunity to be present at the negotiation process. Practitioners could therefore play the role of observer and participant at the same time, but most practitioners are too involved in the process to be able to hold a generalist view. Some of them do, however, and they publish very valuable accounts, but interestingly enough they are often kept to the sidelines, or at least denied the leading role in the negotiation of which they are part. 'Although a close and fascinating observer at the Congress of Westphalia, he [Abraham de Wicquefort] seems not to have influenced their outcome' (Keens-Soper, 1997b: 88). On the other hand, 'as a secret envoy, he [François de Callières] negotiated the crucial terms with the Dutch which led to the Congress of Ryswick and a short-lived peace' (Keens-Soper and Schweizer, 1983: 106), although de Callières was denied the post of Head of Delegation. David Hannay, who wrote an interesting account on diplomacy and its negotiation processes, managed to be one of Britain's main multilateral negotiators both in the European Union COREPER and in the United Nations Security Council, but was barred from becoming Foreign Minister for political reasons – his pro-European stand – by Britain's Prime Minister Margaret Thatcher (Hannay, 2013). These academic practitioners are essential in helping academic researchers to formulate a theory of international negotiations, but the perspectives cannot be brought in line.

It is suffice here to quote Scott Burchill and Andrew Linklater in the introduction to their reader *Theories of International Relations*: 'There is no agreement about what counts as the best line of argument in any theory, and no agreement about whether their principle achievements can be combined in a unified grand theory' (Burchill and Linklater, 2009: 12). Negotiation is the tool to reach agreements where they are lacking, either through compromise, or trade-offs, or both. In academia this will not help, as science is not a matter of compliance.

