

CONTEXTUAL STRATEGIES FOR CONDUCTING EFFECTIVE NEGOTIATION

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Abstract:

Within this paper we try to argue the development of contextual strategies for conducting effective negotiation. Throughout the paper we present that the first motivation which we manage to identify is that we negotiate to improve whatever situation we are involved in. It is of great relevance to identify a few reasons for what we negotiate. Another motivation is that negotiation is an opportunity for creativity and it does allow you to fashion a solution according to, usually different kinds of facts, different fact situation so you may get to express some creativity. Negotiation is perceived as an opportunity where we can also build relationship with the other person. We can also communicate better with the other side about where they are, what they want and where they want to go. Next, we try to identify what makes for successful negotiation during each stage of the negotiation process. According to this paper there are five things which are the essence of business negotiation.

Key words: strategic management, knowledge strategies, negotiation strategies, effective negotiation

JEL classification: M10, M12, M21

1. INTRODUCTION

The negotiation process is considered one of the most important processes that are developed inside an organization from several perspectives and also with respect to the organization's relationship with the external environment. In our view, the negotiation process it is a key process with a great potential of developing an organization's competitive advantage. The role of knowledge dynamics within the negotiation process is more prominent as, according to new economic theories, knowledge has been classified as main factor of production, outrunning the original three factors: land, labor and capital. Furthermore, knowledge has become a strategic resource for the organization in the process of obtaining and sustaining the competitive advantage (Nissen, 2006). Nowadays the economic trends push the great companies to design the organizations' mission as one of value creation for the society, this being the only way of obtaining the competitive advantage, and the profit being the social feedback. (Brătianu et. al., 2012)

Most of negotiators seek to reach an agreement with the other half, and also, strive to obtain the agreement that best serves their objectives. These two main concerns are reflected in a process that consists both in negotiation and in solving problems. Many researchers and practitioners focus on such methods of efficiently solving these actions. Within previous research, emotional knowledge has been considered as a factor that obstructs performance, hindering the negotiation process efficiency. Facial expressions of cognitive and emotional knowledge may play an important role in the negotiation process. The facial expressions of cognitive knowledge and emotional knowledge transmit useful information about preferences, and may also signal aversion or negative intentions. (Brătianu et. al., 2012, Druckman, et. al., 2002)

2. CONTEXTUAL STRATEGIES FOR THE STAGES OF NEGOTIATION

During the preparation for bargaining encounters individuals spend hours on the factual issues, the legal issues, the economic issues, and the political issues. Consequently they don't award enough importance and concentration for the negotiation strategy as they spend no more than ten to fifteen minutes on developing it. In this case, when they begin their interaction, they have only three things in mind relating to their negotiation strategy: (1) where they plan to begin; (2) where they hope to end up; and (3) their bottom line. Craver (2004) explains that between their opening offer and the conclusion of their encounter, most individuals "wing it" thinking of the interaction as wholly unstructured. The author emphasizes the importance of understanding how structured bargaining transactions are, as this would reveal more clearly what to do during each stage of the process. (Craver, 2004)

Many books have been written about the stages between the decision to negotiate and the first meeting at the negotiating table. These activities, we usually find them divided into two stages or the number of steps may vary but their content is the same. Basing on a comparative analysis of literature and practice in this article, we will present some distinct stages of the negotiation process, like those presented below:

- **Pre-negotiation stage:**
 - gather information about issues that are or may be subject to negotiation;
 - gather information about participants.
- **Preparation of negotiation:**
 - analyze and interpret information
 - planning meetings and topics - setting the agenda for negotiation;
- **Effective Negotiation:**
 - scheduling meetings;
 - establishment of commonly agreed of issues raised;
 - analyze and negotiate the alternatives presented

The third step in the classical model of negotiation is the most visible part of the negotiation. According to the literature and supported by many as confirmed by practice, these steps seem to be the three main activities to be addressed by anyone willing to negotiate. Also many authors insist on the importance of the preparatory phase of the negotiations because, they say, the better you prepare, the better you negotiate. As Craver (2004) states, there is no substitute for thorough preparation when individuals have to negotiate. Information is power, and the person who is better prepared will exude an inner confidence that is likely to undermine the confidence of her less prepared adversary. People must know the relevant facts, economic issues, and, where applicable, any legal or political issues. (Craver, 2004)

First of all we should point out that when we speak about stages and steps in negotiation, we do not look at these steps in a very rigid sequence and that the next step does not start until the previous one is not over. There is, indeed, a chronological element during the negotiation process, but in our experience major problems are rarely solved completely.

