****

**Negotiation Delegation Roles, Responsibilities, & Strategies (with a Focus on Multi-Track Negotiations)**

**Speaker’s Notes**

|  |
| --- |
| **Introduction** |

**The Purpose of This Discussion**

* The purpose of this discussion is to identify some of the best practices for building a negotiating delegation, establishing roles and responsibilities for members of that delegation, and working collaboratively within a delegation to build consensus and pursue negotiating strategies.

|  |
| --- |
| **1 – Building a Delegation** |

**Selecting Delegates to Build a Delegation**

* Once a party decides that it will engage in negotiations, the first step usually is construction of a negotiation team.
* Effective negotiation delegations comprise individuals that help a party to attain its goals and achieve success.

**Considerations for Selecting Delegates**

* A delegation includes people who:
  + (1) have negotiations experience;
  + (2) have knowledge, or who can become knowledgeable about, the parties, issues, and interests involved, particularly for their respective track(s); and
  + (3) have the means and desire to be involved in the negotiation process.
* Additionally, a delegation may also include individuals based on considerations of:
  + (1) internal political dynamics;
  + (2) an individual’s representation of a particular key constituency; and
  + (3) individual ability to compromise and adapt personal positions based on the delegation’s overall needs.

|  |
| --- |
| **2 – Assigning Delegation Roles & Training Delegates** |

**Clearly Defined Roles & Hierarchy**

* Delegation roles are the specific roles a negotiating party assigns to the individual members of its delegation.
* Assigning clearly defined roles, responsibilities, and ranks to party members will enhance the party’s effectiveness.
  + A well-planned negotiation strategy can break down if a delegation’s roles are unclear and its delegation approaches the negotiations in a disorderly manner.
* Delegations with comparably limited resources generally feature a clear organizational structure and an appointed chief negotiator responsible for making key decisions.
* Members may have multiple roles, and some roles may be duplicated.
* State practice also indicates that the most effective delegations employ hierarchical structures, which are especially important in multi-track negotiations where the ability to maintain control and consistency across tracks is a paramount concern.

**Specific Roles Commonly Comprising a Negotiation Delegation**

* Key formal delegation roles include:
  + Chairperson
    - The chairperson holds overall authority for the negotiations on behalf of the party and acts as the “team captain” for the delegation.
    - The chairperson may not always be at the table during negotiations.
    - While the chairperson role may be combined with the role of chief negotiator or spokesperson in some single-track negotiations, parties to ***multi-track*** negotiations typically have a chairperson that organizes and oversees all delegation activities, across tracks, to ensure each delegate fulfills his/her specific roles and stays on track of the party’s goals throughout negotiations.
  + Chief Negotiator
    - For ***multi-track*** negotiations, it is common for each track to have a chief negotiator, whose role it is to directly engage in negotiations and speak on behalf of the delegation for his/her respective track.
    - The chief negotiator for a track will also typically have certain decision-making authorities with regards to his/her respective track, subject to the oversight of the Chairperson and in accordance with the delegation’s overall strategy and mandate.
  + Spokesperson
    - If only one member speaks for the party at all times, it will be easier to send a consistent message and preserve the negotiation strategy.
    - While a delegation may combine the roles of Chief Negotiator and Spokesperson for single-track negotiations, parties to ***multi-track*** negotiations often designate a single delegate to speak on behalf of the entire delegation—across all tracks—to external persons.
  + Technical Expert(s)
    - The technical experts are responsible for understanding and explaining key issues to other members of the team based on their specialized understanding of a topic.
    - Experts with drafting experience can better help their team articulate key issues.
    - For ***multi-track*** negotiations, delegations may have different technical experts assigned to each track, or may have the same experts join each track, based on the needs and logistical constraints of the negotiations.
    - Topic-specific sub-committees may be formed around technical experts.
    - The technical experts should be at the table to assess the technological and practical feasibility of proposed solutions.
  + Drafter
    - The drafter is responsible for drafting the delegation’s messages in documents, such as proposals, for the delegation or for distribution to other parties and at the negotiation table.
    - While delegations operating across ***multiple tracks*** may have different drafters for each track, it can be helpful to designate a master drafter or drafting coordinator to ensure consistency in the drafting across tracks.
  + Red Team Strategist
    - The red team strategist is an expert on the goals, strengths, and negotiation strategies of other delegations.
    - For ***multi-track*** negotiations, delegations often choose different red team strategists for each track to assess and analyze the elements of other parties’ track-specific strategies or proposals.
  + Person of Influence
    - A person of influence is someone who is commonly respected among all parties at the negotiation table
    - Different negotiating ***tracks*** may also require different persons of influence, depending on the parties involved.
  + Antagonist
    - The antagonist is typically a religious, military, or academic figure who questions opposing positions from a moral perspective.
    - The antagonist should be the most rational and least emotional person on the delegation. The antagonist seldom takes the field and does so only at the direction of the Chairperson.
  + Scribe
    - The scribe documents verbal communication, including stated positions and concessions, as well as facial expressions, gestures, and other physical responses.
    - Typically, the scribe does not have any other role in the negotiating room.
  + Backchannel Negotiator
    - The backchannel negotiator communicates informally with other parties and groups, outside of formal negotiation sessions.
    - The communication is discrete and behind the scenes, and many parties choose back channel negotiators who are ‘friends’ of another party so they can more easily facilitate informal discussions.
    - ***Multi-track*** negotiations with different parties engaged on each track may necessitate the use of multiple backchannel negotiators.

