

GROUND RULES IN NEGOTIATIONS

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Abstract

Negotiation strategies and tactics comprise all the objectives included in the negotiation process, ways and means to achieve these objectives, the means available, such as: conjuncture, possible actions, own resources; and the strategies most commonly used are: stimulus - response, and have the following objectives: awakening attention, stimulating attention, desire to own the product, determine the client to buy or sell.

Key words: negotiation, strategy, tactics.

INTRODUCTION

The art of an individual or of a team to settle a business in favor of an individual or of a company in order to obtain advantages for one of the parties and also to satisfy the other party, or the advantage and the satisfaction of both parties (Hall A., 1966).

MATERIAL AND METHOD

The negotiations between commercial partners arise from the necessity of establishing the contract prices on the basis of the characteristic world prices, which are objectively imposed, by the international value law in the demand-offer confrontation.

The world price thus becomes the references point when negotiating the contractual price. "One does not produce and sell what one can, but one produce and sells what is demanded on the world market" (Biberi I., 1972).

When negotiating contracts, each partner would like them to conform to the commercial law norms of the country each partner belongs to.

This conflicting situation can be solved by applying the international commercial law uniform norms, as well as the international customs acknowledged by the states participating in the international commerce and settled by INCOTERMS 1990: rules concerning delivery terms and bills of sale for some basic products, rules concerning transportation and international shipping, rules concerning trade mark protection, etc. (Drucker P., 1960).

In every business transaction, each party must to gain a greater or a lesser advantage, depending on the circumstances, the nature of the goods, and the negotiators' training and ability (Dumitru I., 1989).

The mutual advantage implies that each party must gain something by concluding an agreement.

In some cases, the reasoning performed during negotiations overlooked certain important elements still ignored when drawing up the agenda. If the negotiator were able to trace those elements and prove their advantage to his/her partner, the agenda might be taken in to reconsideration by the team that has issued it (Detesan A., et al., 1981). Co-operating means the negotiation teams' common analysis of the different situations and opinions (putting aside any preconceived ideas), as well as a thorough discussion about the negotiations partner's opinions and interests.

Co-operation also means the mutual exchange of information and references materials (Enatescu V., 1987).

The international commerce is based upon the principle of "DO UT DES" (I'll give if I receive) meaning nothing comes free.

It is important to take into account the fact that any financial concessions made beyond the rational of the commercial agreement have a clearly defined financial aim, pursuing a more consistent present or future unilateral gain.

Thus, any deliveries or services done for free must be seen as fake sacrifices seeking compensatory advantages and other privileges (Erdös I., 1980).

The basic notions used in the negotiation process are the followings: (Georgescu T., et al., 1980)

1. The strategy - it comprises the decisions that are to be made in order to accomplish the pursued objectives, and which take into account a large number of internal and external factors having a high degree of variability and complexity.

1. The tactic - it is that part of the strategy which must establish the means and forms of action to be used in accomplishing the pursued objectives.

1. The technique - it is the totality of the proceedings that are to be used in the partners' talks in order to reach an agreement.

The negotiations represent a dynamic process of adjustment through which two parties, each having its own objectives, discuss in order to reach a mutually satisfying agreement, on the basis of their common interest (Goldmann H., 1968).

The negotiations between economic agents are actions in which there is a demand-offer confrontation in order to conclude a mutually profitable agreement and to sign a bill of sale (Georgescu T., 1979).

As compared to the negotiations carried on the internal market, the negotiations in which foreign partners are involved are very complex, because a demand-offer confrontation on the foreign market is much more complicated due to the many factors involved, such as: international customs, international commercial law norms, the business parties' national legislation, as well as the variance of exchange rates, the different internal and international price levels, and an increased exactingness concerning the technical and qualitative levels (Harell T., 1970).