In strategic negotiations, obtaining an understanding of a particular issue is not the end of the negotiation for that problem but rather opens negotiations for the next more difficult problem. Therefore, progress in negotiations should not be regarded as a rigid process neither chronologically nor in terms of problems and solutions discussed for the negotiation process must allow the ongoing review and choice in order for negotiators to return whenever to a discussed problem or a previous step.

In order to get to a description as realistic and pragmatic as possible we add the general accepted perspective of the Random House Dictionary that defines strategy as "a plan, method, or series of maneuvers for obtaining a specific goal or result". In this context we must acknowledge

that strategic approaches to negotiation have roots in mathematics, decision theory and rational choice theory, and also benefit from major contributions from the area of economics, biology, and conflict analysis. In structural approaches to negotiation theory, analysts tend to define negotiations as conflict scenarios between opponents who maintain incompatible goals. Analysts who adopt a structural approach to the study of negotiations share an emphasis on the means parties bring to a negotiation. One of the main theoretical contributions derived from the structural approach is the theory that power is the central determining factor in negotiations. Alfredson and Cungu (2008) clearly synthesize that whereas the structural approach focuses on the role of means (such as power) in negotiations, the emphasis in strategic models of negotiation is on the role of ends (goals) in determining outcomes. Strategic models are also models of rational choice.

Negotiators are viewed as rational decision makers with known alternatives who make choices guided by their calculation of which option will maximize their ends or “gains”, frequently described as ‘payoffs’. Actors choose from a ‘choice set’ of possible actions in order to try and achieve desired outcomes. Each actor has a unique ‘incentive structure’ that is comprised of a set of costs associated with different actions combined with a set of probabilities that reflect the livelihoods of different actions leading to desired outcomes. (Alfredson & Cungu, 2008, p.10)

2.1. The stage to persuade the parties to negotiate.

We consider presenting first the stage during which the parties are persuaded to negotiate or otherwise called - *the effort to bring the parties to the negotiating table*. Negotiations do not imply only contracts for the sale, rental or any other form of commercial cooperation between the parties possible. Negotiations are often addressing and resolving the disagreement between parties during the collaboration. This we will consider in presenting the effort to persuade the parties to negotiate. In this case, at least some of the participants in the negotiation act as mediators.

Before negotiations, management must determine whether a negotiated solution is more advantageous than the preservation of the present state of affairs. We believe that this phase is complex because it involves a series of inter-departmental analysis and especially a well-founded overview of the economic, social and political issues connected with negotiated issues. Also a central element of the pre-negotiation process is that the parties understand that a correct result of negotiation is possible but the ideal solution for each part cannot be obtained. Once negotiators have established their bottom lines, their aspiration levels, and their opening offers, they should take time to choreograph their impending interaction. The more they plan their impending interaction, the more they are likely to achieve their objectives. Bargainers who fail to plan adequately are likely to give in to their more prepared adversaries. (Craver, 2004)

Whenever you enter a negotiation process, it is important to understand what your own bargaining position is. It is easy to get caught up in thinking about what the other side might want or demand of us, without actively thinking about what we want from the deal, what we would live with, and what we absolutely cannot accept under any circumstances. Working out your preferred, acceptable and absolutely not-negotiable positions before entering into a negotiation will empower you to negotiate in full understanding of your goals and limits. However important it may seem, effective negotiation between the parties, the one that is most visible is only a subsequent part of a process aimed at achieving a negotiated agreement between the parties. In many cases, especially those involving political negotiations but also in cases of trade negotiations, to persuade the parties which is a form of conflict to come to the negotiating table and try obtaining an understanding consumes more time and it is more difficult than reaching agreement once the actual negotiation began.