**Training Delegation Members**

* This involves preparing the delegation through negotiation simulations, working group assignments, and research.
* Moreover, successful delegations ensure that all its members are trained on the same negotiating skills and techniques so that they can be consistent throughout the negotiations.

|  |
| --- |
| **3 – Determining the Size, Composition, and Representation of a Delegation** |

**Carefully Consider Size and Composition**

* A delegation may wish to have certain members at the negotiation table or keep some away to meet the delegation’s objectives.
* Sometimes, a party will base the size and composition of its own delegation on that of the other parties so that the appropriate people from each delegation are present and that the delegations are properly balanced.
* Parties engaged in ***multiple tracks*** of negotiation have further considerations for the size and composition of their delegation, as well as how the delegation is represented across multiple tracks.
  + Some delegates may have multiple roles across different tracks, some roles may be duplicated for each track, and there may need for specialized roles to supervise or coordinate across tracks.

**Representation Across Multiple Tracks**

* When considering how a delegation will be represented across multiple tracks—i.e., which members of a delegation will sit at the table for each individual track—it is important to ensure that the stature and decision-making authority of the members are comparable to those of other delegation members at the table for that track.
* It might be strategically disadvantageous for a party to have its highest-ranking member at the negotiating table when other party leaders are not present at the table.
* If a delegation has extensive high-level representation on one track, but only lower level representation on another track, the party may give an impression that the tracks are not equally important.

**Establishing Internal Rules of Procedure**

* Internal rules, procedures, and communications guidelines can be particularly important for ensuring a delegation’s consistent actions across multiple negotiating tracks.

**Changing Delegation Member and Roles**

* It may be beneficial or even necessary for parties to change the members of their negotiating delegations or their roles.
* Parties might change the members or roles of their delegations to help overcome a stalemate caused by a conflict of personalities or when a delegation member loses credibility and is no longer an effective representative of the party.
* In ***multi-track*** negotiations, delegations may also change which tracks certain members are engaged in, based on their performance in other tracks.
  + Having a new delegation member take the lead on a particular topic or take over a specific role, sometimes across all tracks, can be a pre-planned strategy that delegations can use to either emphasize or deemphasize the importance of a particular topic in negotiations.
* Changing delegation roles can bring a new perspective and voice to the table, which can alter the dynamic in favor of a delegation.
* Making unplanned changes to a delegation’s initial strategy, including changes to members’ roles, is a major step that requires careful consideration and discussion among delegation members.

