

How to Conduct Successful Negotiations

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In this EDA Reflection, Baroness Cathy Ashton, former EU High Representative for Foreign Affairs and Security Policy, highlights some key lessons from her experience of negotiations, and identifies the importance of understanding *who* needs to be involved in the negotiation, *how* to manage the process, and *what* outcomes you want.

Everyone negotiates. For most people the major negotiations take place with friends and family or in their business life. For diplomats negotiation can be a fundamental part of their work, whether on trade, issues of peace and security, working out the detail of a major visit or deciding on appointments in international organisations. There are lots of examples where the skill of negotiation will be important to achieve the best outcome.

Similarly mediation between parties has become an increasingly important part of the diplomatic toolkit. A third party able to stay independent from the problem but help guide those who are looking for help to reach a solution can be invaluable.

In today's diplomacy these skills are becoming core to the work of a diplomat. The challenge, then, is to know how to set up a negotiation – or a mediation – that has the best chance of success. That relies on a good process that is designed to make the possibility of success more likely – though never guaranteed.

Creating the best process relies on answering the questions:

- Who is involved in this negotiation?
- How are you going to take the negotiation forward?
- What are the outcomes you want?

Who?

It may seem obvious that the people involved are the two or more sides who need to reach a resolution. However in many negotiations there are more parties involved than those in the room. In international negotiations there are often external parties who need to be confident in the outcome and it is important that they are identified and a plan made to either keep them in touch regularly or to brief them at the end of the negotiation. Each situation will require a different response. Having good communicators both to third parties and to the media or interested groups can help to keep momentum and support.

For those actually conducting the negotiation it is important that they are able to make decisions, or at least are clear about how decisions will be taken. It is not unheard of for negotiations to fail because someone cannot take a decision or speak on behalf of their country or organisation. So understanding the mandate of everyone involved and organizing the practical side of the negotiation process is important.

For example, if on certain key issues everyone needs to consult their capitals then an international negotiation will need to build in extra time to allow this to happen, to allow for reporting back and for agreement between the parties on each side as to what their collective position now is.

Some negotiations require expertise that diplomats will not have – usually technical in nature. Making sure that the right level of technical expertise is available will make the negotiations smoother and prevent unnecessary delay if momentum gathers towards an agreement. This is as relevant on climate change as on nuclear technology. In negotiations it is not unusual for new ideas to be put forward that need to be tested and discussed. All of this takes time.

How?

Every negotiation is different and there are no hard and fast rules for how you conduct the talks. Some successful negotiations have worked because very small groups – even just one person on each side – have been able to work through their differences with help from a mediator. In most

negotiations it is really vital to have space to try out new ideas - to allow for conversations to take new directions, without fear that these ideas will find themselves in the media or being discussed by a wider group.

Before beginning the negotiation it is important to establish the parameters of your own team. To know what is acceptable, what is a red line that cannot be crossed, what matters most and whether there is room for manoeuvre, means that the team can work together comfortably knowing what each other thinks and needs.

Although negotiations may seem very straightforward in terms of the objectives, there needs to be a process to check where you are and how to go forward. Building this review process in is core to the success. From time to time negotiators will take different views about the importance of an issue and working through where each is on key points will help to keep things on track.

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Negotiations have a rhythm. Providing a degree of certainty to the process enables those participating to settle into their work more easily. Using the same location and the same rooms helps everyone to get moving more quickly because of their familiarity. Using informal opening sessions or meeting over a meal can help, especially when new ideas need to be tested, or there is a need to talk more informally.

Time matters. For complex discussions there may be little advantage in short meetings as by the time you get into the detail the meeting is over. Be prepared to put several days aside to work on key issues and allow space in those days to work through ideas. For other negotiations it is important to keep a brisk businesslike pace and not waste time. Choosing and reviewing the process and making changes to reflect the need of the negotiation can help move things along or allow time for more reflective work.

During any negotiation there will be disputes that hold up or stop the talks. Building in time so that you can break off for some hours or allow the problem to blow over or deal with it outside the formality of the debate will help. But anyone engaging in a negotiation needs to recognize that they will need to make the necessary time commitment – probably more than they had expected.

In international negotiations using different languages it is also important to ensure there is no ambiguity or legal uncertainty for any of the participants.

What?

At the outset it is important to work out what you want from the negotiation. This should establish the clear parameters of what you are trying to do. It is not unusual, especially in major negotiations, for the parties to want to add on other issues, or for pressure to be applied to add additional points into the negotiation. For that reason it is crucial to be clear what you are trying to do and to communicate that effectively from the start. Being clear about what the negotiation is *not* about helps to deflect criticism and prevent misunderstanding.

This doesn't mean that every aspect of the negotiation will be clear. Especially in technical negotiations there will be choices about how you get to the result you want. It is like a jigsaw puzzle. When the puzzle is complete you can see clearly what the picture is. You can see what success looks like. The pieces of the puzzle will be different shapes and sizes. It is possible to end up with a picture made up of different shaped pieces than the ones you might have predicted at the beginning.

For example, if a party to the negotiation makes a big concession in one area, that may allow for a smaller concession on something else. So one piece becomes bigger than the other. Challenges to the negotiators arise when one party or another, or an outside party, is concerned about one piece only and may be unwilling to see that changed or conceded.

Throughout the process, therefore, it is crucial to keep reviewing with the team where you are in relation to the outcomes you require. In complex negotiations there can be confusion about exactly what the latest position is. This is particularly true when a negotiation moves quickly. Practical points like numbering papers or recording decisions matter if there is a chance that a key point will be missed. Going back over a point that has been agreed can lead to the collapse of the negotiation and a declaration of bad faith.

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Sometimes negotiations don't complete every part of the negotiating plan. In many cases this doesn't matter very much as long as progress has been made and both sides believe they have moved forward. But in some cases this requires reflection on the fundamental point of whether this negotiation has been successful. That means going back to the decisions made at the beginning and considering whether to continue, to pause or to take what has been done so far, and allow for a further different negotiation in the future.