These negotiations carried on in order to reach an agreement with foreign partners should also take into account: (Kottler P., 1967)

- the differences between partners
- the long distances between partners
- the diversity of products
- the diversity of the marketing ways
- a higher degree of risk and uncertainty

Negotiations should also consider certain further aspects: (Ikle F., 1964)

- any expanding of the activity of foreign trade must be done only by developing contacts with foreign partners;
- any new transaction is materialized into a contract which specifies the parties' rights and obligations;
- finding a point of compromise between the two partners' desired, respectively minimum objectives;
- finding an amiable way of solving the unforeseen problems that may arise in the course of the contract, problems which deviate from the contractual terms of taking to an end the settled obligations.

The negotiation process implies a series of notions, such as: (Karrass C., 1974)

- the interest - it represents the expression of partners' necessities or needs;
- the negotiation position - it comprises the totality of one party's interests;
- the real position - it comprises the objectives that a party wants to reach in order to fulfill its interests;
- the initially declared position - it is different from the real one because each participant wants to create a ... the negotiation limits - by overstating, to a certain extent, his/her own interests.

During negotiations, one can come across many categories of interests, such as: (Keith M., 1973)

- common interests - which are the participants' interests (sometimes on a long-term);

- specific interests - which are different from the other participants' interests and often opposed to them. The distance between the maximal objectives and the acceptable minimal limits is called the negotiation margin and it differs from one negotiator to the other: (Malita M., 1972)

- negotiable interests - which arise from economic, organizational, and political characteristics imposed by the commercial or economic policy of some states;

- real interests - which are different from the initially declared ones, and which are actually going to be agreed upon during the talks in a mutually profitable way.

Negotiations can be defined as 'the competitive process taking place during the talks between participants who wish to conclude an agreement by which their specific interests could be respected, as well as to decide upon some common interests (Marsh P. V.; Maslow A., 1970).

The essence of the negotiation process consists in 'agreeing upon the participants' interests, by seeking some mutually profitable solutions.'

The negotiation power comprises the totality of means that the negotiator can make use of in order to obtain a solution similar to his/her own negotiation position and it relies on the following factors: (Nierenberg G., 1978; M.C.E.C.E.I., 1976)

- the demand-offer report;
- the importance of the two partners;
- the degree of information on the market and on the partner;
- the speed and the ability of reaction (flexibility in action);
- the capacity of taking risks;
- the possibility of attracting useful allies;
- the importance of having experienced negotiators;
- the thorough preparation of the negotiation (its simulation included).

The mechanisms and the stages of the negotiation process consist of the following: (Nastasel E., 1980; Stoian I. et al., 1973)

- the pre-negotiation stage - it comprises the activities of preparing and organizing the negotiations by gathering and analyzing the necessary information, by seeking the potential partners, their financial situation, the guarantees they can offer for the good course of the transaction, by choosing a time and place for the negotiation, by signing and confirming the agenda, and by organizing the negotiation sessions as well as catering services, etc.;

- the negotiation stage - it consists of: (Stoian I., et al., 1986)
 - offers and counter-offers;
 - arguments and counter-arguments;
 - using adequate strategies and counteracting measures;
 - taking some reflection time in order to restate one's position;

- making some concession exchanges in order to come to a near-standing position;
- finding some compromise solutions;
- Signing the documents.
- the post-negotiation stage - the partners approach and solve the problems that have arisen during the transaction. Such problems may be:
 - solving the difficulties that have arisen in the course of the contract;
 - carrying negotiations in order to modify, improve, and solve these difficulties;
 - carrying negotiations in order to modify, improve or continue the contract;
 - solving complaints;
 - Settling litigation by arbitration.

The general and the specific framework of negotiations

Types of general agreements: (Popescu – Neveanu P., 1978; Thompson W., 1978)

- summit meetings- between heads of state, during which general trade and co-operation agreements are sometimes signed;
- bi- or multilateral documents negotiated and signed at a governmental level by Prime Ministers or by other ministers;
- interdepartmental agreements - between ministries and other central agencies, in order to settle the trade;
- Protocols of mixed intergovernmental committees of trade and economic co-operation.