|  |
| --- |
| **6 – Building Internal Consensus Within a Delegation** |

**Ensure all members of the delegation are briefed on the negotiation process and the interests of constituents**

* To implement its strategy successfully, a party must maintain consensus among its members. Other parties will see lack of consensus as a weakness to be exploited.
* The party can begin to generate ideas by answering questions such as the following:
  + Why are we here?
  + Is there a formal process for negotiations?
  + What do we agree on?
  + Where do we disagree?
  + How will we resolve this?
* Everyone will need to be fully briefed on your positions
  + Think through the first few levels of argument and counter-argument to be prepared fully
* It is helpful if the members’ answers focus on their general interests and desires, rather than on their desired outcome for the negotiations.
* One way to do this in the team is to have members write down ideas in one place where all can see them.
  + Afterwards, the party can then evaluate the good and bad aspects of each idea.
  + Ideas with more support can move to the top of the list, and the least supported ideas can be eliminated.
  + The party can then use these ideas as the basis for goals and strategies and prioritize them collaboratively.

**Identify and map core interests**

* Interest-Based vs. Position-Based Negotiation
* Do interest-based bargaining not position-based negotiation.
  + Interests are based on your needs, such as self-defense, national unity, economic growth.
  + Positions are merely the strategies for meeting those needs and interests. Therefore, while positions may conflict, there will likely be common interests and needs.
  + In internal discussions, party members should focus on their general *interests (needs and fears)*, rather than on issues alone or their desired outcome(s) for the negotiations.
  + One way to think about this is as an ONION
    - Outside Layer: POSITIONS - what we say we want
      * Often concrete, OR related to beliefs and ideologies, which are not negotiable
    - Middle Layer: INTERESTS - what we really want
      * This is *different* than hidden agendas – which are another form of *positions*
    - Inside Layer: NEEDS and FEARS - what we must have or can’t have
* Identify your own first.
  + All desired outcomes, or positions, should be linked to interests.
  + This allows the party to envision the full context and framework for developing its negotiation strategy.
* Then identify core interests of other parties:
  + Internal third parties;
  + The opposing party (or parties); and
  + Other third parties (such as states or internationals).
  + Predict other parties’ potential positions *and* provide context for planning how to react/respond to other parties’ positions.
* *EX 🡪 Nepal:* Maoists wanted parliament to oversee judiciary; NC wanted fiercely independent away from political manipulation – ALL wanted a judiciary that was fair and accountable to the people

**Develop a Best Alternative to a Negotiated Agreement (BATNA)**

* A negotiating party often has an alternative plan, which negotiating strategists refer to as a BATNA—the best alternative to a negotiated agreement.
* A BATNA is a flexible standard against which proposed settlements might be measured. It may also help the party determine the most successful negotiation strategy.
* A BATNA varies from negotiation to negotiation. In some instances, a party may wish to simply temporarily withdrawal from a negotiating session. In others, the party may walk out of the negotiations all together and pursue an alternative venue. Finally, in certain circumstances, a party may choose to return to conflict rather than continue negotiations.
* It is important to develop the BATNA prior to negotiations. To do this, the party takes several steps:

1. Determine all available alternative options;
2. Prioritize the available options; and
3. Realistically estimate the other party’s options.

**Determine where you can compromise and where you cannot**

* This is also referred to as establishing “red lines” or points of resistance.
* Identify the minimum requirements for peace from the perspective of your party or group.
* Then identify the minimum requirements of the other parties.
* With this information, craft a proposal “they can’t refuse”.
* Think about optics here – appearing to compromise on some points will be a good media strategy in some cases

|  |
| --- |
| **7 – Establishing a Process and Strategy for Negotiations** |

**Identify process for negotiations**

* Each negotiation is unique. Before you go into them, you should:
* Establish a timeline for developing a proposal, develop ground rules, determine venue, set the agenda
* What are the ground rules for who communicates formally between the parties? Do we come up with a communiqué at the end of every meeting, are we free to talk to the media?
* Establish a plan for outreach to the other parties or groups
* Determine who will be in the negotiating room
* Establish ground rules for interaction between the parties during negotiations and with parties that are not in the room.
  + Will these be direct talks?
  + Will there be a facilitator?
  + How will the delegation communicate with outside actors?
    - For example, if a ceasefire agreement is reached, how will the delegation communicate this to the military?

