

# Eight Lessons on Negotiations

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was President of the Third U.N. Conference on the Law of the Sea from 1981 to 1982. He was Chairman of the Preparatory Committee and the Main Committee of the Earth Summit from 1990 to 1992. He served as the U.N. Secretary-General's Special Envoy to Russia, Estonia, Latvia and Lithuania in 1993. He has been a Member of three WTO dispute panels, twice as Chairman. He was the founding Chairman of the National Arts Council and founding Executive Director of the Asia-Europe Foundation.

## Introduction

I have spent 34 years with the Ministry of Foreign Affairs. During that period, I have been tasked with the responsibility to lead several delegations to negotiate with other countries. In 1990, I was asked to lead a delegation to negotiate with China for the establishment of our diplomatic relations. In 1996, I was asked to negotiate an agreement between the EU and its 10 Asian partners to establish the Asia-Europe Foundation (ASEF). In 2001, I was asked to lead a delegation to negotiate a free trade agreement with the United States. In 2003, I was asked to lead a delegation to negotiate with Malaysia to resolve a dispute over Singapore's land reclamation works in and around the Straits of Johor.

At the international level, I have also been given tasks which involve leading very substantive negotiations. In 1981, upon the sudden demise of Ambassador H. S. Amerasinghe, the U.N. drafted

me to succeed him as the President of the Third U.N. Conference on the Law of the Sea. In 1990, upon the urging of Kishore Mahbubani (then Permanent Secretary of MFA) and Chan Heng Chee (then the Permanent Representative to the U.N.), I was elected to chair the Preparatory Committee for the U.N. Conference on Environment and Development, also known as UNCED or the Earth Summit. When the Conference convened in June 1992, in Rio de Janeiro, Brazil, I was drafted to chair the negotiations as Chairman of the Main Committee. In 1993, the then U.N. Secretary-General, Dr. Boutros Boutros-Ghali, appointed me as his Special Envoy, to lead a peace mission to Russia, Estonia, Latvia and Lithuania.

Apart from those practical experiences, I have also followed the growing literature on negotiations and conference diplomacy. I have attempted to make a few modest contributions to that literature. What I would like to do in this essay is to share with my younger colleagues and interested readers the eight lessons I have learnt about negotiations.

## **Lesson No. 1: Treat Every Negotiation as Special and Different**

Every negotiation is special and different. No two negotiations are identical because each negotiation has its own agenda, its challenges and complexities, its cast of negotiators, its tone and momentum. A good negotiator must therefore never become complacent. Just because he has successfully completed one negotiation does not mean that he will succeed in the next negotiation without putting in a major effort in learning and preparation.

## **Lesson No. 2: Build a Cohesive and Happy Team**

Both at the national and international levels, it is the responsibility of the leader of a delegation to build a cohesive and happy team.

This is often very challenging. At the international level, you are always leading a team consisting of colleagues from many countries and cultures. At the national level, you are usually leading a team consisting of colleagues from different ministries and agencies, from different disciplines and, sometimes, from different sectors of society. In the recently concluded land reclamation case, for example, the Singapore team consisted of colleagues from three ministries, six agencies, different disciplinary backgrounds and both practitioners and scholars. As I said at the press conference on 26 April 2005, I was very proud of the fact that our engineers and biologists were able to work together and they were, in turn, able to work with our lawyers and diplomats. As a result, the Singapore team was a cohesive and happy one. It is, of course, very helpful if the collective brainpower of your delegation is superior to or, at least, equal to that of your negotiating counterpart. IQ is, however, not the only ingredient of success of a delegation. It is only one important aspect.

### **Lesson No. 3: Master Your Brief**

Do your homework and do it well. There is no substitute for hard work and thorough and meticulous preparation. There is no such thing as a lazy but good negotiator. A good negotiator must attempt to master his brief, to understand all aspects of his case, to understand his counterpart's case, and to be ready to respond, in a cogent and persuasive manner, to questions put to him across the negotiating table or in a court of law.

### **Lesson No. 4: Know When and How to Use Foreign Advisers**

In some cases, especially when some of the issues in dispute are very technical in nature, it is useful to consult foreign advisers. In

the land reclamation case, Singapore consulted two foreign legal experts and two foreign experts in ocean engineering. They gave our Government and our delegation very good advice. We did not treat them at arm's length or subordinate our own analysis to theirs. They were successfully integrated into our team and participated, on an equal and collegial manner, in the thought process. As a result of such an approach, the distinction between foreign and local was blurred and we were able to arrive at all our decisions by consensus. The day after the settlement agreement was signed, I was very pleased to receive an email from one of our foreign advisers thanking us for treating him and his colleagues in such an inclusive manner.