Settling the general framework involves:

- being acquainted with the general situation and with the world economic, political and military state of affairs;
- settling the external legal framework - international law norms, customs, bilateral and multilateral agreements, etc.
- knowing the developing strategy and the situation of one's own country's balance of payments, of the customs duties on imported goods, of the lucrativeness indicators, of currency stability restrictions, of license granting, etc.;
- knowing the situation concerning the potential partners' country of origin (by studying updated and complete monographs).

The specific framework of negotiation comprises the particularities of the product's market and the characteristics of the relationships between negotiators, taking into account the following aspects: (Maynard H., 1972; UNCTAD/GATT, 1971)

- the product observed on the importer's market;
- the negotiation partner's situation;
- establishing a very clear position of the negotiation partner.

Table 1

The typology of business negotiations (Samuelson P., 1973)

Depending on the transaction type	Depending on the product's destination	Depending on the type of goods
A. ACCORDING TO THE PRODUCT		
- sale-purchase - co-operation - service - transport, insurance - currency arbitration - tourism	- consumer goods - means of production - raw materials - machines and equipment	- stock exchange - seasonal - fashion - food - high-technology
B. ACCORDING TO THE LEVEL		
- between economic groups - between economic groups and governments - intergovernmental - interdepartmental - between governments and companies - between companies		- macroeconomic level - mixed level - microeconomic level
C. ACCORDING TO THE PURPOSE		
- for new transactions - of continuation - of modification - of normalization - sterile		- negotiations of progress
D. ACCORDING TO THE NUMBER OF THE PARTICIPANTS		
- bilateral - plurilateral (triangular, etc.) - multilateral		- simple - complex
E. ACCORDING TO THE MEDIUM OF COMMUNICATION		
- direct - indirect - through an intermediary - in time		- in person - by mail - by phone - successive - simultaneous

The background of the negotiation partner

It is important to take into account: (UNCTAD/GATT, 1971)

a) The negotiation company:

- its turnover, number of employees, and stock capital value;
- the groups or the persons who are in control;
- its position on the market, as well as its relationships with other companies and with the competition;
- the sales percentage and its repartition according to clients and suppliers;
- its investment policy;
- its marketing strategies and distribution network;
- its practices and its customs when dealing with foreign partners;
- its reliability and solvency;
- the history of mutual contacts.

b) The negotiation persons:

- their position in the company;
- their qualifications;

- their power of decision and their relationship with the management;
- their personality traits (character, temperament, if or not scholars, intelligence, conceptions on life, marital status, behavior in previous negotiations, interests, etc.).

Assessing the partner's role during negotiations

This can be done by launching some 'testing hints', such as: (A S P R, 1970)

- modifying your own position and observing the partner's reaction;
- organizing unofficial talks, 'in private';
- providing the press with information, as well as presenting some 'secret' documents containing a fake negotiation contract in order to observe the partner's reaction on discovering it;
- asking the partner to become seriously involved in the transaction (many delegations, attracting the experts, the authorities, the politicians, etc.) in order to test the seriousness of the intention to negotiate and the steadiness of the partner's position. (Table 1)

RESULTS AND DISSCUSIONS

Types of companies participating in negotiations

The foreign commercial transactions can be done with various partners, whose characteristics are given by their governing legal systems. Their classification takes mainly into account the following criteria: (Tudoran D., 2002)

1. The property - i.e. the control over it:
 - state companies (governmental);
 - Para state companies (belonging to the state, but having a certain autonomy);
 - mixed-fund companies (state and private);
 - transnational companies;
 - private companies (trusts, concerns, holdings, etc.).
2. The size of the companies: large, medium, and small companies
3. The position of the company in the distribution network: direct importer; wholesaler; retailer; final beneficiary; intermediary.
4. The dynamics of the activity:
 - stable - a constant growth rhythm;
 - 'growing' companies - a relatively high-growing rhythm
 - 'declining' companies - a decreasing rhythm of activity

CONCLUSIONS

Solving of the team(s) database

Professional training
Selection of team members
The way of carrying out a negotiation

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