**Options for the Form of Negotiations**

* The parties have several options when choosing the form of the negotiations.
* Shuttle Mediation - mediator meets with one party at a time concerning specific issues.
  + Beneficially, it increases the level of communication between the parties without the accompanying presentation of anger, hostility, or distrust.
  + The parties may use this mediator to test their positions and clarify them for settlement.
  + Shuttle mediation works particularly well where the parties refuse to meet directly, since it opens up an avenue to communication and resolution.
  + In proximity talks, probably most effective for the quick discussion or resolution, the parties are in the same or adjacent buildings, and the mediator shuttles between them.
* Bilateral Discussion – Face to face talks
  + The benefit of direct negotiation is precision and ease of communication.
  + In face-to-face talks, the parties will be able to define for themselves the priorities of the other side, incrementally increase trust, and establish a working relationship for the eventual resolution of the conflict.
* Large-Scale Conferences
  + Most appropriate for initiating the conference and presenting the final agreement.
* Summits of Key Spokespersons
  + Useful for dealing with key issues, since the highest officials generally can immediately accept or deny any agreement.
  + One shortcoming is that the public nature of the proceedings presents high pressure on the participants to reach agreement.
* Roundtable (“Plenary”) Discussions - Large formal gatherings of the representatives and mediators, used to explore positions on issues and receptivity to dialogue on issues.
  + Plenaries are useful to formalize the agreement of sub-issues on the agenda, and as such, they are most useful in combination with subcommittee decisions.
  + On their own, they still can result in agreements.
  + However, the size of the proceedings and the formality of the dialogue are not very advantageous to settlement.
* Sub-committee or working group discussions - Smaller, less formal proceedings, which facilitate substantive negotiation over specific sub-issues.
  + Generally, all parties have representation in the subcommittee discussions.
  + As a benefit, there is less complexity because the committees negotiate specific items on the agenda.
  + However, a shortcoming is that compromises are harder to obtain because the representatives of a specific issue generally will not negotiate all the sub-issues. This results in trust issues where one party compromises, with the promise of the other party to concede on a different issue, but where it is uncertain that the second party has authority to effect that concession.
  + The subcommittee decisions are most useful when the plenaries or roundtable discussions need to formally accept or endorse the decisions, and where they can negotiate further compromises if necessary.
* Disaggregation - Mix of the roundtable dialogue with the subcommittee discussions.
  + Here, the plenary sessions delegate certain sub-issues to the subcommittees, who report to the larger, more formal forum.
  + Then, the plenary session formalizes the negotiations of the subcommittees.
  + Best where the subcommittees reach mutual decisions, since negotiations at the plenary level are more difficult, complex, and formal.
  + What to do where there is no agreement:
    - Option 1: Put forth alternative proposals to the plenary session.
    - Option 2: Produce majority and minority reports, and the plenary session would decide what exactly to adopt, if anything.

**Clarify role of external facilitators or mediators**

* The mediator works closely with all parties and has intimate knowledge of each party’s positions.
* A mediator can serve as an effective advocate or a credible and un-emotional messenger for negotiating parties. Through an effective opening statement, a party can try to convince the mediator that its position is morally or legally preferable. A sympathetic mediator who is seen by other parties as neutral and detached can be a strong ally.
* Needs to be objective, but credible.
* Always want to have an informal facilitator as well.

**Develop a process for communication and coordination within your delegation**

* How will your delegation communicate within the negotiations?
* Will the delegation have morning and evening meetings?
* How will the delegation communicate before and after negotiations – via email, etc.