## **Lesson No. 5: Build a Common Basis of Facts**

In some disputes, such as the land reclamation case, the two parties held diametrically opposite views of the facts. The challenge for the parties is to narrow the gap and to move towards a common basis of facts. The introduction of a third party could be useful. In the land reclamation case, credit must be given to the International Tribunal for the Law of the Sea (ITLOS). In its unanimous judgement of 8 October 2003, the Tribunal ordered Malaysia and Singapore to establish a group of independent experts, to undertake a one-year study of the facts. The unanimous report of the group of experts presented the two parties with a common basis of facts. The subsequent negotiations were successful partly because the parties were negotiating on a common basis of facts. Without it, the negotiations would have been much more difficult, if not impossible, to arrive at an amicable settlement. The lesson is that where the facts are in dispute, the parties should consider using a third party procedure in order to establish a common basis of facts.

## **Lesson No. 6: Exercise Emotional Intelligence**

I have referred to the importance of IQ in connection with Lesson No. 2. I want to refer here to the importance of emotional intelligence. This refers to a negotiator's qualities of leadership, empathy and ability to earn the trust and confidence of his own colleagues as well as those of his negotiating counterparts. Negotiations succeed best when the rapport between the negotiators is good and when they share a bond of mutual trust and confidence. I have always urged my colleagues to build rapport with their negotiating counterparts and to conduct themselves in such a way as to earn their respect and trust. I have always practised "makan" diplomacy or "dining" diplomacy because I have found that eating together is a bonding experience.

Being a lover of the arts and of museums, I have also practised cultural diplomacy. When we were negotiating with the U.S. on the free trade agreement, I took my counterpart, Mr. Ralph Ives, who loves Indian food, to Apollo Banana Leaf for dinner and took him on a tour of Little India. On the day when the land reclamation settlement agreement was signed, I invited the whole Malaysian delegation to the ceremonial opening of a lovely nyonya kebaya show at our Asian Civilisations Museum. The fact that the opening was co-officiated by the wives of the Prime Ministers of Malaysia and Singapore made the occasion and the 26th of April 2005 a memorable one.

The lesson I wish to share is the importance of showing your negotiating counterpart respect, friendship and courtesy. Never make your negotiating partner "lose face". You will find that your goodwill will be reciprocated by their goodwill, thereby creating a positive environment for the negotiation.

## **Lesson No. 7: Cultivate Cultural Intelligence**

To negotiate successfully with another country, a good negotiator should study that country's history, culture and negotiating style. In other words, in addition to IQ and EQ, a good negotiator should also cultivate his cultural intelligence. The beginning of wisdom is to understand that we all live in our own cultural box. We should therefore make an attempt to understand the content of the cultural box of our negotiating counterpart. This will help us to avoid violating cultural taboos such as serving pork to American Jews or food which is not halal to our Malaysian or Arab friends. At a deeper level, it will help us to understand how our American, Chinese and Malaysian friends think and how they negotiate. Armed with this understanding, we will be able to customise our negotiating strategy and tactic to suit each negotiating partner. I am always astonished by the fact that ministries of foreign affairs pay so little attention to historians and cultural anthropologists. This is a mistake. The lesson I wish to share is the importance of understanding the history, culture, mindset and negotiating style of the different countries we negotiate with. An ideal negotiator, in my view, should have IQ, EQ and CQ.

## **Lesson No. 8: Think Win-Win**

The outcome of a good negotiation should be an agreement which is fair and balanced. It is not and cannot be a zero sum. Instead, it must be a win-win outcome. To arrive at such an outcome, negotiators on both sides should focus on solutions which encompass the fundamental interests of both parties. I have always found it useful to put myself in the shoes of my negotiating partner and to understand what his interests are and what his bottom line is. Negotiations can only succeed if there is a spirit of give and take on both sides. This means, for example, that I should be willing to give some

comfort language when my negotiating partner has indicated that he needs such language in order to satisfy his political masters or a domestic constituency. It also includes my willingness to make a small concession, in a matter of secondary importance to my country, in order to achieve an agreement on a package deal which is of fundamental interest to my country. In other words, I must be willing to be flexible and accommodating. However, when my fundamental interest is at stake, I must be firm and let my negotiating partner know that it is a point on which I have no flexibility. The lesson I wish to share is that a negotiation is not a zero sum game. It is a game in which the challenge is to find a win-win outcome.

## **Conclusion**

Negotiation permeates a diplomat's life. However, no one teaches a diplomat how to be a good negotiator. I hope that the eight lessons I have distilled from my experiences and reflections will be useful to my younger colleagues and other interested readers.