Failure to convince the parties to a conflict as to meet to negotiate a solution often leads to problems transferring the courtroom. Negotiators media helps a lot if you manage to persuade the parties to negotiate and establish channels of communication and negotiate before they reach the courtroom. When applied properly, persuasion is potentially one of the most crucial skills in the armory of the business manager. Like power, persuasion can be a power of enormous good for our

businesses and for all other aspects of society. It can create paradigm shifts, break boundaries, embed and strengthen change and stimulate novel and constructive solutions. As a skill, persuasion is essential in effective negotiations. Fortunately, it can be developed and nurtured through specialized training. (Venter, D.)

Many theorists define negotiation and so consider that any interpersonal exchange is a kind of bargaining and negotiation elements are present even if those involved do not realize that actually negotiate. We believe that this view limits our perspective on negotiation for not at least include efforts to bring the parties to the negotiating table. Suppose that the negotiation begins once the parties are face to face and discuss solutions; this greatly limits our vision real negotiation process. In conclusion it should be stressed that (Cialdini, 2009):

- We negotiate to improve whatever situation we are involved in;
- Negotiation, broadly, is a generic process that can take place in any life relationship;
- Negotiation, in the narrow sense, is a process that takes place in business.

2.2. Pre-negotiation Stage

Simultaneously with the pre-negotiation initiatives is triggered the knowledge management approach in the negotiation process. Specifically all activities that materialize this stage represent knowledge management processes. In the initial stage, analyzing and evaluating knowledge stock then projected needs. The knowledge required but missing of negotiators heritage can be obtained in two ways: either from the outside and payed or from inside by generating / creating them. (Noah et.al., 2008)

These activities usually involve recourse to data collection, analysis of previous negotiations of that team, analyzes of negotiations on the same subject taken with other teams, expert consulting and related areas of negotiation that negotiations, consulting those who had relations the organization and / or team with whom we negotiate, gathering information on the national style of the other teams, accepting and respecting their cultural beliefs and norms, while being aware of personal mannerisms and how they are perceived by the other side of the table negotiation. (Noah et.al., 2008)

At this stage, negotiators need to form a more complete and real image about their opponents and directions for discussions to take place at the negotiating table. Collection of information, expertise and past experiences can contribute greatly to trace those directions imminent approach of negotiating certain aspects remain in the shadows, which are associated with unpredictability. Quartering on the information observation and experiences of the past and formulating a strict plan based on their does nothing to limit the negotiating team approach these and close the circle. In this impasse is to be triggered the understanding / knowledge process. (Brătianu et. al., 2012)

We start from the premise that people differ in innate or acquired attitudes of leadership, through moral education through the power of will, by stopping power unanalyzed and instinctual actions, relieving anxiety, greed, promoting initiative by courage and ability. At this stage we must realize a review of specific elements and defining personality negotiator and the typology. Negotiation involves active participation and interaction between negotiators and a thorough analysis of the defense of negotiations, previous results obtained so our team and the other teams in meetings with those who are to negotiate. Therefore, analytical approach on the negotiation process should draw on the skills and temperament and each negotiator and policy organization that is part of the socio-cultural background. (Brătianu et. al., 2012, Mueller & Curhan, 2006)

The preparation phase of negotiation includes specific actions that will contribute to the elaboration of what we refer to as contextual strategies. Negotiation must be understood as a dynamic process. Moreover we consider that the phrase 'contextual strategies' is best suitable in negotiations as it suggests flexibility and adaptability. The bottom line when speaking about a contextual strategy is that it refers rather to a dynamic style of negotiating than to complying with a specific number of steps which are chronologically ordered. 'Contextual strategies' doesn't mean to

be confused but rather to remain opened to any possible alternative of negotiation and to be thoroughly prepared for any of these. Though there is a well-defined structure of the negotiation process and a precise description of actions for each stage it is obvious that these become the battle field / the common ground for all parties in the negotiation. Any negotiator knows and applies the basics of negotiations but only some skilled negotiators would sense and exploit the variety of opportunities by being dynamic, open-minded and daring. (Mueller & Curhan, 2006) Throughout the concept of 'contextual strategies' we want to deliver the message that a negotiator must follow the rules but must bring his own 'share' to the evolution of the negotiation. Following we present the sequences of steps/actions necessary in any negotiation and we shall try to evidence the opportunities of applying contextual strategies.