**Establish high-level back channel means of communication among the parties.**

* This involves identifying appropriate individuals to serve this function.
* Someone high level that is respected by both sides.
* Once individuals are identified, you must then secure approval of all parties and formal facilitators.
* After approving the individuals who are responsible for maintaining the back channel, you then establish a process for back-channel communication.
* The back channels are then used to test possible points of compromise

**Develop a general negotiating strategy**  -

* To develop an understanding of what it desires, the negotiating team may wish to develop:
* a complete understanding of the context of the conflict;
* the potential demands of the other parties;
* the potential demands of the international community and/or mediators; and
* the options available to the parties.

There are two general models for negotiation strategies:

* The Dual Concern Model
  + This model predicts strategy and encourages problem-solving.
  + In this model, the delegation would be concerned about both its outcome as well as that of the government and the opposition. Thus, the delegation would understand what agreements both parties would accept, and what agreement likely will result from the negotiation.
  + Then, it would determine what strategies each delegation would pursue to achieve its positions. As a result, the delegation will be able to develop a strategy tailored to the other parties’ approaches.
  + The benefit in understanding the positions of the other parties is that the delegation can identify what concessions the other parties likely can make, and it can strategize to force the other parties to make those concessions. As a further benefit, showing concern for the other parties’ positions will increase good relations between the negotiators, leading to joint problem-solving strategies.
* The Feasibility Strategy
  + The Feasibility strategy (i) determines the actual capability of achieving the goals of the party and (ii) solves the concerns that gave rise to the conflict. The overall goal with this strategy is to increase the Perceived Common Ground (PCG) of the parties, or the points, positions, and issues the parties agree upon, which also increases the capability of negotiating a formal, acceptable agreement.
  + The level of PCG determines how likely the parties will find a mutually satisfactory solution – the more common ground between the parties, the more likely they will reach agreement.

|  |
| --- |
| **8 – Assessing Readiness to Negotiate** |

Although overlooked easily, in order to conclude negotiations in a beneficial agreement, the party and its delegation must be ready to negotiate.

* Generally, a negotiating team is ready to negotiate when it is:
  + unified;
  + able to speak with authority;
  + legitimate;
  + representative of the regional actors / players;
  + knowledgeable and informed; and
  + reasonably experienced.
* Further, readiness to negotiate necessitates knowledge of one’s goals and positions, and the extent that it would depart from those positions.
* Unity of Purpose: Presenting a unified front is an important aspect of concluding a successful negotiation.
  + In general, the absence of unity allows the party’s counterparts to divide the party into factions and influence the factions in different directions.
* Goal Clarification:A negotiation team, especially one that will attempt to secure an agreement with a government that has considerably more resources and expertise, should be as prepared as possible from the first contact with the other party.
  + Most importantly, the establishment and clarification of one’s political agenda permits the team to negotiate with precision.
  + The failure to clarify one’s goals can disrupt or destroy the negotiations process, as it leads to stalling or impasses, where one party needs time to determine what it seeks.
  + Even worse and more likely, the government can take advantage of unclear goals to present a unilaterally beneficial solution to an issue, and owing to the absence of any alternative solution, it can pressure or force acceptance of the solution. This is particularly true where there is a definite agenda with predetermined deadlines.
  + With a developed political agenda, the team can demand precisely what it desires, understand what concessions it can make, and thoughtfully pronounce what concessions it wishes the government to make.

**CLEARANCES – As of 11/14/19**

|  |  |  |
| --- | --- | --- |
|  | **NAME** | **DATE** |
| **Drafting & Sourcing** |  |  |
| Initial Drafting / Compilation | Danny | 11/14/19 |
| Existing PILPG Sources Drawn From | * *PILPG Negotiation Skills Training - Speakers Notes - In the Room 1 & 2* * *PILPG - Briefing Paper - Considerations and Strategies for Parties Negotiating Across Multiple Tracks - 11.06.19* * *SUCCESS CSO Training - Speakers Notes - Negotiation Preparation I & 2* |  |
|  |  |  |
| **Editing** |  |  |
| Initial Editor(s) |  |  |
| Additional Editor(s) |  |  |
|  |  |  |
| **Finalization** |  |  |
| **Any Additional Review** |  |  |