A. The limits of negotiation preparation

A common definition of the preparatory phase of the negotiation is that it is a set of activities undertaken by each party having made the decision to negotiate until they reach the table of negotiation. From the definition presented we can identify at least three limitations to these activities: (1) limitations imposed by resources; (2) informational limitations; (3) cognitive limitations. We shall discuss them one by one in the following paragraphs. (Noah et.al. 2008)

Limits of the resources. All the negotiating teams at any level are limited in terms of money, time, access to documents, expertise. In reality, the negotiators cannot prepare as much as they would like and because of cost-benefit calculations. We therefore have to make decisions based on priorities and prioritize preparedness activities according to their further efficiency.

Information limitations. Even assuming that we all have huge resources we cannot get everything we want in the preparation phase of negotiation. The reasons could be:

- Negotiation is complex and we cannot predict from the beginning all variants that the negotiation will evolve (we consider only the endogenous factors negotiation);
- Negotiation is a process marked by a high degree of uncertainty and we cannot know exactly all exogenous factors that can influence (political, social, climatic, etc.);
- In negotiation we cannot learn everything about their opponents because parties often engage in a game of incorrect and incomplete disclosure of information to mislead the other party analysis.

Cognitive limitations. Perhaps these are the most important because it threatens to greatly restrict the amount and quality of information collected. The negotiators managed to attract better prepared, more efficient so we can push these limits as far away so that the limited amount of information collected to analyze how we can get better and be updated and used as efficiently as possible in the negotiation. (Kressel et. al., 2004, De Dreu et. al., 2000)

B. Internal Negotiation

One of the obstacles is the inability sometimes for one or both parties to organize the negotiation. This lack of organization may also lack the mandate given by senior management to negotiate, missing or incorrect definition of the limits of negotiation.

Preparing negotiation is still a negotiation process internally with their team members with senior management in order to reach a consensus on the objectives of the negotiation, negotiation limits and to reach a consensus regarding external negotiation (negotiation between the parties). This process of internal negotiation greatly helps in the process of taking the results of the negotiation and implementation variant finally negotiated. Reason for this is that as long as everyone involved in a negotiation and belonging to one party agrees negotiating objectives and bargaining result is within the acceptable negotiated solution and will assume its implementation will be much easier.

C. Defining the issues to be negotiated

The way we define the issues to be negotiated greatly influence the outcome of negotiations and especially our efforts on the issues. In most cases the problems addressed in the negotiations, both sides are interested to solve them. But not necessarily. We meet topics in negotiations when one party wants to enter the negotiation process and the other part is satisfied with the existing state of affairs regarding the matter. To succeed in reaching consensus or a majority of opinions in defining the issues under negotiation is an absolutely necessary prelude to a major negotiation.

Trying to sit at the negotiating table before the parties share common definitions, or at least close of problems will be subject to negotiation, can only lead to failure of the process.

Efforts to address constructively the issues subject to negotiation process should begin with efforts to establish a common definition or at least complementary issues that will be negotiated. Parties must establish at least that they negotiate the same problems. If different aspects, different views on an issue do not start to overlap it is unlikely that real negotiations begin and even if these negotiations start, those who have very different opinions usually will use delaying tactics of negotiation as a means of blocking them.

D. Defining BATNA

In the paper "Getting to yes" (Fisher et al., 2011) is presented for the first time the concept of BATNA (Best Alternative to a Negotiated Agreement). This concept involves finding before negotiating an alternative, if the minimum results we intended are not obtained. In other words if we are negotiating with more powerful parties then preparing the BATNA will insure some rescue opportunities to be invoked. The strategy of applying the BATNA will give us the change to gain something instead of nothing. BATNA as a negotiating tool may be used as it follows:

- when the negotiation is in the area below the expected level of results it might be effective the presentation (suggestion of variant) BATNA to our opponents. If we can have a clearer version of BATNA, and our opponents are genuinely aware, our warning that we leave the negotiation becomes more credible and can help improve the conditions negotiated;
- when the BATNA is a lower version than the minimum offer of our negotiation counterpart (our opponents already exceeded our BATNA) the threshold of BATNA is advisable not to be mentioned.

The motivation for which determining the BATNA is so important is that it will show us in negotiation what is the minimum possible outcomes of acceptance for the other party. (Fisher et al., 2011)

2.3. Effective Negotiation

Effective negotiation may be best achieved through principled negotiating rather than positional bargaining. For example, haggling over a price is a typical case of positional bargaining. Positional bargaining does not tend to produce good agreements. It is an inefficient means of reaching agreements, and the agreements tend to neglect the parties' interests. It encourages stubbornness and so tends to harm the parties' relationship. (Kressel et. al., 2004, De Dreu et. al., 2000)

In order to conduct an effective negotiation we must apply the following four principles: (1) separate the people from the problem; (2) focus on interests rather than positions; (3) generate a variety of options before settling on an agreement; (4) insist that the agreement be based on objective criteria. The process of principled negotiation can be used effectively on almost any type of dispute. (Fisher et al., 2011)

There are many arguments for which we consider that applying the principles of effective negotiation is a better strategy than following the basic steps of a traditional negotiation. In general the course of a negotiation starts with the contact stage. Most business people are negotiating about: getting the best price, getting the most attractive terms, making sure that whatever time frames for execution or deliverables are acceptable, making sure the warranties are in place and then if the things go wrong, they have got remedies. They might be legal remedies; they might be economic remedies or a combination of both. Those five things may be considered the essence of business negotiation. Most of business negotiators are focused on getting what they want systematically checking those five areas and generally, negotiators don't think more broadly than that.

Effective negotiation between the parties usually starts with the negotiation agenda of issues to be examined. This stage should be regarded as a mini-negotiation about the "what" and "how" we'll be negotiated. At this point we must consider three aspects: First of all the problem definition of subjects to negotiation should be done in such a way as to be able to get the agreement of

principles between the parties. This will cast later an agreement between the parties. (Friedman, et. al., 2004) The next stage to follow is solving the logistic problems about the negotiation. Here it will be taken into account the information gathered in the previous step, information relating to cultural, religious and social aspects of the members of the negotiation teams. For example, it will be analyzed the seats where will be placed the team members, the position and shape of the negotiation table, the dressing code approached, the negotiating program (breaks, days of negotiation, number of hours) and other many possible symbols in negotiations. (Kressel et. al., 2004)

A second critical point, is to make sure that the parties trust each other and more important that the counter parties do trust us. To gain access to quality results it is recommended that negotiators convince the other side of three aspects: a. "morality and ethics of business; b. power - we know the situation was negotiated, we know market and business environment; c. power of decision - do we have the right, within certain limits, to make a decision. (Friedman, et. al., 2004, Van Kleef et. al., 2006)

Thirdly we should define BATNA. Fisher, Ury and Patton (Fisher et. al. 2011) have demonstrated that negotiators who have been in a meeting with a BATNA correctly and clearly defined had superior results than those who did not have any alternative as defined for the negotiation. At this point we would add that it is also important to define (estimate), as far as possible the adverse team BATNA - because many negotiators go to the meeting with their own agenda. Identify agenda, options and limits of adverse team is extremely important because we can have a good overview of the negotiation process. Negotiators decide in advance of actual negotiations to reject any proposal below that line. Because the bottom line figure is decided upon in advance of discussions, the figure may be arbitrary or unrealistic. Having already committed oneself to a rigid bottom line also inhibits inventiveness in generating options. (Fisher et al., 2011)

At this point we want to emphasize that these principles of effective negotiating should be observed at each stage of the negotiation process and to be applied with flexibility and adaptability. The process begins with the analysis of the situation or problem, of the other parties' interests and perceptions, and of the existing options. The next stage is to plan ways of responding to the situation and the other parties. Finally, the parties discuss the problem trying to find a solution on which they can agree. A good agreement is one which is wise and efficient, and which improves both parties' relationship. Wise agreements satisfy both parties' interests and are fair and lasting. The overall goal is to develop a method for reaching good agreements. (Fisher et al., 2011)

3. PRACTICAL TECHNIQUES FOR NEGOTIATING

The main purpose of negotiation is to create a situation of bilateral gain in such a way that we and the other team, when we finish this process all of us will have the feeling that we have won. This can be done, principally through creative techniques and by continues efforts to strengthen relations with the other party. Effective negotiation may be structured in three steps of action: (I) Stage of contact, (II) Intermediate stage of negotiation, (III) Concluding stage of the negotiation. We shall do a short presentation of each one of them in the scope of pointing the practical techniques available. (Brett et. al, 2007)

Opening negotiation. At this moment we should know very well what we have to do in the initial phase of the contact with the other team and to ensure that we establish premises of a successful negotiation and that the negotiation process moves forward. We will find out that each step is dependent on the atmosphere created at this stage. We must set our objectives, demands and attitude using a well-developed plan set in previous stages of the negotiation process. At this stage shall be determined the range of negotiation. This is the moment when both parties shall submit their demands. It is recommended that they are higher than objectives. The main reasons for this technique would be: - you may be able to get what you asked for; - you leave space for negotiation; - you increase the perceived value of what you offer; - it helps prevent situations with "no way out"

in negotiations; - when you begin to make concessions, it will create a climate in which our opponents will feel that they have won something. (Brett et. al, 2007)

Effective Negotiation. At this stage will appear different obstacles, each request and concession of the parties influences the negotiation. At this stage appears the pressure made by the parties on the other team. This is the moment when we are often placed in situations of conflict management and we try to avoid dispute situations that are not part of our strategy. Generally the best way to deal with these problems is to prevent them from arising. Conflict issues are less likely to come up if the parties have a good relationship, and think of each other as partners in negotiation rather than as adversaries. It depends on our experience in negotiating to avoid conflict situations and offensive negotiation techniques focused against us (superior authority, pressure of time, the temptation to divide the difference, etc.) (Brett et. al, 2007)

At this stage, usually, we can realize if we are negotiating with people who have the authority to decide. Negotiations with persons who do not have the authority to decide it is more difficult to handle, because you don't have to convince only that person but also you must convert it into your ally in order to give more chances of success for your proposal when it is submitted to the higher authority. (Brătianu et. al., 2012, Van Kleef et. al., 2006)

Concluding the negotiation

In practice we have the opportunity to meet negotiators proud of their skills. If they did not get exactly what they promised to the higher authority, they will have a tendency to refuse to close negotiations even if the variant was negotiated is correct and meets their needs (is above BATNA). Usually, at the end of negotiating it is advisable that we can make a concession and the situation might be saved. (Fisher, et. al., 2011, Brett, et. al., 2007) As far as possible, after each negotiated issue it helps to be filled in a draft contract in order to be sure that it has been correctly understood by the parties and further conveyed. Also, the more agreements within a direct negotiation the easier it gets to obtain the next “yes” and this way is created the sensation that whole negotiation is proceeding to a final solution acceptable to both sides. (Noah, et. al., 2008)

4. CONCLUSIONS

We finally reached the conclusion that ‘contextual strategies’ in the negotiation process are those which best serve the negotiator interests in order to run a successful negotiation. In many cases, a great source of help are the principles of effective negotiation. We argued through the paper that taking into account the potential of these principles and exploiting them accordingly would bring undoubtedly, step by step, the success for any negotiator.

As a general rule, in the economy, specialists aim to elementary indices of performance such as: business profit, business turnover or the trend of the two in the course of time. Performance always must be measured in order to be evaluated. The analysis of economic indicators shows performance or its lack for an organization. In both cases, whether speculative or long term, performance is obtained by people. Preparing, their quality and determination are decisive factors to achieve performance. In negotiation we may add several variables for measuring performance. Of course profits and turnover shall remain the most important but there are to be added the long term relationship established with the partners because in a negotiation we can get the best out of the profit but most often that it is the last round of negotiations with the partner in question because if he do not feel that he have won, will never want to do business with us again.

Negotiation is not a linear process any longer, to plan and then apply the procedures and negotiation techniques but became a succession of cycles of gathering information and planning the next stage of negotiation (the next meeting), exactly as we present the option as we observe the opponent side, how we adapt our speech and the offer depending on the reactions observed and still respecting previous planning.

Negotiation is an opportunity for creativity and it does allow you to fashion solution according to, usually different kinds of facts, different fact situation so you get to express some creativity. Negotiation is also an opportunity where we can also build relationship with the other

person. We can also communicate better with the other site about where they are, what they want and where they want to go. In conclusion we have to evaluate any possible opportunity to reach a good agreement at the end of any negotiation.

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